

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

Virtual Meeting @ 7:00 P.M.

Monday, April 4, 2022

CALL TO ORDER

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

ROLL CALL

Present were President Brian Housh, Vice President Kevin Stokes and Council members Marianne MacQueen and Carmen Brown. Also present were Village Manager Josue Salmeron, Public Works Director Johnnie Burns, Finance Director Matt Dillon, Planning Administrator Denise Swinger and Solicitor Breanne Parcels. Lisa Kreeger was absent due to work travel.

ANNOUNCEMENTS

Salmeron announced April as Wellness Month, noting health activities throughout the month. He noted that GCCHD is holding National Public Health Week with a different focus daily.

MacQueen made note of Earth Day weekend activities the weekend of April 23rd.

Housh announced that Celebrate Trails Day will also occur during that weekend, on April 23rd.

Housh lauded Antioch College and the YS Pride Team for hosting a Day of Transgender Awareness.

Housh noted that a number of people are ready to get back to block parties, and suggested Council discuss how to support these as early as this Spring.

Housh noted that the Yellow Springs Community Foundation Youth Action Board had presented an award to Florence Randolph for her Community Outreach activities. He asked Salmeron to follow up with the group regarding solar energy in the schools.

Housh announced that Yellow Springs had made it to the Final Four in the Strongest Town competition, up from making it to the Elite Eight last year. He urged others to engage in the competition next year.

Matt Dillon announced that April 15th is the deadline for reporting TGL income and for paying renewal fees.

Stokes announced that Home, Inc. and HUMAN have planned a community gathering for April 16th at Tuck and Reds, with music and snacks and the theme “It’s nice to be nice—try it!”

CONSENT AGENDA

1. Minutes of March 21, 2022 Regular Session

Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE THE CONSENT AGENDA. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

REVIEW OF AGENDA

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

Tia Acheson re: Sign on to ICAN
Brian Housh re: Article on Outdoor Recreation
Inclusive and Resilient YS re: Support for LGBTQ Persons
Brian Housh re: Strongest Towns: Yellow Springs
Dino Pallotta re: Alcohol Awareness Month
Marianne MacQueen re: In-Person Meetings
GCCHD re: Health Week

Stokes reviewed the materials received.

PUBLIC HEARINGS/LEGISLATION

Second Reading and Public Hearing of Ordinance 2022-09 Adopting a Body Worn Camera Use Policy for the Village of Yellow Springs. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Salmeron introduced the ordinance, stating that he has received public indication of approval for the ordinance so far.

Jacobs lauded the process and the final product. He commented that only with a good policy are BWCs a useful tool for accountability. He stressed that the policy prioritizes use for transparency and accountability and protects citizen privacy.

Jacobs noted that the ordinance only establishes policy and does not contemplate or fund purchase.

Burge stated her approval of the policy as a necessary step towards greater transparency.

Brown, Stokes and MacQueen stated approval.

Housh CLOSED THE PUBLIC HEARING.

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

First Reading of Ordinance 2022-10 Amending Chapter 1226 “Subdivision Regulations” of the Codified Ordinances of the Village of Yellow Springs, Ohio. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron introduced the ordinance, noting that many of the amendments bring the Regulations into compliance with Ohio Revised Code.

Swinger explained that the amendment to Section 1226.02 is an acknowledgement by applicants that the next available regularly scheduled Planning Commission meeting is the earliest date the Village can act while also complying with open meetings and notice requirements. It does not change the timing of the plat submittal to the Planning & Zoning office, which will continue to be 25 days ahead of the next Planning Commission meeting. It also includes language from ORC 711.09 stating that if the Village fails to act within 30 days from the date of submission (“submission” being the same date as the regularly scheduled Planning Commission meeting), unless the applicant otherwise agrees to tabling or other delays, the plat is deemed approved by Ohio law.

Section 1226.06(c) is the addition of a Utilities Review. This language states that for all subdivisions creating new buildable lots, applicants are required to provide proof that sewer laterals conform to regulation as well as other utilities, such as electric. This change is due to a recent situation with a lot split where a Public Works official told the owner that the overhead electric line needed relocation underground. However, the owner sold the property and moved without having this work completed.

Section 1226.13(e) needed further clarification to reflect that this is a fee and not “in lieu of” a land dedication as would be appropriate for larger developments in major subdivisions. It also changes “units” to “lots”. Because there is not an established park fund, the fees collected will go towards capital improvements at the nearest dedicated park to the new lots created under the minor subdivision requirements.

Max Crome commented that fees be referred to a schedule of fees so that the fee ordinance can be changed as costs change.

Swinger noted that this would require another ordinance in any case, and the schedule of fees would need to go through Planning Commission.

Parcels commented that any action would require an amendment to the code.

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

First Reading of Ordinance 2022-11 Waiving a Deed Restriction to Permit Construction of a Chimney Swift Habitat Structure at 314 Dayton Street and Declaring an Emergency. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

The Clerk acknowledged having read a shorthanded version of the title, which created some confusion, and read in the correct title (as above).

Housh OPENED THE PUBLIC HEARING.

Salmeron noted that renovation of the Union School House will remove the current chimney swift home. A group formed to save the birds, and the architect supervising the project agreed to construct a chimney on the front lawn in an effort to re-home the birds, who will return for the Spring in about one month.

Reilley Dixon spoke of his dedication to the cause of the chimney swifts and the importance of the project.

Max Crome, Crome Architecture, presented renderings of the project and described a timeline.

Council members spoke in favor of the project.

Housh CLOSED THE PUBLIC HEARING.

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

First Reading of Ordinance 2022-12 Approving Amendments to Council Rules and Procedures. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

The Clerk commented on the proposed changes, noting that Council makes its own rules of procedure and behavior, including social media policy, and Council had asked that the document be updated to reflect the issue of social media.

Council members discussed the caveat that they distinguish personal vs. official posts on social media, and received information from the Solicitor that this distinguishing action is necessary due to public perception.

Stokes commented that public officials have a duty to distinguish their roles, with the understanding that the public default is that they are acting as a public official.

Brown commented that she limits her posts to the mundane to avoid any confusion or conflict. She questioned the efficacy of stating one's role.

Dino Pallotta asked whether passage of this ordinance will change anything regarding the past complaint regarding a Councilmember's behavior.

Stokes responded that the ordinance documents what has been "an ad hoc thing". He stated that complaints are unusual, and the ordinance formalizes the ad hoc process. He stated that he will respond to the complaints.

Matthew Kirk asked why there seems to be a lack of clarity regarding social media comments on the part of Council members while there is a great deal of clarity regarding social media comments from Planning Commission members, and referenced having been asked to resign from PC due to social media comments. He asked that all be treated fairly.

Housh responded briefly that PC members are quasi-judicial and non-elected, while Council members are political as elected officials.

Athena Fannin objected to another member of Council handling a complaint against Council, opining that a fairer method would be to have an outside entity review complaints. She stated that Council members should not police one another, as this does not engender trust from the community. She then asked that the caveat against "profane and threatening language" during Council meetings be struck as archaic.

Housh responded that there are other means of taking action against a Council member, noting recall, social media and letters as some of these options.

Sarah Sinclair Amend asked whether social media best practices had been requested and asked that this be done.

Parcels stated that she would provide some examples for the next packet.

Housh declined to call a vote.

Reading of Resolution 2022-22 Authorizing the Village Manager to Renew Health Insurance for Village Employees 2022-2023 Plan Year. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron explained that there will be a 8% increase for the same plan renewal for Health Insurance. There will be no increase to the Vision plan. There will be a 6% increase for Dental Insurance. He also noted that no other insurance company responded to the request for quotations.

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

Reading of Resolution 2022-23 Authorizing the Village Manager to Renew Dental Insurance for Village Employees 2022-2023 Plan Year. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

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

Reading of Resolution 2022-24 Agreeing to Act as a Fiscal Agent for a Grant Received by the Yellow Springs Chamber of Commerce. MacQueen MOVED and Brown SECONDED a MOTION TO APPROVE.

Salmeron noted that the Chamber needs a fiscal sponsor to accept a grant.

Mark Heise, Chamber President, stated that because the Chamber is a 501C6 organization, they cannot act as a fiscal agent for the grant and need Village assistance.

Housh spoke of Heise's work in obtaining the grant and in rebuilding the Chamber with appreciation.

Stokes noted his role as the liaison to the Chamber, stating that he was asked to bring the issue to the Village. He stressed that he is an ex officio member of the Chamber.

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

Reading of Resolution 2022-25 Authorizing the Clerk of Council to Expend Up to \$5,000 for Temporary Administrative Support to Satisfy Public Records Requests. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

The Clerk noted that the resolution permits the option to hire a contractor at the cost of the requester if a records request is so voluminous that it cannot be fulfilled by existing staff in a timely manner. She noted that records requests over the past several months have been continuous and in some cases very time consuming. The resolution, she said, is in response to a request that will take a minimum of 20 hours of staff time.

Parcels commented that staff time cannot be charged to the requester, but if a contractor is required, that cost can be passed on to the requester. She noted that the requester can agree that the request may take a long time and would then not be charged, but would have to rely on staff availability to fulfill the request.

Housh sought clarification as to how this cost is not passed on to the taxpayers.

Parcels responded that costs could be recouped from the requester, but that they would have to agree to paying that cost, noting that the requests need to be satisfied "by hook or crook".

Stokes received confirmation that the Village has to provide all materials at cost.

Brown received clarification that expended funds would be recouped from the requester.

Athena Fannin commented that "this is not my request". She complained that the process is obstructive and suggested an assistant be hired for the Clerk to "bring you into the 21st century."

Sarah Sinclair Amend commented that she knows who the requester is. She then opined that the responses to initial requests were insufficient in her opinion, and it was clear that there must be obstruction, which then forced the voluminous request.

Lindsay Burke commented that if all records are immediately provided, there would be no problem as transparency would be clear.

Housh noted that it was unclear why this additional appropriation is needed if the cost could be passed on to the requester when the request is beyond the ability of the Village to satisfy given the scope and desired time frame.

Housh CALLED THE VOTE, and the MOTION PASSED 3-1 on a ROLL CALL VOTE, with Housh voting against.

CITIZEN CONCERNS

Athena Fannin demanded the name of the “specialist who provided the DVDs”.

Parcels responded that this is information, not a record, and does not have to be released.

Fannin cited this as an example of obstruction.

Fannin then complained about the Village’s CCTV system, which is not functioning to her standards, and requested a new system. Housh noted that the CCTV system may not be being used in the way it was intended, especially in light of concerns raised vis a vis the Village Surveillance Policy in the context of the body worn cameras review.

Fannin complained that her request for information to Chief Burge has not been responded-to.

Fannin demanded that the “milky white glass” for dispatch be immediately replaced with clear glass. Housh clarified that the glass in front of the dispatch desk is clear and allows for view into the office.

SPECIAL REPORTS

Planning Commission End of Year Report. Doden presented the annual report, and thanked citizens who joined meetings, PC volunteers and Village staff.

“Zoning Opportunities”. Matt Raska presented a vision for more inclusive housing and asked that these ideas be considered by Council and Planning Commission.

Raska indicated that the changes would be free from cost.

Stokes responded to this comment, stating that staff time comes at a significant cost, so there are real costs to modifying the zoning code.

Raska responded that by reducing the number of BZA hearings, staff time would be reduced overall.

Brown commented that the Village should be innovative in responding to housing needs, stating that “it’s just a matter of building places to house people.”

Salmeron commented that it is time for the zoning code to be reviewed, since the Village has updated the Comprehensive Land Use Plan. That process will take at least two years and a significant amount of funding. Salmeron added that infrastructure has to be in sync with any zoning changes so that, for example, storm water is properly managed.

Mitzie Miller commented that while she agrees that the zoning code needs to be updated, she questions the comment that “people should be able to use their lots in any way they wish.” She described a number of events that transpired in her neighborhood when a homeowner operated a business from home.

Matthew Kirk commented on the need for connectivity for new development, opining that this is lacking in the current code. He stated his belief that new development should be prioritized if there is a rewrite.

OLD BUSINESS

Citizen Review Board Legal Review. Brown stated that she has requested needed items (letter of intent and CV) from Attorney Waddy. She noted that the scope of work will be included in the letter of intent.

Brown commented that it is not generally asked of an attorney that they submit a CV. She opined that a statement and scope of work should cover this.

Housh responded that the Village has obtained information on attorneys it uses in the past to vet them as a general practice.

Housh asked as to the progress of the list of questions that was to be circulated to Council and the Village Manager, and suggested that Brown reach out to the Clerk if she needs assistance with this.

MacQueen asked other Council members to weigh in as to whether they are comfortable with using the Village Mediation Program in an intake capacity until the CRB is operational.

Stokes commented that he wants to avoid spending money and not getting what is needed. He commented that law firms have specialties, and he wants to assure that the situation with the prior legal review does not recur.

Brown responded that she is well aware of this concern. She iterated that the CRB needs to be reviewed for compliance with all laws pertaining—Ohio law, Charter—any laws applicable.

Brown responded to MacQueen, stating that she has met with a leader in the VMP, Sarah Wallis, who understands that the new VMP Coordinator may serve in an intake function for the CRB, but that this should not hold up the hiring of the new Coordinator.

Housh voiced his support for this process, noting that any method forward should be encouraged.

Housh asked that the document with questions circulate for the purpose of finalizing any questions to be addressed regarding the legal review and/or the attorney, and that this be done prior to the next Council meeting.

Social Justice Commission Update. Brown related that she has spoken with Stokes on this topic, and the two concluded that this all falls within the scope of the Human Relations Commission. Brown noted that the HRC was formed 58 years ago. She noted the historical significance of this fact, and stressed the importance of retaining the HRC for a number of reasons.

Parcels commented that she could provide a draft ordinance for the next meeting.

Stokes supported the updating of the HRC as responsive and mindful of HRC's legacy.

Housh commented that one reason that the Justice System Commission did not get started was that there was no Council member willing and able to take on the liaison role at the time. He commented that HRC had not been very functional in some time, and had not been undertaking community work as a focus. He stressed the need for strong leadership and motivation to make any proposed entity work. He added that the policing aspect needs to be conveyed in the new entity or the revised HRC.

Kate Hamilton expressed appreciation that the contributions of the HRC were related.

Hybrid Meeting Update. Housh commented that hybrid meetings need to have clear parameters, and he asked that Council discuss these possibilities.

The Clerk stated that she envisions this working best if Zoom participation is only permitted during Legislation and Citizen Concerns. She commented that the Village is "head and shoulders" ahead of most communities in terms of citizen access to meetings." She added that all requests for participation, questions, etc. will now need to occur no later than an hour prior to the scheduled meeting, since she will not be able to respond during meeting time.

Salmeron expressed concern regarding technology challenges. He cautioned that he will not be able to be as responsive to information requests during in-person meetings.

Stokes commented that Zoom allows for a lot of participation, which will decrease with in-person meetings.

MacQueen commented that Council is the decision-making body, and there are myriad ways to contact Council or to make opinions known to Council members. She opined that Council is tasked with representing the entire Village as an elected body. She indicated that Zoom is not beneficial to this process necessarily.

Brown commented on the capacity of Chambers, and reiterated her desire that meetings be as accessible as possible.

Mark Heise commented that now that the Zoom option has been made available, "you can't go backward."

Athena Fannin argued for full virtual function ongoing.

Matthew Kirk advocated for access, but asked that this be funded in whatever ways needed.

Housh suggested that Council start off using the model as suggested by the Clerk and Village Manager.

All Councilpersons present agreed to this suggestion.

NEW BUSINESS

Housh commented that there was not enough time to fully address this topic, moving it to the next meeting, but stated that it is clear that the CLUP is a guiding document, particularly given that "Plan" is part of the name, and does not have the force of law.

Signing on to ICAN. Housh asked for Council feedback regarding signing on to the International Campaign to Abolish Nuclear Weapons. All Council members agreed to MacQueen proceeding with this action.

MANAGER’S REPORT

Salmeron presented the Manager’s Report as follows:

Rumpke Spring Clean Up will take place Monday – Friday, beginning May 2, 2022.

Stokes inquired about a cost offset.

Salmeron commented that this would not be prudent, given the response last year. Salmeron noted upcoming legislation needs.

Salmeron announced that the Village Team made the top 25% in the US for power provision reliability.

FUTURE AGENDA ITEMS

- April 18:** **Second Reading and Public Hearing of Ordinance 2022-10** Amending Section 1226.02 “Subdivision Regulations” of the Codified Ordinances of the Village of Yellow Springs, Ohio
 Second Reading and Public Hearing of Ordinance 2022-11 Removing a Deed Restriction
 Second Reading and Public Hearing of Ordinance 2022-12 Approving Amendments to Council Rules and Procedures
 Resolution 2022-26 Authorizing the Village Manager to Enter into Agreement for the Sale of Village Owned Property
 Ordinances Related to Text Amendments

ADJOURNMENT

At 9:59 pm, MacQueen MOVED, and Stokes SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 on a voice vote.

Brian Housh, Council President

Attest: Judy Kintner, Clerk of Council