

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

Virtual Meeting @ 6:00 P.M.

Monday, October 4, 2021

CALL TO ORDER

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

ROLL CALL

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

SPECIAL BUSINESS

Council Information Session with Larry James, Esq. re: Citizen Review Board Proposal.

The hour consisted of questions for Mr. James, who had provided Council with a summary of existing CRBs around the US. He provided a brief introduction to the model, and asked Council what they were considering in terms of budget, since this has significant bearing on the structure and mission of the board.

Significantly, Mr. James noted several times that implementation of a CRB does not statistically affect the number or nature of complaints. The question, he stressed, becomes to identify the community problem Council wishes the CRB to address.

Possible makeup of the Board and reporting structure were discussed, with Mr. James strongly recommending that no more than five persons serve on the Board. He noted several times that YS would be the smallest community to create a CRB, in his experience.

James noted that once Council has identified what needs to be “cured”, the CRB should be directed towards that curative action, whether it is policy review, training issues or disciplinary matters.

Council members and the Village Manager expressed appreciation for the perspectives and recommendations offered, and asked James to continue involvement if possible.

Housh asked that the CRB discussion return to the October 18th meeting, and that community members who have been involved in the process attend that meeting. He asked that citizens put questions in writing to the Clerk in advance of that meeting if possible. Housh noted that the documents provided to Council by Mr. James will be made publicly available.

ANNOUNCEMENTS

Kreeger made note of Saturday’s Wheeling Gaunt bronze statue unveiling.

Curliss noted the Reproductive Rights Rally held Saturday morning, and spoke to the importance of this issue.

Housh announced that this year marks the 155th anniversary of the Central Chapel AME Church.

Salmeron announced that Trick or Treat and bonfires (by request) will be held from 6-8pm on October 31st.

Stokes announced that the James A. McKee Group will host Candidate's Nights on both October 19th and 20th.

Housh congratulated Krista Magaw on recognition for her work with Tecumseh Land Trust during the Partners for the Environment annual meeting.

Housh noted that this is Digital Inclusion Week.

CONSENT AGENDA

1. Minutes of September 20, 2021, Regular Session

MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE the Consent Agenda. The MOTION PASSED 5-0 ON A VOICE VOTE.

REVIEW OF AGENDA

Kreeger asked that several items be moved to the next agenda. Housh indicated that he would check in with other Council members later in the meeting to determine whether the items need to be postponed.

Curliss made a MOTION that Resolution 2021-48 be moved to the next meeting to give other Council members a chance to read a counter-resolution that she sent out to Council earlier in the day.

Stokes asked for clarification as to whether this meant that only one resolution would appear before Council on the 18th. This was unclear.

Housh SECONDED Curliss' motion and CALLED A VOTE on postponing a reading of Resolution 2021-48.

The Clerk CALLED THE ROLL, and the MOTION FAILED 2-3, with MacQueen and Curliss voting in support.

Curliss MOVED TO TABLE Resolution 2021-49. There was no Second.

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

- GCPH re: COVID Booster Shot
- Kate Hamilton and Judith Hempfling re: Wait to Discuss Greenspace
- Group Letter re: Objection to Angle Parking on Elm/Phillips Streets
- Proclamation re: Acknowledging Public Power Week
- Flier from ACC re: Recognition of Indigenous People's Day/Resolution 2016-57
- Ellis Jacobs re: Body Worn Camera Legislation
- Babette O'Reilly re: SOI Legislation Response
- Emily Seibel re: SOI Legislation Letters from Various Organizations

MacQueen reviewed the materials received.

PUBLIC HEARINGS/LEGISLATION

Emergency Reading and Public Hearing of Ordinance 2021-28 Authorizing the Village Manager to Apply to Ohio Office of Criminal Justice for a Grant to Purchase Police Body Cameras. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Salmeron introduced the ordinance, apologizing for having inadvertently misrepresented the Village's surveillance ordinance. That ordinance, he said, does require a public hearing before Council for any addition to Village surveillance equipment, and it does require that a policy be written and approved prior to the implementation of that equipment. Salmeron stated that the deadline for grant application is October 8th. Salmeron argued that there will be plenty of time for Council to structure a policy before the grant funds, if received, would be expended.

Parcels noted that it is likely that the Governor will mandate Body Worn Cameras (BWC's) for all Law Enforcement Personnel by 2023. She explained that the Surveillance Ordinance requires a public hearing before adoption of policy, but also before seeking any funds or making any purchase of such equipment.

Housh OPENED A PUBLIC HEARING.

Kreeger stated that she is in favor of BWCs, but that she is not in favor of moving forward without a policy in place. She stated that the Village has not yet fulfilled the requirements of the surveillance ordinance, and quoted as follows:

Before approving a request to fund, acquire, or use a Surveillance Technology, Village Council shall determine that the benefits of the Surveillance Technology outweigh its costs, that the proposal properly safeguards civil liberties, privacy rights, and civil rights, and that the proposed uses and deployments of the Surveillance Technology will not be based upon discriminatory or Viewpoint-based factors or have a disparate impact on any community or group. (Ordinance 2018-47 (607.04).

Kreeger stated that the vote determines whether or not Council is willing to vote for the equipment without following the process laid out in Ordinance 2018-47. She noted the likelihood that monies will become available in the future, and that the Village should work collaboratively to create the policy in the meantime.

Ellis Jacobs, as one of the framers of ordinance 2018-47, stated that that ordinance requires that the policy precede purchase of equipment. Jacobs stated that the aspect of public records is "less important than what the police record and have access to." Jacobs suggested forming a group to work with the Chief to formulate a policy, and then bring that proposed policy to Council and to a public discussion. Jacobs opined that he did not think that Council has an option not to follow the ordinance with regard to the policy issue.

Jessica Thomas, Yellow Springs News, asked why there was a "rush" in the legislation given that "Mike Dewine started talking about this in January of this year."

Salmeron stated that the Village team started discussing the matter about 4 weeks prior.

Housh commented his understanding that the application for funds and the work to write policy could occur in parallel, so that the grant ordinance, if passed, would trigger the policy-making efforts.

Stokes stated that he did not relish the prospect of a potentially unfunded mandate. He stated that he interprets the ordinance before Council in the same manner as does Housh.

Matthew Kirk commented his belief that the grant can be applied-for in parallel with the development of policy.

MacQueen stated that she is compelled by the surveillance ordinance, and that policy must precede a request for funds.

Kreeger again read from the surveillance ordinance, clarifying her position.

Parcels interpreted the surveillance ordinance differently, opining that the grant could be applied-for prior to the policy formation.

Salmeron responded to a question from Curliss, stating that a final decision is likely by the end of November.

Curliss commented that there is little turn-around time between now and the end of November, particularly given the added budget sessions, and suggested the issue be postponed so that policy can be written.

Housh CLOSED THE PUBLIC HEARING AND CALLED THE VOTE. The MOTION FAILED on a ROLL CALL VOTE, 2-3, with Housh and Stokes voting in favor.

MacQueen requested that a task force be formed and brought for discussion at the next meeting.

Reading of Resolution 2021-47 Supporting Clean Ohio Conservation Fund Site Improvements for Glen Helen. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Nick Boutis explained that the grant request scored at the top of the group, but that the State of Ohio has requested that the request come from the entity that holds the easements on Glen Helen, Tecumseh Land Trust. The revised resolution does just that.

Michele Burns, Executive Director of Tecumseh Land Trust, noted that TLT is “100% behind this”.

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

Reading of Resolution 2021-48 Affirming Council’s Commitment to Working with Citizens and The Yellow Springs School Board to Preserve Greenspace at Mills Lawn. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Housh introduced the resolution by acknowledging the need for Council to let citizens know “in writing” that they are willing to work to preserve at least a portion of greenspace on Mills Lawn.

Curliss stated that she had brought up the idea of bringing a resolution, and that she had wanted to write the resolution, which she thought should be more strongly worded than the version before Council.

MacQueen commented upon the historical importance of the Mills Lawn property to the Village, and stated that she is not ready to vote on anything related to that property until the future use for the property is determined by the School Board.

Stokes opined that the resolution takes a reasonably neutral position while valuing the process and pledging to be involved in that process.

Kreeger stressed that community process is critical in the greenspace issue, and looks forward to that occurring in the near future.

Mary Eby acknowledged the need for process and asked a number of questions as to what would be possible.

Parcels responded to some of Eby's questions, stating that rezoning has to be done by ordinance, and can only be brought to Council by a person with a legal interest in or ownership of the property. She noted that spot zoning is unlawful and would be likely to be overturned.

Curliss asked about Conservation as a zoning category, which seemed to her to be by nature "here and there" asking how that would work in this instance.

Amy Magnus stated that the "YSDC, which was created by Council" has weighed in, which is, she said, inappropriate. She then proceeded to reference an "anonymous donor" as also inappropriate.

Housh noted that the YSDC was not "created by Council", and that Council is seeking to clarify its position on the greenspace issue to remove a community point of contention, not to interfere in any way with the levy situation.

Stokes commented that the YSDC is "100% clear that the "anonymous donation" came to them from the Community Foundation.

Amy Magnus responded that "the YSDC represents the Council's interest". She continued to speculate as to the source of the donation.

Matthew Kirk stated his support for Council, noting that "there has been a sustained community effort to shift attention to the future of the Mills Lawn greenspace." He opined that even Council's attempt to clarify their position with respect to the greenspace issue has garnered criticism. Schools need attention, he said, and this sustained effort is creating fear and anxiety around the issue. "We can't even build a school at the school," he commented, and to be concerned about housing on that space seems farfetched.

Curliss commented that the resolution does not go far enough, but that she did not wish to make amendments.

Housh CALLED THE ROLL, and the MOTION PASSED 4-1 ON A ROLL CALL VOTE, with MacQueen voting against.

Reading of Resolution 2021-49 Censuring Council Member Laura Curliss for Violation of Council Rules and Procedures.

Curliss requested that the resolution not be read in, stating that her due process rights would be violated if the resolution was read in.

Parcels stated that she had a conflict of interest and was recusing from the matter.

The resolution was read in.

MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Housh stated that the matter is an internal Council issue and would be discussed as such.

MacQueen stated that the resolution was difficult, and was not something she wanted to do but, she said, Council has tried to address the matter over the past two years, in a variety of ways, and these

efforts have not produced a positive result. The resolution does not have the force of law, she stated, but is a formal statement of disapproval on the part of Council.

Housh noted that since Breanne serves Council as a whole, she is required to recuse on the matter, and that Chris Conard, of Coolidge Wall, would stand in as the legal representative to the Village on matters related to the resolution.

Curliss stated that she believed she had just been libeled, and asked whether Conard was representing Council as a whole, or her as an individual.

Conard commented that the standard for libel is different for a public official than it is for a private citizen, but that he would not opine on the issue.

Curliss requested due process and a hearing. She then stated that there are mis-statements in the resolution, and said, “you are impugning me and using political statements as facts...” Referring to the timing of the resolution so close to the election, Curliss stated that “this is as political as it gets.”

Kreeger commented that the situation is painful, and that she can only speak to what she has seen. She stated that she has had growing concern about inappropriate treatment of staff members. Kreeger stated that intervention from mediation to a new ordinance related to Council behavior have been employed and have not brought about a result. Kreeger interjected that she values alternative points of view, considering them critical to governmental decision making.

Kreeger elaborated that her concern is not with difference of perspective, but about how those perspectives are expressed. Most importantly, she said, it is about how we support the team for the good of the community. Culture starts at the top, she said, and we cannot permit the verbal abuse of our staff. The culture of incivility has reached Council, she said, and these behaviors need to shift.

Kreeger stated that “we are in danger of losing top members of our team if this behavior is not addressed.” She named Parcels, Salmeron and Burns specifically, and stated, “we have already lost our Chief.” Kreeger stressed that attrition of team members cannot be permitted to continue.

Curliss commented, “the hearing is now.” She then rationalized each of the concerns raised against her in the resolution, explaining her intent. With regard to the Burns incident, she stated that she found it “quite astounding” that anyone would take offense, stating that she was at some distance away from Burns at the time, and was simply trying to gain his attention.

Curliss admitted to calling the solicitor “honey,” but stated that, “she really made me mad,” and that she (Curliss) had later, in the mediation process, apologized for using the term.

Regarding her comments about the YS Police Department, Curliss stood by her words, stating that, “sometimes the police ARE ‘fucking police’.” She explained that she had meant the term generally, not as a directed insult.

Curliss stated that she has never made a disrespectful comment to Council or to Josue, and invited Council to watch Council meetings as proof of this.

Stokes commented that he had either direct or indirect knowledge of all of the incidents named in the resolution, and that the effort to quell the trajectory is needed, since earlier efforts have not been effective.

Housh commented on the timing of the resolution, acknowledging the proximity to the election, but saying that earlier efforts had not been successful, and that he wished he had had the courage to bring the resolution some time ago. He stated that he was unwilling to submit to bullying, as he characterized the behavior, and said, “we cannot effectively govern in this kind of atmosphere.”

Housh noted that the agenda had been placed before all Council members on the preceding Monday, and that Curliss had had plenty of time to craft a memo or other response in time for the packet, but had waited until just several hours prior to the meeting to do so.

Curliss maintained that she had asked that the resolution be pulled from the agenda, and that she had not been heard on that matter.

Housh then apologized to the Yellow Springs Schools and the YSDC “for the maligning they have received.”

Curliss objected to the characterization of her comments as maligning, stating that she has a political viewpoint.

Housh CALLED THE VOTE, and the MOTION PASSED 4-1 on a ROLL CALL VOTE, with Curliss voting against.

CITIZEN CONCERNS

Housh stated that comments regarding the resolution would not be heard.

Terry Smith objected to the inability to comment on the censure resolution, angrily accusing Housh of inappropriate behavior and calling the resolution “malarkey”.

Mitzie Miller thanked the Village and citizens for efforts to make sidewalks more accessible. She then asked that foliage be removed from the entirety of the sidewalks.

SPECIAL REPORTS

OLD BUSINESS

Addressing Questions Pertaining to Ordinance 2021-18, Prohibiting Housing Discrimination Based Upon Source of Income in the Village of Yellow Springs. The Clerk directed people to the “Q and A” paper in the packet as targeted to many citizen concerns.

Housh stated that the legislation is primarily about non-discrimination.

Brittany Keller, Home, Inc., commented that the organization has been working with the Section 8 program for several years, and the paperwork is very manageable, with the focus on safety issues that should be implemented in any case.

Housh noted that Section 8 is guaranteed payment. He expressed hope that landlords would be interested in exploring the program proactively.

YSDC Legislative History and Fact Checking. Kreeger noted that her responses to Curliss’s questions are in the packet, and that she would not go into detail, but would highlight some responses.

Kreeger stated that the YSDC was implemented as a convener for entities who might not be able to collaborate or interface on their own behalf.

From the beginning, she said, the YSDC has followed Sunshine Law, and has been diligent about acting openly and listening to the community.

Kreeger noted that the vote to proceed with plans to engage the community around uses of the Mills Lawn property was not a Council action, but was a vote of the members of the YSDC.

Regarding the much-maligned anonymous donor, Kreeger stated that it is common for the Community Foundation to uphold the anonymity of donors when passing on a contribution. The contribution came with no caveats, she said, other than that a community forum be held.

Kreeger stated that the Mayor of Clifton had joined the YSDC recently, but that composition of the voting membership must be determined by the YSDC, and is not a Council issue. Minutes and updates will be and have been regularly provided, she said.

Housh added that part of the role of the YSDC is civic development.

MacQueen stated that her support of the YSDC stems from her belief that the YSDC should serve as a unifying force, bringing together disputing or differently poised entities.

Curliss stated that the YSDC is the Village's designated development agent for the Village, and that it is understandable that she would not view them primarily as a convening body. 40% of the YSDC must be made up of members voting on behalf of the entities they represent, she said, and I don't think the numbers are there.

Review of Mask Ordinance and Recommendations for Revision. Parcels stated that CDC guidance has evolved over the past year, which would change the ordinance. Council briefly discussed this matter and asked that the revised ordinance come back to Council for a vote.

Mark Heise commented that the current mandate asks businesses to enforce the mandate, and asked for stronger wording on the signs in town, suggesting the "It's the Law" signage and more mask "ambassadors".

Jamie Sharp acknowledged that masking is now a community choice, as opposed to a state-wide mandate. She did ask for stronger signage, and perhaps the addition of a fine.

MacQueen stated her support for the stronger signage.

Housh stated that signage should be readily done.

Salmeron stated that Village Government can send a stronger message in the downtown area. He noted the plethora of exceptions in the ordinance as problematic.

Housh asked for more feedback from the Downtown Business Association prior to the meeting on the 18th.

NEW BUSINESS

Presentation of Downtown Parking Options. Salmeron introduced the topic, noting the parking concepts provided in the packet.

Salmeron asked, "what are we trying to solve," and acknowledged that the business community has made a strong case for their need for increased parking.

Salmeron described several parking options outlined in the parking concepts, specifically those envisioned for Elm/Phillips on Cemetery Street and along Corry Street. He asked that Council put these ideas back on the table.

Housh acknowledged the letter from the Elm/Phillips Street residents. He suggested paid parking as an option in the downtown area.

Kreeger clarified that none of the options shown are proposals at this point.

Michael Slaughter asked to table the discussion for a study. He questioned the measurements used and suggested use of the school lots on weekends.

Matthew Kirk commented that addition of parking around Mills Lawn makes sense as a cheap simple solution.

Bernadine Parks stated her opposition to angle parking around Mills Lawn, citing safety reasons.

Nick Boutis opposed adding parking as an increase to the suburbanization of the Village.

Jamie Sharp asked that parking needs be considered in terms of business cycles, September being a very low business month.

Mark Heise objected to the “us and them” nature of some of the comments, stating that he is a citizen—who lives on Phillips Street—and a business owner.

Stokes asked that peak days and times be identified.

MANAGER’S REPORT

Salmeron stated that the Police Chief search is underway, with over 30 resumes submitted. The first meeting took place today, he said. The Committee will determine a process to narrow the pool to 15. Currently, the committee has 15 individuals invited, but not all are able to commit to the process.

Housh asked whether any members of the 365 Project were asked to participate, and was told yes.

FUTURE AGENDA ITEMS

- Oct. 18:** Executive Session to Consider Solar Proposals/Projects
Ordinance 2021-29 Amending Section 660.16 of the Village Codified Ordinances Pertaining to Pandemic Precautions and Declaring an Emergency
Resolution 2021-50 Authorizing the Village Manager to Execute an Easement Agreement with Massie’s Creek Ventures LLC for Use of Village Property and Right-Of-Way Improvements Located Adjacent to 108 Cliff Street
Resolution 2021-51 Approving a Contract with Ranger Earthworks for Sewer Rerouting on Dayton Street
Citizen Review Board Proposal Debrief
Task Force Proposal for Creation of Body Worn Camera Policy
Draft Council 2022 Goals: Preparation for meeting on 10/25
- Oct. 22:** **Council Budget Session:** General Fund and Special Revenues, 3-5pm
- Oct. 25:** **Council Work Session re:** Draft 2022 Goals, 4-6pm
- Nov. 1:** Solar Project Update
- Nov. 11:** **Council Budget Session:** Enterprise and Capital Funds, 5-7pm

ADJOURNMENT

At 9:38 pm, MacQueen MOVED, and Kreeger SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 on a voice vote.

Brian Housh, Council President

Attest: Judy Kintner, Clerk of Council