

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

**In Council Chambers @ 6:00 P.M.**

**Monday, June 7, 2021**

**CALL TO ORDER**

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

**ROLL CALL**

Present were President Housh, and Council members Marianne MacQueen, Kevin Stokes, Lisa Kreeger, and Laura Curliss. Also present was Village Manager Josue Salmeron.

**EXECUTIVE SESSION**

At 6:01pm, Kreeger MOVED TO ENTER EXECUTIVE SESSION For the Purpose of the Discussion of a Complaint against a Public Official.

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

At 7:01pm, Kreeger MOVED and Stokes SECONDED a MOTION TO EXIT EXECUTIVE SESSION. The MOTION PASSED 5-0 ON A VOICE VOTE.

**ANNOUNCEMENTS**

Salmeron reviewed the COVID policy for the John Bryan Community Center, and explained the hybrid meeting model.

Stokes noted the “Cost of Poverty” experience coming up on Wednesday, June 30<sup>th</sup> as a virtual training.

Stokes noted the Juneteenth celebration set for June 19<sup>th</sup>, 11-3 at Gaunt Park.

Kreeger noted an event organized by H.U.M.A.N. beginning at 2pm on the 19<sup>th</sup> in celebration of Juneteenth to be held near the new Virginia Hamilton mural in Kieth’s Alley.

Salmeron announced that the Yellow Springs Pool continues to be closed due to a pump failure, but that this is being addressed expeditiously.

Salmeron noted blacktop resurfacing projects underway this week, including the bike path along South College. He commented that there will be challenges due to the catalpas lining that path.

Salmeron welcomed the new Village Mediation Program Coordinator, Luciana Lieff, noting a welcome event on June 24<sup>th</sup>, subsequently rescheduled to June 30<sup>th</sup>. Salmeron thanked John Gudgel for his exceptional leadership in the position over the years.

Housh announced YS Pride set for June 26<sup>th</sup>, with a neighborhood parade and other events that day, culminating at Antioch University Midwest.

Housh thanked Johnnie Burns for his work on the YS Dog Park, stating that the groundbreaking for the park had been a rousing success.

Housh thanked Chief for putting up the Memorial Day flags.

Housh noted a free bike light give-away at the Train Station currently underway.

MacQueen announced that YS Home, Inc. is now taking applications for rental units at Glen Cottages.

### **CONSENT AGENDA**

1. Minutes of May 17, 2021 Regular Session

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

### **REVIEW OF AGENDA**

MacQueen added a letter request from the Ohio Housing Council regarding a new taxation model proposed for affordable housing to New Business.

### **PETITIONS/COMMUNICATIONS**

The Clerk will receive and file:

- Brittany Baum re: Mask Requirements
- Terry Smith re: Mask Requirements
- Mary Eby re: Mask Requirements
- Maria Whittaker re: Mask Requirements
- Brian Housh re: Street Vendor Photos (4)
- Alex Scott re: DORA Survey Results
- Juneteenth Poster
- Marianne MacQueen re: Inclusionary Zoning (2)
- Ellis Jacobs, Atty. Re: Pay to Stay and Source of Income Legislation (3)
- GCPH re: COVID Funeral Assistance
- Inclusive and Resilient YS re: Cost of Poverty Flyer

MacQueen reviewed the materials received.

### **PUBLIC HEARINGS/LEGISLATION**

**First Reading of Ordinance 2021-11** Establishing Chapter 212 of the Codified Ordinances: Ethics. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Parcels explained the legislation, noting that two versions were provided, one of which delineates a penalty, and the other which does not, the latter version she worked with Curliss to produce. Parcels noted that while all Council members are required to gain knowledge of ethics laws and to follow the law, requirements for training are not mandated, and are not mandated for Council's boards and commissions.

Curliss stated that she would be unlikely to vote for the legislation in part because it was not initiated by a Council member and, in part, because, in her estimation, the legislation with the non-penalty version simply creates a policy. She spoke against the penalty aspect in the second version, questioning how anything would be enforced at the Village level.

In response to a question from Housh, Parcels stated that the Guidelines for Boards & Commissions and the Council Rules and Procedures are not referenced because those were passed by resolution.

Housh stated that he liked the training requirement aspect of the legislation.

Parcels noted a training available to Planning and Appeals board members, for example, which provides more information to those quasi-judicial boards.

Kreeger commented that she believes a policy is sufficient for creating a requirement, and is unclear as to why an ordinance is needed.

Stokes expressed ambivalence as to whether the measure is an ordinance or a policy, as long as it is effective.

Kreeger commented that the importance becomes clear once a violation occurs. Parcels supported this perspective, stating that the Ohio Ethics Commission has latitude over this.

Salmeron added that there would be violations for which an employee could lose their job.

Parcels clarified that the legislation would put a process in place for reporting to the Ethics Commission, but would not affect employment.

Parcels noted that ordinances are for “more permanent”, and sets a standard for future Councils. She noted that the legislation would create a need for another record retention category with regard to training documentation.

The Clerk expressed a preference for an ordinance, stating that there is sometimes pushback from board or commission members regarding training, and an ordinance does not permit for as much room for argument. She opined that having the training provides protection for that board or commission member so that there is not an accidental violation.

Curliss disagreed, citing too much potential for violation, which would not be present if the training is a guideline.

Housh asked that the legislation come back in two versions: one with penalties and one without, with clear explanation regarding the differences.

Parcels offered to bring one back as a resolution and the other as an ordinance.

Curliss asked that only the version without penalty language come back.

Housh asked that both versions return.

Housh declined to call a vote.

**Emergency Reading of Ordinance 2021-12** Establishing a Village of Yellow Springs Building Department and Declaring an Emergency. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron presented a PowerPoint, arguing that creation of a Building Department is an economic imperative. He explained that the Building Department must be established before the legislation to certify both residential and business building departments can be brought. This is because the current language dates back to 1976, and does not clearly establish a Village Building Department. He noted as well that current law requires that the head of the Building Department must be certified by the Ohio Building Standards Board.

Salmeron stated that there have been challenges at the county level, and that his intention is to create a responsive department, able to readily facilitate the granting of permits.

Salmeron noted several imminent projects with potentially significant impact upon Village revenue and employment. He stated that the Department is designed to be sustained through the fee structure.

Stokes asked what the impact might be upon existing projects.

Salmeron responded that if a fee has been paid, the customer should be put through the Greene County system just as they were prior to creation of a Village Department. He ensured a smooth transition.

Salmeron noted that the Village would contract with building inspectors, and would have greater authority in negotiating with Greene County as well, should that need arise.

MacQueen expressed doubt that the fees would cover the operation.

Megan Bachman commented that she would like the Village to speak with local builders and with the Greene County Building Department to assess the extent of or existence of a problem and to see whether issues are already being addressed by the County.

Bachman asked, "Where is the rush coming from?"

Salmeron responded that this does not constitute a rush, that there had previously been a Village Building Department, and it would not be a major difficulty to put the pieces in motion to serve this function moving forward, particularly since most of the functions would be contracted out. Salmeron stated that the only option for any builder currently is Greene County, and becoming certified will allow the Village, at minimum, to negotiate with the County.

Housh commented that he sees no down side, and noted that the idea has been thoroughly presented over several meetings.

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

**Emergency Reading of Ordinance 2021-15** Second Quarter Supplemental. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron explained the three items requiring appropriation, those being \$30,000.00 for creation of a Building Department (a budget is one requirement for certification), \$20,000.00 for the YS/Clifton Trail Project (the funds will be reimbursed from other municipalities), and \$28,000.00 for Climate Action projects, to be drawn from the Electric Department.

Curliss commented on the \$28,000.00 appropriation, characterizing it as a backdoor way to hire a Climate Change Policy Coordinator. She asserted that many of the items listed within the project scope fall under staff purview (water loss/inflow and infiltration) or are overseen by the Village Manager directly (such as purchasing of energy contracts).

Salmeron acknowledged the in-house expertise, but noted that there has not been a strategic plan developed to drive these efforts across different managers and staff persons. Stakeholder assessment should be done, community engagement should be done, he said, to make the project holistic and durable.

MacQueen stated that the Environmental Commission had met last week to discuss the project and the RFP. She described the hiring committee in place to respond to applicants.

Kreeger asked how the funds could be derived from the Electric Fund.

Salmeron responded that this would not be a long-term expenditure, so could therefore derive from a one-time sale of RECs as opposed to needing to come from a personnel line.

Kreeger pointed out that Council has not agreed to the pilot program, and that Council had asked that a resolution be brought forward for a vote on that matter. She commented that the addition to the budget seems to presume the outcome.

Housh responded that the supplemental offers the opportunity for Council to weigh in on the aspect of funding the position through the sale of RECs. He pointed out that this question “has been built up to”.

Housh asked that the RFP be distributed to Council ASAP.

Salmeron responded that while the amount is below the amount for bid that is required to come before Council, he would provide the RFP.

Housh emphasized that Council had been involved with the process since proposal of the position by MacQueen, and it was necessary that they remain in the loop.

Megan Bachman commented that there are many sustainability plans, some “nearly complete” and asked why this plan should receive funding.

MacQueen responded that prior plans are not nor have been “nearly complete,” thus underlining the need for a coordinator.

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

Housh then recognized that he had not fully opened a public hearing for Ordinance 2021-12, in that he had not checked the Zoom platform.

Housh asked that the ordinance be brought back and that the Zoom room be viewed in the event that any person should desire to make a public comment.

There was no comments made.

Housh closed the public hearing and the Clerk AGAIN CALLED THE ROLL ON the Emergency Reading of Ordinance 2021-12 Establishing a Village of Yellow Springs Building Department and Declaring an Emergency. The original motion PASSED 5-0 ON A ROLL CALL VOTE.

Curliss then RECUSED HERSELF FROM ANY INVOLVEMENT WITH RESOLUTION 2021-20 and exited the room.

**Reading of Resolution 2021-20** Approving an Agreement with Agraria for Construction and Maintenance of a Multi-Use Trail. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron summarized the terms of the agreement, noting that Agraria will lease the trail from the Village for a minimum of 15 years at \$2,000.00 annually, so that about half of the expenditure is recouped by the Village.

There were no comments.

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

### **CITIZEN CONCERNS**

Rob Fairley, a local street vendor, stated that he had been asked to move his table over the previous weekend. He noted that he has sold his crafts for 15 years without incident, and feels that he was unfairly targeted due to an unnamed complaint. Fairley stated that while Chief Carlson had been helpful and respectful, he did not feel fairly treated by Village government. It was also confirmed that he was moved to a different spot so that he is still able to sell his jewelry and not crowd the sidewalk or block public art.

Ursa Northstar (Gida Spahr) read a letter condemning responses to the pandemic and claiming the falsity of germ theory.

Mitzie Miller provided photos of overgrowth intrusion onto sidewalks and repair hazards, and stated her intention to complain vociferously, since the code is complaint-driven. She noted her difficulty and that of others to use Village sidewalks due to these hazards.

Housh encouraged both the use of iWorQs and door hangers to raise awareness among homeowners.

Megan Bachman thanked Council for returning in person. She commented that there seem to be recent projects that come about without clear origin. She cited the DORA and the legislation regarding a building department. She asked that more conversation occur with stakeholders and a proposal from Council as to how this will occur.

Salmeron responded, saying that he will be providing a mid-year review of his activities and projects and will solicit input. He commented that “we move fast” but that transparency is not lacking.

### **SPECIAL REPORTS**

**YSDC Update.** MacQueen stated her desire that Council have the opportunity to weigh in on YSDC policy and actions and that there be more regular report-outs. Kreeger agreed that perhaps YSDC reports could be provided as Special Reports once monthly.

**Treasurer’s Report.** The Clerk reported regarding investments and income therefrom. Nearly all investment is in a sweep account held at WesBanco, earning 1.25%,

Salmeron presented a series of charts tracking investment income for 2021.

Curliss questioned the interest income totals, stating that they seem very high—well over 1.25%--for Wesbanco.

Salmeron responded that he would re-check the totals with Finance Director Dillon.

Kreeger stressed the need to keep a continued focus on infrastructure upgrade and maintenance.

### **OLD BUSINESS**

**Kingwood Solar Update.** Parcels noted those entities who have applied to intervene, which she had summarized in a memo to Council. She noted that the time is coming when Council will have to

make a decision as to whether it will simply submit public comments, or whether members would like to formally intervene.

Housh stated that he is interested in Tecumseh Land Trust's position regarding intervention, and will follow up in that regard.

**Follow Up Discussion Re: Busking and Street Vendors.** Kreeger led the discussion, noting that she had brought the topic to the ACC for discussion at its June meeting. That group expressed interest in looking more deeply into the matter, seeing it as connected to their involvement with public space and street art as cultural expression. She stated that this will be further discussed with recommendations made during the July meeting for next steps and information gathering from stakeholders.

Curliss noted frequent conversation on the topic with Gene Lohman, who intends to follow up with the ACC. She opined that the Village generally needs to be more welcoming of street vendors, stating that the "complaint-driven" aspect of enforcement bothers her. She noted that this tends to empower white people, who tend to readily complain.

Housh responded that complaints do not seem to be limited to a small group, and that the issue of downtown buskers is becoming a quality of life issue. He added the high level of motorcycle noise now common downtown, stating that this negatively impacts both local and visiting persons.

Housh commented that "there is room for permitting" as a means to exert some control over the situation and achieve balance. He noted his desire to be welcoming and encouraged Council members to spend the next two weeks reaching out and gathering information and ideas to bring back to the June 21 meeting.

Salmeron commented that the issue of sidewalk obstruction does need to be addressed in the downtown area.

Kreeger commented that an outdoor open market would be a good idea.

Housh noted that Johnnie Burns has some suggestions to make, and Kreeger asked that these be brought forth as well.

## **NEW BUSINESS**

**Discussion re: Permanent Options for Virtual Meetings.** Salmeron noted low virtual participation for the meeting. He characterized the virtual platforms as the medium of our times, and encouraged Council to consider the possibility for a permanent option.

Parcels explained that under disability accommodation, given the Village's Charter status, a strong case could be made for providing a virtual option on an ongoing basis so that Council or board members could participate virtually.

Housh commented that he would rather have a Council member able to actively participate than have that person have to miss or not participate in a meeting.

Kreeger spoke of watching a BZA member actively participate in a Zoom meeting while also caring for his child, stating that as people consider running for Council or applying to boards, the virtual option might well drive more participation from younger and/or more diverse members of the community. She commented further that she herself will have to miss a number of meetings in the next 6 months now that she will again have to travel for her job. She stated that this will present a challenge to her continued service if there is no virtual option.

Curliss suggested possible limits to the virtual option.

Housh asked that more information be brought back at a future meeting.

Mitzie Miller commented that she wanted varied accessibility.

**Nomination for Board of Zoning Appeals.** Housh NOMINATED Matt Raska as a full member of the BZA. MacQueen SECONDED, and the NOMINATION PASSED 5-0 ON A VOICE VOTE.

**Nomination for Environmental Commission.** MacQueen NOMINATED Nancy Lineburgh as a full member of the Environmental Commission. Kreeger SECONDED, and the NOMINATION PASSED 5-0 ON A VOICE VOTE.

**Ohio Housing Council's Sign-on Letter re Taxing Affordable Housing Projects.** MacQueen received Council's approval to craft a letter in support of the OHC's objection to a legislative proposal to increase taxes paid by renters of affordable housing.

#### **MANAGER'S REPORT**

Salmeron noted concrete has been poured for the new YS Dog Park.

#### **FUTURE AGENDA ITEMS**

- June 21:** **Second Reading and Public Hearing of Ordinance 2021-11** Establishing Chapter 212 of the Codified Ordinances: Ethics  
**Emergency Reading of Ordinance 2021-13** Certifying the Village of Yellow Springs for Operation of a Residential Building Department and Declaring an Emergency  
**Emergency Reading of Ordinance 2021-14** Certifying the Village of Yellow Springs for Operation of a Commercial Building Department and Declaring an Emergency  
**First Reading of Ordinance 2021-16** Weeds Text Amendment  
**First Reading of Ordinance 2021-17** Permanently Approving the Right of Village Renters to "Pay to Stay" and Declaring an Emergency  
**First Reading of Ordinance 2021-18** Prohibiting Housing Discrimination Based Upon Source of Income in the Village of Yellow Springs  
**Reading of Resolution 2021-21** Establishing an Ethics Policy for Village Council, Boards and Commission Members and Employees  
**Reading of Resolution 2021-22** Approving the Finance Director's 2021 Tax Budget  
**Reading of Resolution 2021-23** Approving an Access Easement Agreement for Construction and Maintenance of a Fire Lane with TBD  
**Reading of Resolution 2021-24** Celebrating Pride Week in the Village of Yellow Springs  
Citizen Review Board Proposal  
Proposal Regarding Inclusionary Zoning  
Climate Plan RFP
- July 6:** **First Reading of Ordinance 2021-XX** Accepting Annexation from Miami Township to the Village of Yellow Springs of 33.816 Acres of Property Located North of East Hyde Road and West of Spillan Road  
**Resolution 2021-XX Supporting Climate and Sustainability Actions**  
Follow Up Discussion Re: Busking and Street Vendors/Ideas for Sidewalk Space  
Police Encounter Data  
Busker Discussion
- July 19:** **Second Reading and Public Hearing of Ordinance 2021-XX** Accepting Annexation of 33.816 Acres of Property Now Located in the Township Contiguous to the Village
- August 16:**



**Sept. 7: First Reading of Ordinance 2021-XX Rezoning to PUD**

**Sept. 20: Second Reading and Public Hearing of Ordinance 2021-XX Rezoning to PUD**

**ADJOURNMENT**

At 9:34pm, Stokes MOVED, and Curliss 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