

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

Council Chambers @ 6:00 P.M.

Monday, October 21, 2024

CALL TO ORDER

President of Council Kevin Stokes called the meeting to order at 6:02pm.

ROLL CALL

Present were President Stokes, Vice President Gavin DeVore Leonard and Council members Brian Housh, Carmen Brown and Trish Gustafson. Also present were Village Manager Johnnie Burns, Solicitor Amy Blankenship, Planning and Zoning Administrator Meg Leatherman, Project Lead Elyse Giardullo and Finance Director Michelle Robinson.

ANNOUNCEMENTS

Housh lauded Johnnie Burns and Chris Bongorno for their presentations at a recent Active Transportation event.

Housh noted that October is “Walking Month”, and reminded all of the MVRPC walking audit of the downtown area to occur November 15th as part of the Active Transportation Plan update.

Housh related that he and Stokes visited the Haitian Help and Support Center in Springfield and had presented Council’s resolution. He noted that an invitation was extended to attend the regular Sunday services held there.

Housh announced a Glass Farm Work Day for this Saturday.

Burns announced Trunk-or-Treat at the JBC for October 24th and regular Halloween bonfires and Trick-or-Treat for October 31st.

CONSENT AGENDA

1. Minutes of September 25, 2024: Special Meeting: Joint School Board/Council
2. Minutes of October 7, 2024 Regular Meeting
3. Credit Card Statement for September

DeVore Leonard MOVED and Brown SECONDED a MOTION TO APPROVE THE MINUTES of September 25, 2024. The MOTION PASSED 5-0 ON A VOICE VOTE.

DeVore Leonard MOVED and Gustafson SECONDED a MOTION TO APPROVE THE MINUTES of October 7, 2024. The MOTION PASSED 5-0 ON A VOICE VOTE.

DeVore Leonard MOVED and Brown SECONDED a MOTION TO APPROVE THE CREDIT CARD STATEMENT FOR SEPTEMBER. The MOTION PASSED 5-0 ON A VOICE VOTE.

REVIEW OF AGENDA

There were no changes to the Agenda.

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

Bob Huston re: Support for TLT Funding Request

Julia Lee re: Opposition to Consideration of Gaunt Park Property for Rec Soccer
Mayor's Clerk re: Mayor's Monthly Report (3)
Ann Randolph re: Support for TLT Funding Request
Carmen Brown re: LIHTC Impediments
Dino Pallotta re: Opposition to LIHTC Efforts

PUBLIC HEARINGS/LEGISLATION

Housh MOVED and Brown SECONDED a MOTION TO READ SECOND READINGS BY TITLE ONLY 2024-15. The MOTION PASSED 5-0 ON A VOICE VOTE.

Second Reading and Public Hearing of Ordinance 2024-11 Rezoning One Parcel Totaling 3.612 Acres of Property at 420 E. Enon Road from Low Density Residential (R-A) to High Density Residential (R-C). Housh MOVED and DeVore Leonard SECONDED a MOTION TO APPROVE.

Leatherman introduced the legislation as follows:

On September 10, 2024, Planning Commission voted 4-0 to approve a rezone request (Zoning Map Amendment) for 3.6 acres located at 420 East Enon Road on September 10, 2024, noting that Planning Commission is the recommending body for rezone requests.

Leatherman pointed out that the property is currently R-A, and that the zoning change to R-C does have her recommendation as falling within the guidelines outlined in the Comprehensive Land Use Plan.

Leatherman stated that Village Code requires that Council hold a public hearing on a rezone request (Zoning Map Amendment) and provides Council with three options (VC 1280.03(g)):

- 1- Adopt the amendment request as presented by the Planning Commission;
- 2- Modify the proposed amendment by amending the ordinance-the Council may defer any proposed modifications back to the Planning Commission for additional review and recommendation; or
- 3- Deny the amendment.

Stokes spoke for some time regarding the request, pointing out that it is only a request for rezoning.

Stokes OPENED THE PUBLIC HEARING.

Mitzie Miller stated that the rezoning makes no sense given that there is no information yet as to the availability of the property.

Anya Senetra, Head of Mental Health Intervention Services for the Greene County Learning Center (GCLC), spoke in opposition to the rezoning, stating that as a career provider of mental health services, she understands the need for housing security. She characterized the proposed development as a form of marginalization, isolated from transportation, businesses and other neighborhoods, etc.

Dirk Lackovich-Van Gorp spoke in opposition to the rezoning as a lifetime advocate for affordable housing. He stated that his opposition stems from the detriment the development would present to the ESC. He called upon Council to support the children of Greene County who rely upon the services of the ESC by voting "no".

Arita Emmert opposed the rezoning, citing safety issues, that of increased traffic in particular.

Dino Pallotta asked Housh whether he needs to recused based upon information Pallotta had received indicating that Housh had donated to the “Springers for More Springers” Go Fund Me site which had paid for some of the costs associated with rezoning.

Terry Graves-Streiter, Educational Service Center Superintendent, related an experience in which a trajectory for a school initiative was changed based upon input from community members. She urged Council to listen to the objections presented. Graves-Streiter stated that the ESC is now considered a County School Financing District, which, she said, puts the ESC in the same category as the Village, per ORC. Streiter-Graves reiterated her strong opposition on behalf of the ESC.

Rebecca Potter spoke on behalf of the School Board President. She stated that the lien removal needed to happen concurrently with the rezoning. She then rebutted the notion that the location is not accessible to services and community. Potter argued that more students are needed for YS schools, and that the rezoning is needed.

Josh Zinger, soccer coach and parent, stated his opposition to the rezoning based upon problems associated with relocating the recreational soccer fields and upon the idea of placing high-density housing so close to two schools.

Emily Seibel, Executive Director of YS Home, Inc, commented that there is a large wait list for affordable rentals and iterated the need for affordable rentals. She rebutted some of the issues raised by an earlier speaker. She offered to speak to anyone with concerns “as an affordable housing stakeholder.”

Jackie Hempfling commented that the rezoning is necessary to move the project forward. They commented that there is high density around Mills Lawn School which does not seem to present a significant problem.

Stokes CLOSED THE PUBLIC HEARING.

Housh commented that he has spoken to the solicitor and has assurance that there is no ethical concern regarding his participation in the vote regarding rezoning.

Stokes referenced the timeline for the LIHTC submission and asked what would occur if the ordinance were to be tabled or were to fail.

The Clerk commented that if the ordinance fails, it could only be brought back as a changed ordinance and as an emergency, both of which present a high bar.

Leatherman commented that meeting all aspects of the timeline will be very difficult even if the rezoning request is passed tonight.

Blankenship pointed out that the issue at hand is only the rezoning, but noted that Council does have the option to table the ordinance and bring it back on November 4th.

Blankenship stated that Council must consider the zoning code, sections 1280.02 and 1280.03 regarding justification of a rezoning, noting that information on those sections of code are provided in the packet.

Stokes asked about documents sent to the entities holding the lien on the property, wondering where that process of unencumbering the land currently stands.

Blankenship reiterated that the ordinance under consideration is only relevant to rezoning, but that since there is connection between the two matters, she responded that while documents have been sent, there have been no responses made.

Stokes MOVED TO TABLE. There was no second.

DeVore Leonard stated his preference that the vote move forward.

Stokes commented that the property in question is not an ideal choice, but that he does not want Council to be the impediment to the process. He commented that he does not believe that the project is the opportunity of a lifetime that it has been described.

Stokes stated several times that “there are exit ramps” and that some entity other than Council could then put an end to the project.

Housh responded that there is no reason to stop the process at this point, noting that the School Board has not asked to withdraw the rezoning request. He stated that he has been listening to the concerns expressed by ESC staff. Housh stated that several of those concerns have been addressed, and noted that the outdoor play area used by the ESC would not be impacted. Housh concluded that ESC expansion in the future could still occur.

Gustafson commented that replacement land for the soccer programs has not yet been secured and that the December 1st timeline seem increasingly impossible to attain. Gustafson stated that she toured the ESC and gained a fuller understanding of the needs of the students served there. Given this understanding, she said, and having an awareness of differently-abled students she indicated her belief that the land should not be used for high density housing. Gustafson further cited use of staff time as a factor in her decision.

Stokes CALLED THE VOTE, and the MOTION PASSED 3-1, with Brown ABSTAINING and Gustafson voting against.

Second Reading and Public Hearing of Ordinance 2024-12 Approving the Final Plat Plan for Spring Meadows Subdivision. Housh MOVED and Gustafson SECONDED a MOTION TO APPROVE.

Leatherman introduced the hearing, stating that this ordinance approves the Phase 2 Final Plat application for the Spring Meadows subdivision located at 402 Wright Street. The Preliminary Plat was approved by Planning Commission on April 12, 2022 for 90 lots with 90 single family homes on 23.02 acres.

The subdivision has been separated into two phases. The Phase 1 Final Plat was approved by Planning Commission on October 10, 2023 and by Village Council on December 4, 2023.

This Final Plat application is solely for Phase 2 and consists of 35 lots with 34 single-family homes and 1 open space lot on a total of 7.51 acres. Phase 2 provides for a total of 0.53 acres of open space area on the north edge of the property. The open space area will be maintained by the Homeowner’s Association. This satisfies the code required Parkland Dedication requirement (VC 1226.07).

The applicant requests a variation to the plans under Village Code Section 1226.10 to allow for a side yard setback of 5 feet minimum/total of 10 feet, and this request is contained in the ordinance.

Leatherman stated that installation of water, sewer, electric, water and roads has been completed and inspected, and a one-year bond covering maintenance of those improvements per installation specifications has been reviewed by the Solicitor and Choice One and approved thereby.

Leatherman addressed a question posed by Housh at the first reading, stating that based on the acreage and projected number of persons in Phase 1, the requirement for Park Land Dedication is 0.84 acres (56 dwelling units x 3 residents x .005). For Phase 1, the applicant agreed to dedicate 0.46 acres to the Village as a park and to purchase and install playground equipment, in value of \$75,000 or more, and this has been completed.

Stokes OPENED THE PUBLIC HEARING.

Eric Clark, resident of Spring Meadows requested the Council add conditions to the approval requiring the developer and HOA to “follow the direction of Environmental Commission.” Clark quoted from a 2022 report from then Planning Administrator Denise Swinger in which the pond was considered a recreational feature.

Clark argued that the pond is a wildlife area and is being chemically mismanaged by the property management.

Jackie Clark continued the concern, noting a fish die-off following chemical treatment and asserting that there are better, non-chemical ways to manage algae.

Emily Seibel commented that she is disturbed by the dead fish and potential spill of the water into the Glen. She asked that a condition be added that the pond be treated as a recreational pond. Seibel quoted from an October 11, 2022 report from Denise Swinger in which she stated that “DDC considers the pond as a part of the open space requirement since it will be available for recreational use.”

Jonathan Ricketts stated that he is a stormwater engineer, and that in his opinion retention ponds should not be considered recreational.

Leatherman clarified that there was discussion regarding use of the retention pond as a recreational feature initially, when the development was to be approved as a single phase. The developer subsequently withdrew the plat from consideration and later, following discussion with Village staff and others, submitted the development as two plats and without consideration of the retention pond as a recreational feature. She stressed that the retention pond itself was not considered in the open space calculation.

Blankenship stated that the matter before Council is a final plat approval, the terms of which are spelled out in the Village zoning code. She clarified that Council attention in this case should be to things like lot size, meets and bounds, sewer and stormwater specifications, etc., that is, technical concerns. The concerns raised by those who spoke, she said, are things that would properly be addressed through the HOA.

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

Second Reading and Public Hearing of Ordinance 2024-13 Repealing Section 238.04 “Investment Policy” and Enacting New Section 238.04 “Investment Policy” of the Codified Ordinances of the Village of Yellow Springs, Ohio. DeVore Leonard MOVED and Housh SECONDED a MOTION TO APPROVE.

The Clerk noted that one sentence had been changed to amend the ordinance such that the policy is not reviewed annually but is reviewed at the request of the Finance Committee.

Stokes OPENED THE PUBLIC HEARING.

There being no comment, Stokes CLOSED THE PUBLIC HEARING AND CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2024-14 Repealing Section 238.06 “Sale and Reinvestment of Renewable Energy Credits” and Enacting New Section 238.06 “Sale and Reinvestment of Renewable Energy Credits” of the Codified Ordinances of the Village of Yellow Springs, Ohio. Brown MOVED and Housh SECONDED a MOTION TO APPROVE.

Burns explained that the change amends the ordinance to review the REC policy upon the advice of the Village Manager.

Stokes OPENED THE PUBLIC HEARING.

There being no comment, Stokes CLOSED THE PUBLIC HEARING AND CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Emergency Reading of Ordinance 2024-16 Authorizing the Transfer of Funds and Rescinding Ordinance 2024-15 Entitled “Authorizing The Transfer Of Funds” and Declaring an Emergency. Brown MOVED and Housh SECONDED a MOTION TO APPROVE.

Robinson stated that the ordinance passed by Council on October 7th had been found to contain several errors. Robinson said that rather than correct the errors separately, she was more comfortable rescinding the prior ordinance and enacting a corrected new ordinance.

Stokes OPENED THE PUBLIC HEARING.

There being no comment, Stokes CLOSED THE PUBLIC HEARING AND CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Reading of Resolution 2024-64 Committing \$113,000 from the Green Space Fund to Tecumseh Land Trust for the Purpose of Conserving Farmland Located Outside the Village Urban Service Boundary. Gustafson MOVED and DeVore Leonard SECONDED a MOTION TO APPROVE.

Burns explained that the resolution authorizes him to work with Michele Burns in securing the land.

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

CITIZEN CONCERNS

Bob Curley described himself as a lifelong resident who has spent decades working with youth soccer programs. He stated that in 2010 a group formed Yellow Springs Soccer, Inc. to provide funds to YS schools to improve their soccer fields. They raised \$130,000 for the effort and the fields were significantly upgraded. Curley stated that while soccer leaders were informed of the LIHTC interest late in the game, they came together late spring of 2024 to discuss the situation. Gaunt Park is not a good option as a replacement, he stated, and the group was first told there would be replacement land adjacent to the HS, and that commitment has shifted several times. Curley expressed feeling as if YS Soccer has been given short shrift.

Dorothee Bouquet posed several questions to Council, regarding the LIHTC timeline, amount spent to date for legal costs, and whether there would be an increase in utility costs if the LIHTC project were to come to fruition, and whether there are further estimates regarding the cost of improving the adjacent property into soccer fields. Bouquet expressed concern for the school levy and the effect of the LIHTC discussion on that vote, and the effect the project may have on youth soccer.

Dirk Lackovich Van-Gorp referenced his letter to Council and expressed concerns regarding the LIHTC project. He referenced his aforementioned concern for the ESC, then stressed the need for Council to state where

the money to improve land for soccer fields—reported as between 5 and \$600,000—will derive. He urged fiduciary clarity and accountability on this matter. Lackovich Van-Gorp then noted his credentials as a low income housing professional in addressing what he sees as misinformation regarding the nature of LIHTC.

LIHTC, Lackovich Van-Gorp stated, is not an opportunity for the Village to receive \$15 million to use for a low income housing development, but is an opportunity for a developer to find investors who will receive a 9% tax credit and who will own 90% of the development for 10 years.

Finally, Lackovich Van-Gorp stated, there is no way for the Village, in issuing an RFP at this stage in the game that you will receive a list of high quality developers enabling the Village to make the best choice of the best developer. He commented that he is in favor of LIHTC at the right time and in the right place.

Mitzie Miller stated concern regarding the cost of a LIHTC project. She referenced monetary concerns shared by many villagers, concern for the soccer fields, concern for staff workload and a host of unaddressed questions. She stated that she would like voters to determine whether or not a low income housing project is desired.

Dino Pallotta asked for clarification regarding the estimates provided for improving land for soccer fields. He stated that this is a “want” in the amount of about \$535,000 for soccer fields that are not needed. Pallotta characterized the consideration of this amount of taxpayer funds as “unconscionable.”

SPECIAL REPORTS

There were no Special Reports.

MANAGER’S REPORT

Manager Burns presented the Manager’s Report as follows:

Officer Doug Andrus retired but has offered to return to assist with Spring street fair.

Strategic planning has been put on hold.

Burns stated that he will be bringing a resolution requesting authorization to purchase a transformer to the next Council meeting.

Asphalt work is due for completion by the end of October.

Burns noted that he is gathering quotes for a Wastewater capacity study.

Installation of residential electric meters will commence in January 2025.

Work on HB 168 compliance is nearing completion.

Youth Center raised \$2,500 parking cars at street fair.

Burns cautioned that drivers honking while driving over the speed bumps on Fairfield Pike will start being ticketed.

OLD BUSINESS

LIHTC Update. Burns noted that in addition to the quote he had provided regarding cost for soccer field improvement there is a quote received by the school district in the amount of \$650,000. Burns stated that he had included only hard cost assuming that equipment can be placed onsite without need to construct a road.

Appraisal on the school property is about 3 weeks out, Burns reported.

Burns noted an update to the timeline, stating that it is very tight at this point.

Housh asked whether the LIHTC development will decrease consumer utility fees.

Burns responded that this would likely average out, since there would be an increase in user fees but an added cost to add capacity to the system.

Brown read from a letter written by Tim Bete of St. Mary in May 2024, stating that it would be infeasible for St. Mary to navigate the restrictions posed by both the CBE and the school sites in enough time to meet the LIHTC deadline. She iterated that the CHDO has stated that there is not enough time.

Blankenship responded that while the timeline is very tight, she is unable to know whether the land can be unencumbered in enough time. She added that the \$20,000 limit for legal fees is fast approaching.

Housh clarified a concern posed by Brown, stating that St. Mary clarified on October 17th that a “signed option to purchase” will suffice, and that it is not necessary that the Village own the property in order to proceed with a LIHTC submission.

Council made no decision on increasing legal fees, and the total stands at \$18,450.

NEW BUSINESS

Draft RFP Discussion for Proposed East Enon Site. Leatherman introduced the draft and asked for any feedback. Leatherman asked whether Brown and Housh would be the Council members who would be assigned to the committee reviewing any submissions.

Leatherman stated that language regarding availability of land needs to be clarified in the RFP based on where the situation stands as of November 4th.

Housh stated that he would share the RFP with “school counterparts” prior to the November 4th meeting.

BOARD AND COMMISSION REPORTS

DeVore Leonard reported that Finance Committee met and that the budget is heading in a good direction, with clear information provided.

Gustafson reported a meeting time change and new member for Library Commission.

Housh noted that MVRPC has offered to conduct emissions studies. Council agreed to this in general if it does not impact staff work time significantly.

FUTURE AGENDA ITEMS

Housh asked Planning Commission to review the Gateway District, stating that it’s zoning restrictions pose a hindrance to development.

Oct. 22: Special Council Meeting: Budget Session #1: 2-4pm

Oct. 29: Special Council Meeting: Budget Session #2: 12-2pm

Nov. 4: Swearings In: Jon Ricketts and Officer Bluma

Flour and Sugar Resolution

Resolution 2024-63 Adopting a Policy to Allow Use of an “Employee Dishonesty and Faithful Performance of Duty” Coverage Document, in Lieu of Surety Bond for Eligible Employees

**Resolution Approving Purchase of a 3000KVA Transformer
Fourth Quarter Supplemental Appropriation**

Quarterly Financials

Treasurer's Report

Nov. 18: **First Reading of Ordinance 2024-XX** Approving the 2025 Budget for the Village of Yellow Springs and Declaring an Emergency
Zoning Administrator Request for Consideration of Preliminary PUD Plan on Fewer than Five Acres (Leatherman: 10 min.)
Community Outreach Specialist Report

Dec. 2: **Second Reading and Public Hearing of Ordinance 2024-XX** Approving the 2025 Budget for the Village of Yellow Springs and Declaring an Emergency

Dec.16:

ADJOURNMENT

At 8:31pm, Gustafson MOVED TO ADJOURN. Housh SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Signed: _____
Kevin Stokes, Council President

Attest: -----
Judy Kintner, Clerk of Council