

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

In Council Chambers @ 7:00 P.M.

Monday, June 21, 2021

CALL TO ORDER

President of Council Brian Housh called the meeting to order at 7:00pm.

ROLL CALL

Present were President Housh, and Council members Marianne MacQueen, Kevin Stokes and Laura Curliss. Lisa Kreeger was out of town due to work obligations. Also present were Village Manager Josue Salmeron, Solicitor Breanne Parcels, Public Works Director Johnnie Burns, Planning and Zoning Administrator Denise Swinger, Chief Carlson and Finance Director Matt Dillon.

SWEARINGS-IN

President Housh swore in Matt Raska to the Board of Zoning Appeals, and Nancy Lineburgh to the Environmental Commission.

ANNOUNCEMENTS

Amy Wamsley and Bob Partida announced YS Pride events scheduled for Saturday, June 26th. Wamsley noted that the Pride Committee has partnered with The Phillip Show for the month of June.

Stokes thanked those involved for their support of the Juneteenth event.

Housh announced a virtual “Cost of Poverty” training session set for 5-6:30 on June 30th.

Housh lauded Lieutenant Governor Husted for his advocacy of municipal broadband and spoke about the damaging bill of rather mysterious origin meant to prevent municipal broadband that is now in the Ohio House. He noted that Salmeron and he have met with Senator Hackett, and will meet with Representative Lampton, who have also been supportive of defeating the bill.

CONSENT AGENDA

1. Minutes of June 7, 2021 Regular Session
2. Resolution 2021-22 Approving the Finance Director’s 2022 Tax Budget
3. Resolution 2021-24 Approving a Lease to Hold a Weekly Farmer’s Market on Village Property

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

REVIEW OF AGENDA

Curliss asked to add a resolution she had written objecting to the prevention of the teaching of Critical Race Theory in Ohio schools. The resolution was added to New Business. (The resolution was then moved again to Legislation).

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

- Jerry Papania re: Motorcycle Noise in Town
- Jerry Papania re: Opposition to Village Building Department
- YS Pottery re: Opposition to DORA
- Yvonne Wingard re: Opposition to DORA

Joan Northway re: Opposition to DORA
Mayor's Clerk re: Eligible Charges and Report
Matt Raska re: Exclusionary Zoning
Alex Melamed re: Exclusionary Zoning
Tony Larrichiuta re: Proposed Development at Spillan and Hyde
Barbara Mann re: Motorcycle Noise
Kat Walter re: Proposal for Stop Signs at King and Fairfield Pike
Richard Lapedes re: Noise Pollution
Judith Hempfling re: Sidewalk and Lights
John Gudgel and Kevin McGruder re: 365 Project Support for Citizen Review Board
Proposal

MacQueen reviewed the materials received.

PUBLIC HEARINGS/LEGISLATION

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

Parcels introduced the legislation, stating that “ethics issues are legal issues” and noting that there were two pending ethics issues at the time she joined the Village Team. Some of the issues, she said, could have been avoided with targeted training. She noted differences in requirements for Village officials vs. Township or City officials regarding financial disclosure as just one example of this.

Housh OPENED THE PUBLIC HEARING.

Curliss argued adamantly against the legislation, objecting to the penalty section, and objecting to any legislation brought without a “legislative sponsor.” She stated, “there is no need for legislation.”

MacQueen expressed confidence in the guidance of the Village Solicitor.

Stokes stated that he would be happy to undertake any necessary training, seeing information as an advantage.

Housh commented that it is clear that there are evident issues regarding ethics, though he did not call these out. He upheld the need for information and training for officials as advantageous to everyone. Housh stressed that “anyone can bring legislation to this Council, and we will consider it.”

Megan Bachman, Yellow Springs News, asked to see the financial disclosures for all Council members and Village employees, despite Parcel's earlier note that financial disclosure is not required of Village officials.

Curliss continued to voice objection, characterizing turning in others as “snitching” and a “witch hunt.”

Cheryl Durgans asked how much time would be required of volunteers.

Housh stated that there are a number of options for training and that it would be made accessible.

Curliss objected again, stating that there is no due process for the complaint system.

Salmeron commented that complaints should be made and investigated.

Housh CLOSED THE PUBLIC HEARING AND CALLED THE VOTE.

The MOTION PASSED 3-1 ON A ROLL CALL VOTE, with Curliss voting against.

Emergency Reading of Ordinance 2021-13 Certifying the Village of Yellow Springs for Operation of a Residential Building Department and Declaring an Emergency. Stokes MOVED and Housh SECONDED a MOTION TO APPROVE.

Salmeron explained that if the ordinance passes, he will need to bring back legislation establishing a fee schedule and for approving a contract with any outsourced services. He stressed that currently all services are outsourced to the Greene County Building Department, and that this legislation will restore balance and give the Village the ability to negotiate and have greater voice with Greene County.

MacQueen expressed mixed feelings, stating concerns regarding staff capacity as well as financial concerns. She stated that she would like more information from entities with building departments and from Greene County.

Salmeron stated that he, the Public Works Director and the Planning and Zoning Administrator are all in agreement regarding the necessity of a Village-operated building department. He referenced a number of economic development efforts in the works now, and expressed concern for their timely implementation if the Village is unable to gain more control over the permitting process.

Salmeron stated that the measure is meant to be self-sustaining. He referenced the building department run by Jefferson City, a municipality about the size of Yellow Springs, as a successful implementation by a small community. He stated that he had spoken with Brandon Huddleston from Greene County and had expressed his concerns regarding the Greene County permitting process, to little avail. "We are powerless to change the current conditions," Salmeron stated, "unless we get a certified department."

Burns expressed agreement with Salmeron's position, opining that this is a matter of supporting economic development. The Village needs to control the process, he said.

MacQueen quoted a letter from a citizen in which the writer stated that the County is required to respond to requests within 30 days, and asked about this.

Salmeron responded that that is true, but that the form of response is often to request further information, which starts the clock again.

Burns stated that it can easily be 60-90 days before a permit is issued or until clear direction is given. Having an outside entity have so much control over our economic development in the Village is not a desirable situation, he said.

Curliss opined that pulling away from Greene County might cause them to shut down, leaving the Village without that option.

Salmeron commented that by having more control over the permitting process, Village staff might well save time.

Housh CALLED THE VOTE, and the VOTE WAS 3-1 with Curliss voting against.

Emergency Reading of Ordinance 2021-14 Certifying the Village of Yellow Springs for Operation of a Commercial Building Department and Declaring an Emergency. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Housh commented that the ordinance was similar to the prior ordinance, and OPENED A PUBLIC HEARING.

There being no comments, Housh CLOSED THE PUBLIC HEARING AND CALLED THE VOTE. The VOTE WAS 3-1 with Curliss voting against.

First Reading of Ordinance 2021-16 Repealing Chapter 674 “Weeds” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Chapter 674 “Weeds and Vegetation” with an Appendix of Illustrations. MacQueen MOVED and Curliss SECONDED a MOTION TO APPROVE.

Swinger commented that the Environmental Commission has been working on this matter for over a year. She asked Nadia Malarkey, who has spearheaded the legislation, to address the legislation.

Malarkey noted the need for a comprehensive look at landscape laws. She stressed that this follows the Village Values and stressed the educational component as key. She noted that there are “still some tweaks” needed.

Malarkey described the high standard for managed natural landscapes contained in the ordinance.

Housh CALLED THE VOTE, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Megan Bachman asked where the list of invasives and recommended plants had gone.

Malarkey stated that these are all in the appendix and proper removal methods are described.

Emergency Reading of Ordinance 2021-17 Permanently Approving the Right of Village Renters to “Pay to Stay” and Declaring an Emergency. Curliss MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Housh noted that the Village was the first municipality in Ohio to pass this legislation, but noted that it was geared toward response to the pandemic. This legislation, he noted, makes the measure permanent.

Debra Levy, from ABLE Law, spoke to the importance of the legislation.

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

Emergency Reading of Ordinance 2021-19 Amending Chapter 220 of the Yellow Springs Code of Ordinances to Permit Continuation of Remote Meeting Attendance for Members of Municipal Bodies and Declaring an Emergency. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron commented that it is important to continue the use of technology to increase access to public officials, potentially broadening the field of people able to volunteer or run for office as well as for citizens wishing to participate in meetings.

Curliss stressed the importance of participating in person, and stated that virtual participation should be only “for good cause shown.”

Stokes commented that any official would make a good faith effort to appear in person, so any limit to the measure need not be legislated.

MacQueen expressed that she liked the measure for citizen and presenter access.

Sue Abendroth expressed her objection to the legislation on the basis of the ability to potentially meet completely virtually.

Housh commented that this is not meant to replace in-person meetings, and noted that he does not support the idea of limiting its use by public officials, since that is rightly that person’s decision, accepting its implications on re-electability.

Megan objected to the legislation and asked for verification of its legality with regard to Sunshine Law. She defined access as in-person in objecting to the measure, citing “the power to mute” as an example.

Parcels commented that when it comes to how a municipality convenes meetings, that is a Home Rule power and is legal. She noted the need for the Village to assure both virtual and in-person participation should the legislation pass.

Housh expressed that he did not see a down side to increasing access for elected officials to participate fully in meetings even when they are unable to be physically present.

MacQueen stated that she had misunderstood the legislation.

Stokes stated that the legislation is enabling access if an official is unable to attend.

A slightly confusing conversation ensued, and Parcels was asked to review the legislation to clarify it further for the next reading.

Housh MOVED TO TABLE. MacQueen SECONDED, and the MOTION TO TABLE PASSED 4-0 ON A ROLL CALL VOTE.

Reading of Resolution 2021-21 Establishing an Ethics Policy for Village Council, Boards and Commission Members and Employees. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Parcels explained that the resolution sets a policy, and would have been an alternative to the ordinance had it not passed. Because it did pass, the resolution becomes ancillary in also establishing a policy.

Curliss noted that the resolution states that training should occur within 60 days, which the ordinance does not. She pointed out that an ethics complaint could be brought against an employee failing to receive ethics training within 60 days of hire.

Housh MOVED that the following clause be added to the last “whereas”: “Whereas, Council has indicated its intent for all boards, commissions and Council itself to follow best ethical practices as intended in the Guidelines for Boards & Commissions and Village Council Rules & Procedures.”

MacQueen SECONDED, and the MOTION PASSED 4-0 ON A VOICE VOTE.

Housh CALLED THE VOTE, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Reading of Resolution 2021-23 Approving an Access Easement Agreement for Construction and Maintenance of a Fire Lane with IIP-OH. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron explained that the agreement was with an entity of Cresco, to allow for construction of a required lane on their property.

Housh CALLED THE VOTE, and the MOTION PASSED 4-0 ON A VOICE VOTE.

Reading of Resolution 2021-25 Condemning the Amended HB 110 Prohibitions and Requirements on Government-Owned Broadband Networks. MacQueen MOVED and Curliss SECONDED a MOTION TO APPROVE.

Housh referenced his earlier comments regarding the recent legislation at the state level seeking to override Home Rule powers and essentially monopolize broadband.

Housh noted that Lt. Governor Husted has spoken out against the measure.

Housh CALLED THE VOTE, and the MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Reading of Resolution 2021-26 Supporting the Resilience of LGBTQ+ Persons and the Legacy of LGBTQ+ Culture During YS Pride 2021. Stokes MOVED and Curliss SECONDED a MOTION TO APPROVE.

Housh CALLED THE VOTE, and the MOTION PASSED 4-0 on a VOICE VOTE.

Reading of Resolution 2021-27 Proclaiming Sunday, June 27, 2021 as Central Chapel AME Church Day in the Village of Yellow Springs, Ohio. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Housh CALLED THE VOTE, and the MOTION PASSED 4-0 on a VOICE VOTE.

Reading of Resolution 2021-28 In Support of Academic Freedom and Fact-based Education and Opposing Ohio House Bills 322 and 327 which seek to Suppress Speech, Education and Discussion of Systemic Racism (Critical Race Theory) in Ohio Schools. Curliss MOVED and Stokes SECONDED a MOTION TO APPROVE.

Bomani Moyenda advocated for the resolution, stating that the legislation to which the resolution is opposed would prevent teachers from teaching about systemic racism. He commented that the impetus for the proposed legislation is that it will be detrimental to white students, and noted that this legislation is popping up in a number of places at once, and is the result of a concerted conservative effort that needs to be addressed.

Moyenda noted a website now in place to assist citizens in opposing the proposed legislation.

Curliss noted that this proposal would remove funding and act as a gag against the teaching of racism as a part of US history.

Housh MOVED and Stokes SECONDED a MOTION TO APPROVE. Housh CALLED THE VOTE, and the MOTION PASSED 4-0 ON A VOICE VOTE.

CITIZEN CONCERNS

Nancy Lineburgh advocated for the position of a Climate Action and Sustainability Coordinator.

Kat Walter spoke to ongoing traffic speed and traffic behavior issues on Fairfield Pike and advocated for a three-way stop sign at Fairfield Pike and King Street.

Duard Headley noted that Polecat and Fairfield are the only two roads that go from 55 to 25 mph in the Village, also advocating for the stop signs.

SPECIAL REPORTS

Wheeling Gaunt Sculpture Presentation. Cheryl Durgans, ACC Chair, Nadia Malarkey and Jerome Borchers, YS Arts Committee President, all presented information related to the Wheeling Gaunt sculpture and presented a plan for sculpture presentation and landscaping. They estimated needing about \$35,000.00 to complete the project, and stated that they planned to ask the Village for some unspecified portion of this amount, which they hope to secure for a September installation.

Salmeron asked for a cost breakdown and timeline to be provided as well as an estimate of what could be raised through fundraising efforts.

TLT Annual Report. Krista Magaw, TLT Executive Director, presented a report on the five-year Jacoby partnership to try to complete the Jacoby Greenbelt with two years of funding remaining.

Magaw said that TLT has continued to receive funding and is continuing to push forward in trying to establish relationships with the family farms near the Jacoby Creek, which is not yet protected. She reminded Council that TLT is cognizant of the Village's Urban Service Boundary in their negotiations, realizing the need for development within the USB.

Magaw noted that a portion of the funding goes towards outreach and education efforts around conservation programs, and these efforts have been well received and are ongoing.

Magaw noted implementation of conservation best practices on conserved land as well as collaborative efforts with the High School and with Agraria.

Magaw mentioned the Kingwood Solar proposed array and showed a map of properties now under lease with Kingwood Solar.

Magaw introduced Michele Burns, who will be replacing Magaw as the next Executive Director.

OLD BUSINESS

Climate Action and Sustainability Programming. MacQueen spoke to the impact of climate change, and noted the Environmental Commission's advocacy of a Climate Action and Sustainability Coordinator. She stated that the EC has "brainstormed the criteria" and plans to have a recommendation to Council for the July 6th meeting.

Salmeron commented that a lot of the conversation around the Climate Action and Sustainability Coordinator was missed in the last YS New article, and stated that the action is "long overdue".

Nadia Malarkey advocated for the CASP position, commenting that "we are raising the bar" for sustainability efforts.

Duard Headley commented that he is absolutely in favor of the CASP position, opining that the work can only get done with a specialized position.

Reilley Dixon advocated for the position “whether by the front door or the back door.”

NEW BUSINESS

Update re: Creation of a Citizen Review Board. Curliss commented that there have been “repeated attempts to create a CRB”. She acknowledged that it is a “big lift,” particularly for a small village, but has been consistently proffered, in part due to a perception of strained communication between citizens and the police department.

Curliss stated that the proposal has been reviewed twice by the 365 Project, after being developed by a subcommittee of the Justice System Task Force.

Curliss noted the content of each exhibit and pointed out that while there are always complaints, only some of these would rise to the level of a citizen review board review as a policy violation. She then described the proposed trajectory of complaints, with “quality of service” complaints going to the Chief, and misconduct complaints going to the CRB, with investigation then occurring, a review, and a recommendation going to either the Chief/VM or to a prosecutor.

Curliss detailed the process with regard to options for complaints.

Sue Abendroth commented that she is concerned that there are no “at large” citizens on the proposed board.

Louise Smith of The 365 Project commented on the proposal, stating that this is an attempt to put a structure in place. She stressed that having a trained group to review police actions would be of benefit. She commented that the group could be empowering for citizens.

Bomani Moyenda related a story in which he had been pepper sprayed by the police and had not been treated well. He stated that he would have wished to have real recourse for a complaint that he did not receive at that time. Moyenda commented that occasionally there are officers who “are not fit for the position” and that it is important to have a system for accountability and response in place.

Housh stated that the discussion will return, and he noted that the price tag does need to be considered, as well as the proposal that outside counsel be engaged. Housh also noted his appreciation of “an independent body” being contemplated in this initiative.

Housh highlighted that there has been a great deal of work done around a Citizen Review Board, including a great deal of work done by the Justice System Task Force, which was not reflected in the proposal.

Curliss commented that the suggested composition of the group is broad and inclusive. She stressed the need for a budget.

MacQueen asked that the topic return to the next meeting, and that questions be sent to Laura.

Salmeron commented that staff has not had the chance to weigh in, and commented that management and the Police Department have been working towards proactively addressing concerns around policing. “There are problems that occurred in the past that simply would not be permitted to

occur under my administration,” he stated, “but that said, we do need structures in place to assure accountability.”

Salmeron asked for time for a legal review, expressing concern regarding some of the language around personnel practices. He suggested that this review might need to be outsourced, and asked that the follow up conversation with Council not occur until this is done.

Housh asked that the topic be checked-in upon, but stated that it needs to follow a proper process.

Discussion of Zoning Code as a Social Justice Issue. MacQueen spoke against the concept of single-family housing, characterizing it as an extension of redlining, and a major contributor to the housing problem.

MacQueen spoke against exclusionary zoning, stating that it is more environmentally sustainable to remove exclusionary zoning, and asked whether Council would like to continue the conversation.

Three of the four Council members stated their agreement with continuing the conversation, with Curliss indicating she was not interested.

Sue Abendroth read a memo opining that only one’s own situation and circumstances determine where one lives and sharing a story of sacrifice and hard work on the part of herself and her husband to afford their home. She opined that Residence A should remain as is, as protected by the zoning code. She repeatedly referenced “a particular organization’s mission” as the impetus for re-examining the zoning code.

MacQueen responded that she was not making the proposal to have anything to do with Home, Inc. but with the ability to build a variety of housing units in any area of town.

Becky Campbell failed to identify herself and asked what had been decided. She asked that Council “leave the zoning alone.”

Curliss commented that “density assumes good storm sewers” and asked that Johnnie Burns be consulted in the matter.

Council Clerk re: Notice of Clerical Error. The Clerk made note of an error in assigning two resolutions the same number (2021-20). This will be noted in the Resolution log for 2021, and poses no legal issues.

MANAGER’S REPORT

Salmeron noted that the Village has received a \$300,000.00 grant from Broadband Ohio, and thanked his team, including MVECA, for their work on the grant.

Salmeron noted that a custom made pump will need to be built for the pool over the next winter, and that this will carry a significant price tag.

Salmeron agreed to provide a one-page memo regarding what CARES Act funds can be invested in.

Curliss asked for a hiring freeze in the Police Department, stating that the position of sergeant that will come open does not necessarily need to be filled. She commented that there were no sergeants for many years.

Salmeron objected, and pointed out that there have been sergeants for at least the last 20 years. He asked for Council directive as to whether they did or did not want a hiring freeze, stating that he has a duty to provide for the public safety, and that the position was approved for 2021.

Housh declined to take up the topic.

Curliss asked that Council approve the employee classification plan for the Police Department. She asked to see any past Council approvals of classification plans. She also asked to see traffic control maps.

Curliss asked for public discussion of the lighting plan for the Village, and stated that a task force may be needed for this purpose.

Housh NOMINATED KEVIN STOKES TO THE YSDC AS A COUNCIL REPRESENTATIVE. MacQueen SECONDED. The MOTION PASSED 3-0, with Curliss abstaining.

FUTURE AGENDA ITEMS

- July 6:** **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
 Second Reading and Public Hearing of Ordinance 2021-16 Repealing Chapter 674 “Weeds” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Chapter 674 “Weeds and Vegetation” with an Appendix of Illustrations
 First Reading of Ordinance 2021-18 Prohibiting Housing Discrimination Based Upon Source of Income in the Village of Yellow Springs
 Emergency Reading of Ordinance 2021-19 Amending Chapter 220 of the Yellow Springs Code of Ordinances to Permit Continuation of Remote Meeting Attendance for Members of Municipal Bodies and Declaring an Emergency
 First Reading of Ordinance 2021-20 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
 First Reading of Ordinance 2021-21 Amending Chapter 1262 re: Expiration and Specific Requirements – Transient Guest Lodging
 First Reading of Ordinance 2021-22 Amending Chapter 1268 re: Expiration
 First Reading of Ordinance 2021-23 Amending Chapter 1278 re: Decisions of the Board – Board of Zoning Appeals
 Reading of Resolution 2021-29 Supporting Climate and Sustainability Actions
 Follow Up Discussion Re: Busking and Street Vendors/Ideas for Sidewalk Space
 Police Encounter Data
 Busker Discussion
 Municipal Broadband Presentation
 Continued Discussion of Creation of a Citizen Review Board
 Follow Up Discussion Re: Busking and Street Vendors/Ideas for Sidewalk Space
 Discussion of Possible Zoning Code Revision
- July 19:** **Second Reading and Public Hearing of Ordinance 2021-20** Accepting Annexation of 33.816 Acres of Property Now Located in the Township Contiguous to the Village
 Second Reading and Public Hearing of Ordinance 2021-21 Amending Chapter 1262 re: Expiration and Specific Requirements – Transient Guest Lodging
 Second Reading and Public Hearing of Ordinance 2021-22 Amending Chapter 1268 re: Expiration

Second Reading and Public Hearing of Ordinance 2021-23 Amending Chapter 1278
re: Decisions of the Board – Board of Zoning Appeals

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 10:34pm, Stokes MOVED, and Curliss SECONDED a MOTION TO ADJOURN. The MOTION PASSED 4-0 on a voice vote.

Brian Housh, Council President

Attest: Judy Kintner, Clerk of Council