

City Council Meeting Minutes
February 23, 2017
Regular Session
7:00 p.m.

The Xenia City Council met in a Regular Session on February 23, 2017, at 7:00 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.

Edgar Wallace and Marsha J. Bayless were absent.

INVOCATION: JoAnn Tarver, Greater Grace Church, Springfield, gave the invocation after which all joined in the Pledge of Allegiance.

Motion by Vice President Smith, seconded by Councilwoman Mays, to excuse Councilman Wallace and Mayor Bayless from the meeting due to illness. No discussion followed. The Roll on this was the following:

Ayes: Smith, Louderback, Mays, Mills, and Engle
Nays: None motion carried.

APPROVAL OF MINUTES: Motion by Vice President Smith, seconded by Councilwoman Mays, to approve the February 9, 2017, Special Session minutes as written. No discussion followed. The Roll on this was the following:

Ayes: Smith, Louderback, Mays, Mills, and Engle
Nays: None motion carried.

Motion by Councilwoman Mills, seconded by Vice President Smith, to approve the February 9, 2017, Regular/Executive Session minutes as written. No discussion followed. The Roll on this was the following:

Ayes: Smith, Louderback, Mays, Mills, and Engle
Nays: None motion carried.

SPECIAL PRESENTATION:

DP&L ~ YMCA's Annual Campaign – Eric Holtvogt, Annual Campaign Chair, and Alan Milkis, Xenia YMCA Executive Director, provided a brief history and overview of the YMCA's annual campaign.

Brief History of the YMCA

- The YMCA is the Nation's largest non-profit organization comprised of 2,700 YMCAs with approximately 20,000 fulltime staff and 600,000 volunteers in 12,000 communities across the country.
- The YMCA engages 9 million youth and 13 million adults each year in the U.S.
- The YMCA invented basketball, volleyball, racquetball, handball, body building and helped found the USO and the Boy Scouts.

- Locally the YMCA has been serving the Xenia community since 1867 and is celebrating their 150th year of service in the City of Xenia.
- The first YMCA was located on the corner of Greene Street and Market Street.
- The current facility was built in 1957 and opened in 1958.
- Generations of families have learned to swim in the YMCA pool.

Annual Campaign Facts and Stats

- Part of the YMCA's mission is to be inclusive and for all to enjoy.
- The Annual Campaign ensures that no one is denied the opportunity to share in the YMCA experience due to an inability to pay.
- In 2016, the Xenia YMCA provided financial assistance to over 2,300 kids and families throughout the Xenia area.
- In 2016 scholarships, subsidies, and outreach exceed \$211,000, and provided middle to low-income families' access to critical YMCA programs and services.
- With these funds the YMCA teaches kids to swim, makes it possible for single moms to go to work and know their child is in a safe environment, serves lunch to kids at Shawnee Park every weekday during the summer—the list goes on and on.
- The Annual Campaign is going on now with the goal to raise \$49,000.
- Every dollar donated to the campaign stays in Xenia to support local kids and families.

Mr. Holtvogt and Mr. Milkis invited Council to make comments or ask questions.

Vice President Smith asked if the Annual Campaign is similar to the Strong Kids Program. Mr. Milkis said it is the same program, but the name changed a few years ago. President Engle asked if there is an opportunity for people to donate on a monthly basis. Mr. Milkis said there are several methods for donations to make it flexible for all donors. President Engle asked if they could provide a copy of their information to be posted on the City's Facebook page, etc. Mr. Holtvogt confirmed. President Engle thanked them for their presentation and congratulated them on their very significant anniversary.

Please contact Eric Holtvogt, Annual Campaign Chair eric.holtvogt@aes.com, or Alan Milkis, Xenia YMCA Executive Director, amilkis@daytonymca.org (937) 376-YMCA (9622) to volunteer or make a donation.

AUDIENCE COMMENTS: President Engle explained the procedures for audience comments and invited anyone who wished to speak to come forward.

Mr. Rodney Caupp, 439 S. Columbus Street, asked where the City is going with street repairs because they are really battering citizens' cars. The damage over 20-25 years of no paving the roads has taken its toll on cars and there are many streets in terrible condition. Further, the traffic lights cycle and cause traffic jams. He sees money being spent in the City, but he wonders about the roads. The City's Code has been arbitrarily dismissed across the City, and there are neighbors with industrial operations. He did not see why there is a need for the emergency groundwater sampling, which is listed in the evening's agenda. He knows he is going off on tangents, but there are so many things that need to be done, but there is a request for emergency groundwater sampling of a landfill that has been in the City forever; meanwhile his neighbor is pumping his industrial waste who has an arbitrary business with 1,000-watt light bulbs on his back porch that has affected his garden harvest last season. His home is infested with insects as a result of the

lights. He has called the City to get a listening ear, but he did not get one. Many times he is told "I don't know what we can do about that." He attended a party in the Administration Building lobby and informed staff that his other neighbor is riding his ATV across the hill and within the City limits and the mud pours down on the sidewalks and makes it impossible for cyclists or kids to use the sidewalk. He wanted to know if staff was going to let the City decline as a result. He noted a lot of these issues were condoned by the City when they were arbitrary with the City Code; everybody can have a business with no oversight. It is pretty rough living next door to his neighbor, and the neighbor will be surprised when he makes some changes. His neighborhood is a real mess, and he will need a lot of help in the future. He has not called the police once in 18 months on his neighbor or the guy across the street doing wheelies with his big quad diesel; there are a lot of hillbillies in his neighborhood and there are a lot of problems. He asked if there will be any street paving for 2017. President Engle said Council covered that discussion in the Special Session, and they typically do not engage in dialogue with audience members; rather, this is a time for audience members to speak to Council. He encouraged Mr. Caupp to look for information to be published about the Street Program in 2017. He quickly noted the City has been actively paving streets since 2010, and they are paving as many inroads as possible with the money available. City Staff can provide him with some overview information regarding the Street Program to give him an idea of what has been completed and what will be completed for 2017. Mr. Caupp said he hopes there will be some meaningful street paving instead of the installation of a roundabout. He is disappointed that the City has purchased land instead of paving streets or doing something with the local library.

REPORTS OF COMMITTEES:

Mayors & Managers: Mr. Merriman said Mayors & Managers met in Piqua two weeks ago and received presentations on a new hotel project and an update on some legislation at the State level. He will provide additional details about the State Budget later in the meeting.

Miami Valley Regional Planning Commission: Councilman Louderback said the State Transportation Review Advisory Committee said they made a recent commitment and funding is on track for the \$15.8 million U.S. 35 Superstreet Project, which has been in the works since June 2006. There will be a Miami Valley Cycling Summit on May 5th, and one of the sessions will cover the Xenia Safety Project. He invited the contact person for the event to speak at the March 23rd City Council meeting to walk Council through what will happen at the Summit.

ITEMS FROM CITY COUNCIL AND MAYOR: Councilman Louderback said he concurs with Mr. Caupp's concern about the streets. Council had a meeting at 6 p.m. concerning the streets and some Councilmembers and staff feel that a street levy may be an option to help get additional streets paved but he disagreed. In 2010 the City Income Tax was raised from 1.75% to 2.25% and increased the street improvement budget from \$150,000 to \$500,000, which has only made a dent in the needed street improvements. Recently, water rates were increased to help pay 36% of the cost for the new Administration Building, which he was against. Also, the total budget including financing for the new Administration Building was \$12 million; the City could have paved a lot of streets for \$12 million. He will not support a street levy in any manner.

President Engle addressed Councilman Louderback's comment about the building costing \$12 million and how that amount would have paved a lot of streets. That is a fundamentally

inaccurate statement. Yes, \$12 million would pave a lot of streets, but the manner in which the Administration Building was funded was from different line items within the City, and they cannot spend money from the Water Fund to pave streets; it must come from the General Fund, and the amount coming from the General Fund is not \$12 million dollars. It is inaccurate to state that the City would have used that \$12 million in a wholly otherwise manner to pave streets. Councilman Louderback asked if it is an inaccurate statement that the water rates were increased because 36% of the Administration Building came from the Water and Sewer Fund. President Engle said he is well aware of that. Councilman Louderback encouraged him to tell the public the truth. President Engle said he is telling the truth, but Councilman Louderback did not speak the truth. Councilman Louderback encouraged everyone to do their own research and they will find out exactly what the Administration Building cost the taxpayers of Xenia. President Engle said that is public information that has been roundly discussed. Councilman Louderback said yes it has been, and he did not vote for it.

Vice President Smith said he and two members of the City's Planning and Zoning Commission attended a 2.5-hour presentation given by Greene County Regional Planning and Coordinating Commission, which was held at Greene Memorial Hospital. The presentation was on planning and zoning basics as well as public hearings. He appreciated everyone who was involved in the event, and there were representatives from many jurisdictions in attendance.

President Engle said it is his pleasure to wish a Happy 93rd Birthday to Harold Johnston Warren, Jr. who is the father of the City's Public Relations Coordinator, Lee Warren. Mr. Warren is 93 years old and was born in February 1924 with many accomplishments in his life. He noted Mr. Warren is showcased in the Buffalo Soldiers display in the main entry to the Administration Building. He entered the United States Army in May 1943 at 19 years of age. His basic training was at Fort Sill, Oklahoma, in Field Artillery. Ultimately, he was assigned to the 370th Regimental Combat Team, 92nd Infantry Division, called the "Buffalo Soldiers." He fought in ground combat against the German Nazi Forces beginning September 1, 1944 at Cascina, Italy. Later he was reassigned to an Army fire-fighting unit. He spent 12 months overseas in Italy and additional time in Algeria, North Africa. He was never shot or wounded by shrapnel in combat. He returned to his local area and ultimately retired from a Civil Service position in the United States Air Force, Air Force Logistics Command, at Wright-Patterson Air Force Base after 34 years of service. President Engle congratulated Mr. Warren on his service to the United States of American and on his 93rd birthday.

Emergency Ordinance amending XCO Section 220.11 Salary of City Council members. President Engle said this item will be pulled until the next meeting due to the absence of Councilman Wallace and Mayor Bayless.

REPORTS OF CITY OFFICES:

City Manager's Office:

Emergency Appropriation Ordinance, Authorize change order, and Introduction of a Resolution for a Then and Now payment to account for additional grant dollars spent on engineering services for the Downtown Safety Project. Mr. Merriman respectfully requested City Council take three actions necessary to align accounting for the Downtown Safety Project.

The Project, previously approved by Council, entails the construction of several automobile, bike, and pedestrian safety improvements throughout the downtown. The project is being funded by an ODOT Safety Grant. The City initially received \$107,369 in Safety Grant funds for engineering design by LJB. During the design process, it was determined that a modification to the design was necessary. This modification warranted a change order in the amount of \$14,434 for additional design services. ODOT agreed to cover the cost of the change order with Safety Grant proceeds. No City funds are being requested for this design modification. Despite the lack of expenditure of City funds, State administrative rules require the City to record the grant expenditures as if they were City expenditures. The City accounted for the initially authorized Safety Grant funds but not the change order. Funds have been included in the 2017 budget to address the change order, but they need to be transferred from a capital to an operating account. The appropriation ordinance must be approved as an emergency so the effective date is prior to the effective date of the resolution. For these reasons, it is necessary to seek Council approval of the emergency ordinance for transfer of funds as well as approval of the change order and introduction of a Resolution for a Then and Now to authorize funds spent in lieu of a purchase order.

Councilwoman Mays presented an ORDINANCE AMENDING ORDINANCE 17-03 TO MAKE ADJUSTMENTS IN APPROPRIATIONS FOR CURRENT EXPENDITURES OF THE CITY OF XENIA, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2017, AND DECLARING AN EMERGENCY.

Motion by Councilwoman Mays, seconded by Councilwoman Mills, that the rules requiring the reading of an ordinance at two consecutive meetings be dispensed with and this ordinance be placed at once upon its passage. No discussion followed. The Roll on this was the following:

Ayes: Smith, Louderback, Mays, Mills, and Engle
Nays: None motion carried.

Motion by Councilwoman Mays, seconded by Councilwoman Mills, that Ordinance Number 17-10 be now passed. No discussion followed. The Roll on this was the following:

Ayes: Smith, Louderback, Mays, Mills, and Engle
Nays: None motion carried.

Motion by Vice President Smith, seconded by Councilwoman Mills, to authorize a change order with LJB in the amount of \$14,434 for design services related to the Downtown Safety Project. No discussion followed. The Roll on this was the following:

Ayes: Smith, Louderback, Mays, Mills, and Engle
Nays: None motion carried.

Vice President Smith introduced a RESOLUTION AUTHORIZING A THEN AND NOW PAYMENT OF \$14,434 IN OHIO DEPARTMENT OF TRANSPORTATION SAFETY GRANT FUNDS TO LJB FOR DESIGN SERVICES FOR THE DOWNTOWN SAFETY PROJECT, and it was read for the first time.

Emergency Ordinance waiving competitive bidding and authorizing the City Manager to enter into a contract with AMEC Foster Wheeler for *Landfill Post-Closure Groundwater Monitoring 2017*. Mr. Merriman respectfully requested City Council waive competitive bidding for the Landfill Post-Closure Groundwater Monitoring Activities 2017 and approve execution of a contract with AMEC Foster Wheeler for said project in an amount not to exceed \$33,354. As part of the landfill post-closure monitoring regulations, the City is required to annually administer a groundwater monitoring program which includes two semi-annual detection events and two semi-annual corrective measures events. The City has effectively employed the services of AMEC Foster Wheeler for these services for many years. AMEC has consistently offered a competitive price point and their knowledge of and experience with the specific conditions of the landfill presents an invaluable benefit in the complex compliance environment they now face regarding landfill post-closure regulations. For these reasons staff recommends maintaining the relationship with AMEC Foster Wheeler and request Council pass an emergency ordinance to waive competitive bidding for the Landfill Post-Closure Groundwater Monitoring Activities 2017 and authorize the execution of a contract with AMEC Foster Wheeler in an amount not to exceed \$33,354.

Councilwoman Mills presented an ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITHOUT FORMAL COMPETITIVE BIDDING WITH AMEC FOSTER WHEELER FOR THE PURPOSE OF PERFORMING LANDFILL POST-CLOSURE GROUNDWATER MONITORING FOR 2017, AND DECLARING IT TO BE AN EMERGENCY.

Motion by Councilwoman Mills, seconded by Councilwoman Mays, that the rules requiring the reading of an ordinance at two consecutive meetings be dispensed with and this ordinance be placed at once upon its passage. No discussion followed. The Roll on this was the following:

Ayes: Smith, Mays, Mills, and Engle
Nays: Louderback motion failed.

Mr. Merriman asked Council to consider an introduction of the ordinance for reconsideration at the next meeting.

Councilwoman Mays introduced an ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITHOUT FORMAL COMPETITIVE BIDDING WITH AMEC FOSTER WHEELER FOR THE PURPOSE OF PERFORMING LANDFILL POST-CLOSURE GROUNDWATER MONITORING FOR 2017, and it was read for the first time.

President Engle said to be clear, this expenditure is required by State and Federal Statute. Mr. Merriman confirmed.

Authorizing the City Manager to enter into a contract Amendment with Hazen and Sawyer for Construction Administration Services for the Glady Run WWTP Splitter Box Construction and establish a new not to exceed cost of \$199,001. Mr. Merriman respectfully requested authorization of a contract amendment with Hazen and Sawyer for Construction Administration Services for the Glady Run WWTP Splitter Box Construction and establish a new not to exceed contract cost of \$199,001. City Council previously authorized a contract with Hazen and Sawyer to design the Glady Run Splitter Box improvements at a cost not-to-exceed

\$117,204. At the time of authorization there were insufficient funds available to also include the necessary construction administration and oversight that would ensure that the construction contractor will meet the intended design parameters. Authorization of the contract amendment will allow staff to advance toward the construction bid process.

Motion by Vice President Smith, seconded by Councilwoman Mills, to authorize the City Manager to enter into a contract Amendment with Hazen and Sawyer for Construction Administration Services for the Glady Run WWTP Splitter Box Construction and establish a new not to exceed contract cost of \$199,001.00. No discussion followed. The Roll on this was the following:

Ayes: Smith, Mays, Mills, and Engle

Nays: Louderback motion carried.

Emergency Appropriation Ordinance and authorization to enter into a professional services agreement with American Structurepoint, Inc. to design improvements to the intersection of U.S. 42 and E. Church Street at a cost not to exceed \$203,116. Mr. Merriman said staff wishes to initiate project planning for the US 42 at Church Street intersection reconfiguration. As Council will recall, the City was awarded a 2013 Surface Transportation Program (STP) grant to offset the majority of the costs associated with this important transportation safety improvement project. City staff, led by the City Engineer's office, conducted an RFQ process to identify the most qualified firm for design of the reconfiguration project. Through these efforts, staff identified American Structurepoint as the best firm for the job. Staff respectfully requests two actions necessary to proceed with design work and the necessary due diligence for timely project implementation, specifically right-of-way acquisition. First, and in order to efficiently facilitate the right-of-way acquisition, it is necessary to include right-of-way plan development, associated surveys, and negotiations costs all as part of the scope of services in the contract with American Structurepoint. To do so, however, Council will need to appropriate the ROW funds into this year's budget; these funds were originally planned for next year's capital program. The funds are available this year and doing so will create efficiency in design and plan work under one contract with American Structurepoint. Staff therefore recommends Council adopt an emergency ordinance approving the requested supplemental appropriation in the amount of \$103,116 for FY 2017 into account 361-4016-53121 and \$54,384 for FY 2017 into account 361-4016-55151 to acquire right-of-way for the improvements to the intersection of U.S. 42 and E. Church Street. Second, staff recommends City Council authorize execution of a Professional Services Agreement with American Structurepoint to design the improvements to the intersection of U.S. 42 & E. Church Street at a cost not to exceed \$203,116

Councilwoman Mills presented an ORDINANCE AMENDING ORDINANCE 17-01 TO MAKE ADJUSTMENTS IN APPROPRIATIONS FOR CURRENT EXPENDITURES OF THE CITY OF XENIA, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2017, AND DECLARING IT TO BE AN EMERGENCY.

Motion by Councilwoman Mills, seconded by Councilwoman Mays, that the rules requiring the reading of an ordinance at two consecutive meetings be dispensed with and this ordinance be placed at once upon its passage. Discussion followed.

Councilman Louderback asked why there were so many emergency items on the agenda, and asked if the item really needed to be an emergency; it seems like only emergency items have appeared on recent agendas. Mr. Merriman said the emergency has to do with the timing of when things get to staff and the time staff has to respond to those items. In order to proceed with the efficient implementation of the design portion of the project, it would make sense to combine the two funding sources from this year and funds that were originally set to be appropriated next year. This practice creates a cost efficiency and saves time and money. If the item is delayed, it will delay the entire project an extra two months; therefore, Council can move forward with an introduction this evening, but efficiency would be achieved and taxpayer dollars saved by approving it as an emergency this evening. Councilman Louderback believed that was a very weak excuse and would not save taxpayer dollars.

The Roll on this was the following:

Ayes: Smith, Mays, Mills, and Engle
Nays: Louderback motion failed.

Councilwoman Mays introduced an ORDINANCE AMENDING ORDINANCE 17-01 TO MAKE ADJUSTMENTS IN APPROPRIATIONS FOR CURRENT EXPENDITURES OF THE CITY OF XENIA, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2017, and it was read for the first time.

Introduction of a Resolution to amend Pay Grade Wage Schedule to increase minimum, midpoint and maximum pay grade rates and increase the minimum wage. Mr. Merriman respectfully requested introduction of a resolution amending Appendix 2 of the Employee Benefits Manual to increase the minimum, midpoint, and maximum wage rates for each pay grade by 2% except the minimum of Pay Grade 1, which will increase to \$8.15 to comply with the minimum wage rate set forth by State law. As detailed in the staff report, a survey of comparable communities was conducted to evaluate wage ranges and comparing similar positions' compensation to determine if the City's wages are competitive. There are strong indications that Xenia's pay plan has continued to fall behind other similar communities in our region. This fact, combined with knowledge of the cost of living increases over the past two years since the last approved change to wage ranges, warrants Council's consideration of an increase in the compensation plan. Additionally, it must be noted that effective January 1, 2017, the state's minimum wage rate increased from \$8.10 per hour to \$8.15, and so it is necessary to incorporate this change into the City's compensation plan to stay current with the state's minimum wage requirement.

Vice President Smith introduced a RESOLUTION AMENDING APPENDIX 2 OF THE EMPLOYEE BENEFITS MANUAL (NON-UNION WAGE RANGES) OF THE CITY OF XENIA PER XCO SECTION 260.02(f), and it was read for the first time.

Items for the City Manager: Mr. Merriman provided the following updates:

- **State Budget and LGE** – Staff has been working to keep Council abreast of details as it relates to the State Biennial Budget, which has been introduced by the Governor and is currently in the Committee process in the State House. He has a brief overview of their recommendations of the proposed budget, which he can share with Council after the meeting. There are two items specifically

READING OF COMMUNICATIONS AND DISCUSSION: Councilman Louderback wished the former City Manager, Jim Percival a speedy recovery after his recent hip replacement; his surgery went well and he is now in recovery. It seems like the Council President likes to discredit him with other people and indicate that he did not tell the truth, which goes way back to when he voted against the new City Hall project. He wanted to put the decision on the ballot so the people of Xenia could vote on the issue, and President Engle has been against him ever since. Furthermore, President Engle and his followers filed ethics charges against him, Mr. Caupp, and Mr. Lewis, and all were exonerated. The inquiry ended up costing taxpayers \$70,000. He added they proceeded with the inquiry after the Ohio Ethics Commission told them not to proceed because they were handling the case. Councilman Louderback asked Mr. Schierloh how many lawsuits are currently filed against the City. Mr. Schierloh said two pending suits have been filed in Court; one is a personal injury action and the other resulted from a panhandler incident. Councilman Louderback said it frustrates him that people try to discredit other people that are trying to do the right thing. He has lived in Xenia all his life and has a great reputation of being honest and forthright, but there are some that like to discredit him; however, he will always defend himself. They live in a free country, and he will talk whenever he wants to talk, and he will say it at every meeting if necessary. The City is not as rosy as citizens think; there are problems and as long as he sits on Council, he will inform the public of these problems.

Councilwoman Mays said it was an honor to speak at a prayer breakfast at Wright Place Apartments on February 15th; she thanked ‘Ms. J’ for inviting her to the event; it was a really great time together.

Councilwoman Mills congratulated Wyatt Spahr, Grace Randall, Makenna Penewit, Brooklyn Ligier, Emily Crossley, Alexis McManus, Shelbie Turner, Janell Tarver, and Kierstyn Brandenburg for winning the opportunity to represent Midwest Cheer Elite at the 2017 Dance Worlds at Disney World in Orlando, Florida. They will be competing against groups from around the world, and it is an honor for these nine young Xenia community athletes to be able to compete. Additionally, she asked everyone to remember that on this day in 1945 the U.S. Marines raised the American Flag at Iwo Jima. It was such a great time in the nation’s history, and a time when people pulled together because they realized freedom is not free; it cost a lot. She asked everyone to remember those who have served and continue to serve this country in many different fields. Military personnel serve as well as police, fire, teachers, nurses, doctors, etc. Working with the public is a service, and she wanted to remember all who serve. She asked everyone to pray for the military. Wright-Patterson Air Force Base tied with Scott Air Force Base in Illinois for being named the Best Air Force Base in the nation, which is quite an accomplishment.

Vice President Smith said this is his eighth year on Council, and he is proud to serve the City of Xenia. Xenia is a great community and he is proud to be a part of it. When he came onboard to Council in 2010, a street program did not even exist, but thank goodness through the generosity of the voters, a .5% income tax was passed, and the City now has a Street Program. He appreciated Mr. Caupp’s comments, and he wanted to respond to some of his questions. He noted the Special Session held prior to the Regular Session was on the Street Program, and there is money allocated for streets in 2017. Unfortunately, there is only so much money to be allocated and an excessive amount of streets are in need of repair—not just in Xenia but in all

