

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

Virtual Meeting @ 6:30 P.M.

Monday, April 18, 2022

CALL TO ORDER

President of Council Brian Housh called the meeting to order at 6:36pm.

ROLL CALL

Present were President Brian Housh, Vice President Kevin Stokes and Council member Marianne MacQueen. Also present were Village Manager Josue Salmeron, and Solicitor Breanne Parcels. Lisa Kreeger was absent due to work travel.

EXECUTIVE SESSION

At 6:37, Stokes MOVED and MacQueen SECONDED a MOTION TO ENTER EXECUTIVE SESSION for the Purpose of Discussion of an Energy Contract. The MOTION PASSED 3-0 on a ROLL CALL VOTE.

Carmen Brown arrived at 6:10 and entered the Executive Session at that time.

At 6:59, MacQueen MOVED and Stokes SECONDED a MOTION TO EXIT EXECUTIVE SESSION. The MOTION PASSED 4-0 ON A VOICE VOTE.

ANNOUNCEMENTS

MacQueen announced Earth Day activities Wednesday through Sunday the week of April 21st.

Housh announced Opening Day for Trails set for April 23rd.

Salmeron noted events related to Wellness Month.

Housh noted that the Village has re-applied for a grant from “Rebuilding American Infrastructure with Sustainability & Equity” having reached the final phase in 2021, the Village is well positioned for this grant in 2022.

Housh asked for follow up on the Coretta Scott King Legacy luncheon. The Clerk will follow up.

Housh stated that the Village is now signed up with ICAN, and the next step is to sign on to a treaty against nuclear weapons.

Amy Wamsley presented regarding planned activities for the 2022 YS Pride event, and referenced a document requesting funding from Council and a variety of services from VYS staff.

Housh asked that Salmeron return with a “real costs” assessment for the Pride event, and asked that a vote on the amount and type of funding come to the May 2nd meeting.

Stokes noted upcoming Juneteenth activities.

CONSENT AGENDA

1. Minutes of April 4, 2022 Regular Session

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

REVIEW OF AGENDA

Housh added the topic of a Council/Village Team retreat to New Business.

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

Athena Fannin re: Complaints about the Ineptitude, Intractability and Recalcitrance of the Council Clerk in her Response to Public Records Requests (2)
Dawn Johnson re: Appreciation for Council Clerk
Juneteenth Flier
Earth Day Flier
YS Pride Schedule
Mayor's Clerk re: Monthly and Quarterly Reports (3)
RAYS re: CLUP Opinion
Bryce Rhoades re: Permission to Release Opinion
Brian Housh re: Funding for Zoning Improvements Article

Stokes reviewed the materials received.

PUBLIC HEARINGS/LEGISLATION

Second Reading and Public Hearing of Ordinance 2022-10 Amending Chapter 1226 "Subdivision Regulations" of the Codified Ordinances of the Village of Yellow Springs, Ohio. MacQueen MOVED and Brown SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

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 to towards capital improvements at the nearest dedicated park to the new lots created under the minor subdivision requirements.

Parcels addressed a question from Housh, stating that these fees in lieu would normally go into a capital fund rather than an operating fund.

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

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

Housh OPENED THE PUBLIC HEARING.

Housh noted that the changes have been fully discussed.

Stokes and MacQueen noted their comments as related to social media policies, commenting that nothing needs to be added to the ordinance.

Athena Fannin commented generally on the need for transparency and requested additions to the policy, and made allegations of malfeasance against Housh for “voting on a resolution he should have recused from”.

Housh clarified that his “no” vote on the resolution to allocate funds for the Clerk at the prior meeting had not been made “out of confusion” as reported in the YS News, but was a response to the fact that it was not made clear at the time as to whether funds would be recouped in all situations. He asserted that the real problem is the scope of some recent public records requests that is so broad that it is negatively impacting staff time.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

First Reading of Ordinance 2022-13 Amending Chapter 276 “Human Relations Commission”. Stokes MOVED and Brown SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Stokes explained the ordinance as a combination of the previous HRC and the previous Justice System Collaborative Committee to reinvigorate the HRC’s mission. He read the revised establishment and purpose for the HRC. Stokes cautioned that for the commission to succeed, it will need committed and excited participants.

Brown noted that Yellow Springs has a history of innovation in matters of justice and growth, and pointed out that this committee can provide educational opportunities in a time when these opportunities are under attack.

Stokes stressed the importance of involving students with local government.

Council held a general discussion as to the worth of involving disenfranchised members of the community.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

First Reading of Ordinance 2022-14 Repeal and Replace Chapter 1022 Numbering of Buildings to Chapter 204 Official Standards Moving Addressing of Buildings to Chapter 204 Official Standards. Stokes MOVED and Brown SECONDED a MOTION TO APPROVE.

Parcels explained that Ordinance 2022-14 moves addressing standards from its current location in Chapter 1022 to Chapter 204.

Housh CALLED THE VOTE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

First Reading of Ordinance 2022-15 Amending Chapter 1440 – 1440.03 “Authority of Village Manager” Thereby Removing Reference to Greene County Building Regulations. Stokes MOVED and Brown SECONDED a MOTION TO APPROVE.

Swinger explained that at their meetings held Tuesday, February 15 and Tuesday, March 15, 2022, the Planning Commission recommended for Council approval the following amendments:

- Chapter 1266 Signs – Changing references from Greene County Building Regulations to Building Official
- Chapter 1440 – Section 1440.03 Authority of Village Manager - Change reference from Greene County Building Department to Building Department
- Chapter 1470 Public Nuisances – Change reference from Greene County Building Official to Building Official

The amendments are due to the change in having our own building department.

Housh declined to call a vote.

First Reading of Ordinance 2022-16 Amending Chapter 1266 “Signs” Thereby Changing References from “Greene County Building Regulations” to “Building Official”. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Housh declined to call a vote.

First Reading of Ordinance 2022-17 Amending Chapter 1470 “Public Nuisances” Thereby Changing Reference from “Greene County Building Official” to “Building Official”. MacQueen MOVED and Brown SECONDED a MOTION TO APPROVE.

Housh declined to call a vote.

Emergency Reading of Ordinance 2022-18 Authorizing the Village Manager to Take All Steps Necessary to Complete the Sale of Village-Owned Property Located at the Center for Business and Education to JDRC Acquisitions LLC and to Negotiate and Execute a License Agreement to JDRC Acquisitions LLC, and Declaring an Emergency. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Salmeron commented that the purchase is to accommodate Cresco’s expansion, which is in accordance with the Village’s economic development strategy.

Salmeron noted that the storage containers will be on site for less than a year.

Burns commented that Cresco will be storing containers on the property, and that these are not located in the area where a road is planned.

There was a brief discussion regarding the strategy for promoting the remaining acreage at the CBE. Salmeron commented that promotion of the sites will move forward summer of 2022.

Athena Fannin commented complained about the ordinance being an emergency ordinance.

Salmeron responded that the matter has been fully discussed and legislated at Council.

Parcels noted that the resolution passed in the fall requested that the final sale legislation be passed a an emergency so that the expansion is not held up.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. THE MOTION PASSED 4-0 ON A VOICE VOTE.

Reading of Resolution 2022-26 Accepting a Final Participatory LPA-ODOT Let Project Agreement from Ohio Department of Transportation for Sidewalk and Curb Ramps and Authorizing the Village Manager to Enter Into a Contract with the ODOT Provided Contractor for Construction of the Limestone Street Sidewalk Project. Stokes MOVED and Brown SECONDED a MOTION TO APPROVE.

Burns stated that a great deal of work has been done on this project in-house to reduce Village costs in the final phase, noting that there will be zero cost to the Village related to the Final Let.

Housh commented that this will be a dramatic improvement in safety along Limestone Street.

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

Reading of Resolution 2022-27 Celebrating the 5th Anniversary of Yellow Springs as a Buckeye Trail Town & Bicycle Friendly Community. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Housh commented on the resolution, noting the importance of the trail to the Village as a whole. He noted that the resolution recognizes Villager and avid trail-hiker Moya Shea, who advocated for the trail for many years.

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

CITIZEN CONCERNS

Mitzie Miller advocated for safer sidewalks, stressing the need for property owners to clear sidewalk obstructions.

Athena Fannin railed against the Council Clerk for 3 minutes, stating that her records requests have been improperly denied and/or not fulfilled as she desires.

Mark Heise asked that a reference to the fact that the Village is a Trail Town for the North Country Trail, which is a First National Scenic Trail be added to the resolution.

Council agreed to add this information to Resolution 2022-27.

SPECIAL REPORTS

There were no Special Reports.

OLD BUSINESS

Citizen Review Board Legal Review. Brown stated that she has not yet received the requested documents and information from Attorney Waddy.

There was a general discussion regarding qualifications for the review.

Brown commented that the Village has relationships with legal firms capable of providing the review if the process becomes stalled.

Explanation of Comprehensive Land Use Plan as a Guiding Document and Clarification of Intent and Purpose of the CLUP.

Parcels distinguished between Planning and Zoning, which are often improperly conflated.

She noted that the 2020 Comprehensive Plan is described as “general, summarizing high-level policies, goals and objectives, as opposed to a zoning ordinance which regulates the design and use of individual parcels.”

Parcels stated that Village Codified Ordinance 1284.03 defines the Comprehensive Plan as “The document adopted by the Planning Commission and/or Village Council which establishes the goals, objectives and policies related to future land use and the general location and extent of present and proposed community facilities.” She noted that unlike the Zoning Code, the CLUP does cover areas outside of the Village limits.

Parcels stated that the CLUP is designed as a flexible document and guidepost, but is not a legally binding document in the same sense as the Zoning Code.

MacQueen asked for clarification regarding subdivision regulations.

Parcels briefly explained the difference between PUD and a subdivision as they relate to Council action.

Housh commented on the case law presented to Council in the legal opinion written on behalf of the RAYS group. He pointed out that lawyers “cherry pick” case law, and noted that the case referenced noting that the case referenced involved protecting a municipality addressing storm water problems from a proposed development. He urged all involved to work together to create productive change rather than attempt to find non-existent wrongdoing.

NEW BUSINESS

Funding for YS Pride Activities. Salmeron stated that he will be meeting with the Pride coordinators soon to go over all of the requested items.

Council requested further information regarding the total amount of the request, including in-kind contributions.

Salmeron stated that he can return to Council with a clarified idea of the total ask with regard to the event.

Brown stated that many municipalities sponsor key events, and asked that the conversation regarding Village sponsorship of Pride be considered.

Housh commented that there are signature events that are regularly supported by the Village, and these should be budgeted for annually.

Funding for Block Parties. Salmeron stated that the Village normally puts up barricades and supplies a gift certificate Tom's to cover the cost of paper products.

Salmeron stated that there have been suggestions that the Village bulk-purchase paper products which could then be picked up by the event coordinators.

The amount of the gift certificates, logistics and how to coordinate with Block Captains was discussed.

Jessica Thomas, former HRC member, stated that HRC had maintained a list of Block Parties and their coordinators, and suggested that the HRC minutes from several years ago should have information on costs and wording of the invitations.

Mitzie Miller made a statement to the effect that the process should be transparent.

MANAGER'S REPORT

Salmeron reported on the results of recent wastewater testing. Based on data from the wastewater treatment plants in Yellow Springs, there is evidence of an increased community transmission of COVID-19 cases in this region – as demonstrated by 3 sustained samples (over a 7 day period) that show a ten-fold increase in viral load.

Salmeron stated that as a part of Village Wellness Month and in recognition of Earth Week, the Village of Yellow Springs Public Works Department will facilitate a three-location public mulch distribution on Monday, April 18, 2022.

Salmeron said that he hopes to have an update on the Dayton Street rerouting project in one-to-two weeks.

Salmeron will be bringing an ordinance for a power purchase through AMP to the next meeting.

Continuing efforts to address inflow and infiltration were noted.

Salmeron reported that Pastor LaToya Warren has volunteered as a Police Chaplain, and will be sworn in at Council's May 2nd meeting. A bio was provided.

Salmeron noted an opportunity to purchase E-RECs, which provides an opportunity to sell Village RECs and purchase E-RECs. He will bring a proposal to the next meeting.

MacQueen asked for detailed information on the proposed Co-op for Lawson Place, including feedback from residents.

Housh asked that a Council retreat be set up, and that this include staff for half of the half-day retreat. The Clerk will set this up.

BOARD AND COMMISSION REPORTS

Housh reported on the Miami Valley Regional Planning meeting.

Brown reported that the PACC VIDA award will go to “Clean Gene” and will be presented in May.

Brown reported out on the April 12th Planning Commission meeting.

FUTURE AGENDA ITEMS

- May 2:** PACC Presentation re: Busking/Vendors
- Second Reading and Public Hearing of Ordinance 2022-13** Amending Chapter 276 “Human Relations Commission”
- Second Reading and Public Hearing of Ordinance 2022-14** Repeal and Replace Chapter 1022 Numbering of Buildings to Chapter 204 Official Standards Moving Addressing of Buildings to Chapter 204 Official Standards and Updating the Language
- Second Reading and Public Hearing of Ordinance 2022-15** Amending Chapter 1440 – 1440.03 “Authority of Village Manager” Thereby Removing Reference to Greene County Building Regulations
- Second Reading and Public Hearing of Ordinance 2022-16** Amending Chapter 1266 “Signs” Thereby Changing References from “Greene County Building Regulations” to “Building Official”
- Second Reading and Public Hearing of Ordinance 2022-17** Amending Chapter 1470 “Public Nuisances” Thereby Changing Reference from “Greene County Building Official” to “Building Official”
- First Reading of Ordinance 2022-18** Authorizing Execution of the 2022 Solar Energy Schedule with American Municipal Power, Inc. and Approving Necessary Actions in Connection Therewith Regarding Solar Generated Energy Purchases

ADJOURNMENT

At 9:33 pm, MacQueen MOVED, and Brown SECONDED a MOTION TO ADJOURN. The MOTION PASSED 4-0 on a voice vote.

Brian Housh, Council President

Attest: Judy Kintner, Clerk of Council