

City Council Meeting Minutes
February 23, 2017
Special Session
6:00 p.m.

The Xenia City Council met in a Special Session on February 23, 2017, at 6:00 p.m. in the City Council Chambers, City Administration Building, with the following members present: Wesley Smith, Dale Louderback, Sarah Mays, Jeanne Mills, and Michael D. Engle.

Marsha Bayless and Edgar Wallace were absent.

2017 Street Program: Mr. Merriman said it is the time of year to present Council with the 2017 Street Program. City Engineer Chris Berger will go over the thought process that goes into the process before inviting comments and questions. It is important to note that this is a very robust year with a lot of large-scale projects underway in 2017. Staff is very excited about all the projects and the ability to leverage grant dollars with fairly minimal local matches, and everyone is very proud of staff's success in generating grant opportunities. There has been dialogue with Council for some time about a longer term approach and strategies for streets; however, this presentation will focus only on 2017. Staff has known for some time that 2017 would be somewhat limited due to the number of large scale grant projects set for this year. Staff also recognized that moving forward they will have to begin thinking about a very strategic approach on how to address the streets in Xenia. The City has to start gaining more ground in terms of the residential streets in the community. Staff will come back later this year with potential options for Council to consider and the implications of a possible street ballot or bond issue. Staff is not necessarily recommending the ballot; rather, they are providing Council with the information, analysis, and options to help them make a decision on which direction the City should move with the Street Program. He turned the Street Program presentation over to Mr. Berger.

Mr. Berger said the presentation is similar to what has been presented in the past with a few changes. He then gave the following presentation:

2017 Street Program

Background Information

- Annual Street Program developed in response to Community Survey completed in 2010 and passage of 0.5% Income Tax Increase in November 2010
- Plan developed on the assumption of a minimum of \$500,000 available annually for street rehabilitation
- Funds available in 361 (General Capital), 228 (Municipal License Tax) and 229 (Greene County Permissive Tax) to rehabilitate streets
- Total of \$995,920 (\$785,977 in 361; \$50K in 228; \$159,943 in 229) available for street projects in 2017

Roadway Projects in 2017 that include local share dollars (does not include grant dollars):

• 2017 Street Program	\$350,000 (\$300K-361; \$50K-228)
• Hospitality & Main	\$260,300 (\$100,357-361; \$159,943-229)
• S. Progress Drive	\$165,620 (\$165,620-361)
• Bellbrook Avenue	\$100,000 (\$100K-361)
• ODOT Safety Grant	<u>\$120,000</u> (\$120K-361)
TOTAL:	\$995,920

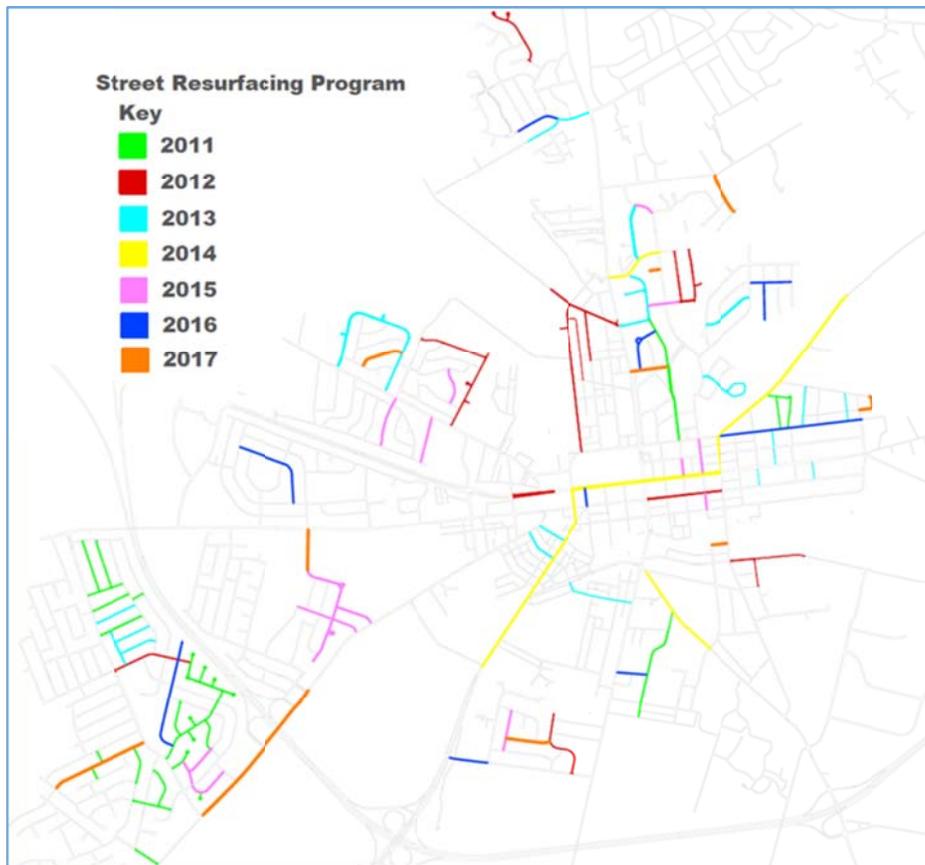
- 667 Stormwater Funds to be used for Catch Basin Repair and Replacement
- Crack Sealing will not be completed in 2017 in order to meet local match commitment for STP Resurfacing of Bellbrook Avenue
- As in previous years and to better achieve economies of scale, the City of Xenia will partner with the Greene County Engineer's Office to complete the 2017 Street Program

Criteria for Street Selection

- Pavement Condition Index (PCI) < 30 (average)
- All areas of City covered (N, S, E, W)
- Staff Assessment of PCI vs. Actual Condition
- Current Condition of Water and Sewer
- Economic Development Impact or Opportunity
- Budget Limitations: Fund 361: \$300,000 and Fund 228: \$50,000

Proposed Street Listing for 2017

- 361 and 228 Funded Streets
 - Weaver St. (N. Detroit St. to Sutton Dr.)
 - Rockwell Dr. (W. Second St. to Buckskin Trl.)
 - Portsmouth Ave. (Salem Ln. to Amsterdam Dr.)
 - Tennessee Dr. (Colorado Dr. to New Mexico Dr.)
 - Joyce Dr. (Country Club Dr. to Wilson Dr.)
 - Monroe Ct. (N. Monroe St. to Cul-de-sac)
 - Glover Dr. (Omard Dr. to E. Richard Dr.)
 - Orient Ave. (S. Monroe St. to S. Columbus St.)
 - Alley (Lexington Ave. to N. Patton St.)



Mr. Berger said the City is slowly but surely addressing the street condition issues, but there is a long way to go. Council was then invited to make comments and ask questions.

Vice President Smith asked if the \$100,000 is the City's portion of the Bellbrook Avenue project. Mr. Berger confirmed; Bellbrook Avenue will be repaved from Colorado Drive down to Maumee Drive, which is not part of the Street Program—it is being done via an MVRPC STP grant. He said it was only included in the presentation for Council's information. Vice President Smith asked if that is the only portion of Bellbrook Avenue to be completed. Mr. Berger confirmed, and that section is in really poor condition.

Mr. Berger said in looking at the overall street improvements and the 2017 Street Program, he reported that the Hospitality/Main Street project, S. Progress Drive project, and Bellbrook Avenue resurfacing project totals approximately \$2.1 million. If the ODOT Safety Grant portion is included, it brings the total to \$3.6 million to be spent on streets in 2017.

Councilman Smith asked if more inner city streets would be addressed in 2018. Mr. Merriman said there might be a two-, three-, or four-year lead time to get into a que with a round of grant funding based on a certain biennial budget; therefore, the timing varies for different grants. Fortunately, everything lined up and the City was able to take advantage of these grants. In looking forward to next year, staff hopes more neighborhood streets will be included in the street program, which are the City's most challenging areas. It is important from an economic and community perspective to keep the state routes and major thoroughfares in relatively good condition, which he feels is being accomplished. However, staff recognizes the neighborhood streets also need attention—some of which are probably original to the initial neighborhood development. There are some streets that are 20 years old, 30 years old, or even older, and staff recognizes those residents are constantly reminded of that when they enter and exit their driveways, which is why they need to have a conversation about what could be taken back to voters in the future. They plan to do an updated Community Survey in late spring or early summer, and this issue would be appropriate to include in the survey to help staff and Council understand the temperature of the folks in the community. He noted Mr. Duke received a phone call earlier in the week questioning the Street Program and resources available for the program. The caller actually asked if the City could initiate some type of ballot measure, which shows that some folks are interested in paying a little more to help address the streets. Mr. Berger added that his staff receive feedback from residents from time to time, which suggest they might be willing to support a street levy. His experience with other communities has shown that people tend to support levies when they can actually see the tangible differences their tax dollars make in their own community. He felt it was a measure to be considered.

Councilman Louderback said he totally disagreed that the public would be willing to pass a street levy because they are already taxed up to their eyeballs, and their water bills were recently increased in 2016 due to the new \$12 million City Hall. The City could have paved a lot of streets if the new City Hall had not been built; therefore, he did not believe the voters would pass a street levy or any other kind of a levy.

President Engle said he did not necessarily agree with his colleague and asked if the term of the levy would be factored into staff's analysis and calculations. He noted there was a previous prediction of approximately \$30 million for completing all the streets in Xenia and asked about

the average life expectancy of a street once it has been paved. Mr. Berger said it is a fair question, but it depends on a multitude of factors. He explained that local streets do not get as much traffic, whereas main streets tend to get a great deal of traffic. Some streets have been in existence for 50 years and are still in “decent” condition, but his best guestimate would be approximately 25 years for a local street. President Engle noted it would be a valid point to remind the public that they could pay off the levy in a limited number of years but they would be able to enjoy new streets for approximately 20-25 years. He likes the idea and the options being brought forward. Mr. Merriman said Council has the eternal position of being situated at a point where there were many decades where there was a substantial lack of investment in the streets, and now there are both larger and neighborhood roads that are coming due. Therefore, they need to look at doing street repairs and improvements on a bigger scale.

President Engle asked what could be done in one year if they just consider residential streets and if it would be a phased project or an all at once project. Mr. Merriman said it depends on several factors. It would be based upon the type of ballot measure the public would permit and the amount of time allotted for the construction process, inspection process, and other various factors. Further, there would be some limitations in terms of capacity. President Engle said there are not many companies with the equipment that would fit within the confines of the narrow residential roads to allow them to do the project on a larger scale. Mr. Berger agreed; further, curbing is a big factor to consider because curbing is expensive. If curbing were being performed on all the streets that have been completed to this point, then they would have only completed a third of what was actually accomplished. Councilwoman Mays asked if curbing was included in the budget for 2017. Mr. Berger said they set aside a nominal amount of about \$20,000 to make repairs on curbs that are in poor condition, but typically they do not repair/improve curbing on the entire length of the street.

Vice President Smith asked if it would be more economical to focus efforts in one area of the City at a time rather than attempting to do a portion of streets in all areas of the City each year. Mr. Berger said generally speaking a local street is a local street; therefore, it would not make a significant difference. A contractor would not have to continue to move his equipment around the City, but the amount it would save is negligible. He thanked Council for their time.

Fees for Special Events: Mr. Merriman said staff wanted to update Council on the existing policy for special event fees to make sure they are in line with Council’s expectations. The City instituted changes a number of years ago to include some structure into the fee ordinance to ensure there is adequate review of special events particularly events where private entities ask the City for fire or police presence. Staff has begun to experience a significant increase of smaller, but still public, events over the last three to four years. The City is obligated to provide a review of the events to ensure public safety, avoid traffic issues, etc. However, staff is seeing more and more requests to waive the fees. There has been a history of waiving some of the fees for non-profits, churches, etc.; however, he, as City Manager, did not have the legislative authority to waive the fees. Therefore, staff has begun to move in a direction to strictly adhere to the fee requirements per the Fee Schedule to avoid any issues with discrimination.

Mr. Duke said a lot of times during the special events process, there is a need for police, fire, or other public services that are provided by the City. Additionally, there is also an overlap of the events held at Xenia Station or Shawnee Park and the pavilion rental fee associated with those venues, which is also a part of the conversation because some people/organizations are asking

for the application and reservation fees to be waived. Staff has been more adamant with each group this year to inform them that the fee is listed in the code and staff did not have the authority to waive the fees, and there actually has not been a lot of push-back from most organizations. Staff has implemented waiving the fees for the over-the-street banners for a period of one year, as was discussed with Council some months back; however, staff is seeking direction from Council on special event fees. Only one non-profit has pushed back regarding the fees and stated they would not pay the fee. He did not know if they would move forward with their event at this time, and staff has not accepted their application because they have not paid the fee.

Mr. Duke said the Code's Fee Schedule lists a \$50 application fee, and staff reviews the application before Public Service reviews it to make sure there are no public safety issues related to the event and that the City has the staff capacity to facilitate the event. Staff refunds the application fee if the application is rejected for some reason. If a person decides to hold an event outside the parameters of what is listed in the Code, then they could be charged with a misdemeanor crime and fined up to \$100, an organization could be charged with the same crime and fined a maximum of \$1,000, which would be determined by a judge. A major factor of the code is that the person/organization is required to provide proof of insurance so that the City is not held liable for any damage or incident that occurs as a part of the event, which is one of the key reasons the application process is required.

Mr. Duke said the application asks for a brief overview of the event: concept of the event, approximate number of people, where it will be held, etc., and proof of proper insurance. The last piece of the policy dictates that the City can recoup other expenses it incurs related to the event (i.e., the number of police officers working the event on overtime can be charged-back to the person/organization hosting the event). Staff looked at Fairborn's and Beavercreek's policies on the issue and found that Beavercreek charges 190% of the normal base wage for first-responders, which makes sense because during overtime the officer is already entitled to 150% of base wage plus pension, workers comp, etc. Fairborn has a base rate that is basically equivalent to Xenia's 190% of the base wage. The Code does not have specifics as to how that would play out, but it states that the cost can be recouped, which could be legitimately justified by the City. Staff will present a basic contract showing the individual/organization what the projected cost will be for the event, and a deposit is required.

Staff plans to follow the Code unless Council has concerns or would like to make changes to the Code or develop a policy. Staff will continue to assess the \$50 application fee, park rental fees, and try to recoup any additional costs incurred that are over and above the initial fees. Obviously, they will carve out City-sponsored events like the Fireworks Festival, Criterion, etc., that the City is a part of and promotes, which is an entirely different category. Mr. Merriman reiterated that Staff is enforcing the existing Code and its language, and they want to ensure that Council is in concurrence, which means non-profits, churches, for-profits, etc., will all have to abide by the Code and its stipulations because he did not have the authority to waive the fees.

Councilman Louderback asked if a family would be charged the \$50 fee to have a family reunion at the Shawnee Park pavilion. Mr. Duke said no because a family reunion is not considered a special event or open to the public; therefore, they would only need to pay the pavilion rental fee of \$55 for four hours or \$100 for eight hours for residents, and \$150 for a four-hour reservation and \$250 for eight hours for non-residents. There is no charge for the smaller shelters at

Shawnee Park; however, the pavilion is in high demand and requires a fee and reservations because the City's insurance would cover these types of events. Councilman Louderback asked if the Rotary or Kiwanis would be charged for hosting an event. Mr. Duke said it would depend on the type of event, but their events are typically open to the public and would require a special events application and payment of fees.

Councilwoman Mays asked if the rate structure is the same for a public event as it is for a private event. Mr. Duke said the rate structure is the same regardless of whether it is a public or private event. He noted one thing that is tricky about the way the pavilion reservation is written is that it is specific to "residents"; therefore, the City has made some exceptions in the past, but they probably need to clarify the language in the future. For example, if a business wanted to rent the pavilion and the business is located within the City but the business owner lives outside the City, they have to determine if they will be charged a residential or non-residential rate. Mr. Merriman noted there are a fair number of people from the Jamestown, Cedarville, and other surrounding communities who wish to rent the pavilion.

Councilwoman Mays asked who requires police, fire, or other public service staff to have a presence at an event. Mr. Duke said it could go both ways; sometimes the individual/organization request those services, and sometimes the City requires it in the best interest of the public. Councilwoman Mays asked if the specifics regarding those services are listed in the application. Mr. Duke said it is not specifically defined, but the code gives the City and staff the liberty and flexibility to determine the need because it can depend on the size and location of the event. Councilwoman Mays asked if there is room for negotiations between the City and the individual/organization. Mr. Duke said staff is willing to work with the individual/organization to tweak the contract to ensure the individual/organization and the City come up with a plan that is financially suitable to the individual/organization, while protecting the public's best interest with safety or traffic concerns. For example, a 5k run may cross a major street, and police presence would be necessary to allow the participants to safely cross that street. Mr. Merriman said staff wants to minimize the risks; therefore, they are willing to work to reduce their costs while improving safety. President Engle said he thinks that is the optimal way to do business because it is truly a contract negotiation that permits both parties to seek satisfactory results.

Vice President Smith said it seems like there has been an increase in county events being held within the City and asked if they are charged the fee. Mr. Duke said they would be required to pay the fee. Vice President Smith noted the increase of races being held in the City would have an impact on the amount of police presence needed for traffic control. Mr. Duke said the application fee would be charged then they determine if additional officers would be needed on overtime. The marathon is by far the biggest race event, and they work with the Police Division and pay the officers directly rather than running it through the City. The \$50 fee is minimal when they consider that even when the individual/organization is not paying for an officer on overtime, the City still supplies an officer to help direct traffic. Therefore, it still pulls on the City's services and crews even though they do not have to call an officer in; it is only when the City has to call someone in that they actually charge back the cost to the event host.

Councilwoman Mays asked if staff was comfortable with the Code and recommended leaving it as-is or if staff was recommending changes. Mr. Duke thought the code was fine, but it has been loosely enforced over the years and staff would like to have some consistency in following the code and dealing with these issues. The Law Director said it puts the City Manager in a bind

anytime the City is dealing with a situation where someone is claiming that staff is selectively enforcing provisions of the code. Mr. Schierloh agreed; if someone were to claim the City Manager is waiving fees for certain groups without authority but is not waiving the fees for them, there could be issues. His opinion is to continue to enforce the code as written to alleviate any issues. Mr. Merriman said the charges are not prohibitive; they are minimal. As an operational priority, staff works with groups as individuals to minimize their costs. There is a value to the community to have some of these events and the folks that are promoting them; they promote recreation, activities, and fundraising for a lot of good events, purposes, and causes, but staff wants to make sure Council is onboard with maintaining the structure of the code so staff can be consistent. Mr. Schierloh said there is an administrative burden on the City because someone has to sit down and look at the applications and evaluate the requests, which takes time away from their normal duties. Mr. Merriman said staff did not just regulate, they also provide guidance and advice to improve the cost, functionality, and quality of the event. Additionally, staff can identify fire code issues, zoning, signage, and a whole range of things that staff could identify. Mr. Schierloh thought everyone could agree that they want these events to occur in the City, but they want to make sure everyone is doing their due diligence to ensure everyone is operating consistently.

President Engle said he thinks there is a consensus that Council is comfortable in the way the legislation is written. Additionally, should there be an unfortunate situation of non-compliance by an individual or organization, he would personally like to see the Code enforced exactly as described because the City must have standards and must live up to those standards especially when the fees are very nominal.

At 6:48 p.m., the Council adjourned their Special Session to prepare for their Regular Session immediately following.

Michelle D. Johnson
City Clerk

Michael D. Engle
President, Xenia City Council