

**XENIA CITY COUNCIL
MEETING MINUTES
FEBRUARY 18, 2021
SPECIAL MEETING**

1. CALL TO ORDER: President Wesley Smith called the Special Meeting to order at 6:00 p.m. The meeting was held via Zoom videoconferencing. The public was given an opportunity to contact the City Clerk if they wished to observe the meeting. No requests were received.

2. ROLL CALL: Councilman Thomas Scrivens, Councilwoman Rebekah Dean, Councilman Cody Brannum, Councilman Will Urschel, Mayor Sarah Mays, and President Wesley Smith were present. Vice President Levi Dean was absent.

Motion by Councilman Brannum, seconded by Councilman Scrivens, to excuse Vice President Dean from the meeting due to work commitments. No comments followed. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, Urschel, Mays, Smith

Nays: None motion carried.

3. NEW BUSINESS/DISCUSSION:

A. Introduction of Resolution 2021-K Designating the Xenia Community Improvement Corporation as the Agency of the City of Xenia to Advance, Encourage, and Promote Industrial, Commercial, Distribution, and Research Development in the City. City Manager Brent Merriman said this Council, by Resolution 2020-AA passed on September 24, 2020, authorized the creation of the Xenia Community Improvement Corporation (XCIC). The XCIC is a not-for-profit economic development corporation, whose purpose is to advance, encourage, and promote the industrial, economic, commercial, and civic development of the City of Xenia. Ohio Revised Code Section 1724.10 provides that any economic development corporation so organized may be designated by a municipal corporation as the agency of that municipal corporation to achieve this development. Once the XCIC is designated as the agency of the City, the City and the XCIC may enter into agreements for projects including planning for economic development and land reutilization; the sale or lease of lands owned by the City for uses that will promote the welfare of the City's citizens by promoting development and employment; and the conveyance of lands to the XCIC. As the City prepares to engage with the XCIC on projects that advance the economic interests of the community, it is appropriate and necessary that the City take formal action to designate the corporation as an agency of the City, which is the purpose of Resolution 2021-K presented herein. Under provisions of the Ohio Revised Code, as detailed above, Community Improvement Corporations are empowered to undertake various activities on behalf of and in partnership with the City that are beneficial for the economic development of the community. To begin undertaking such activities, however, it is necessary for the XCIC to have in place indemnification coverage, budgetary resources, and other professional assistance facilitated initially through the City. In order to initiate these actions, the agency designation is needed.

President Smith entertained questions or comments.

Ms. Fisher said by order of State law, when the Resolution is approved and the XCIC is formally designated as an agent of the City, Councilwoman Dean would no longer have a conflict of interest, and she will be able to vote on anything relating to the XCIC.

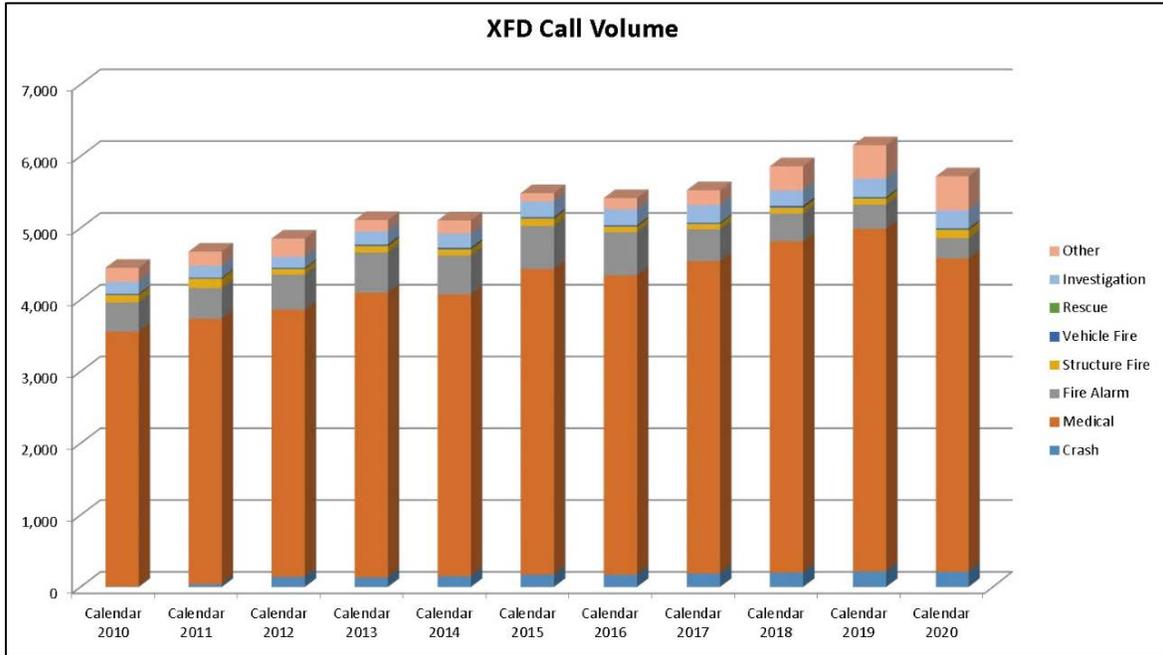
Councilman Urschel asked if the City would have only one CIC or if additional ones can be established, noting this one is only for the downtown area. Mr. Merriman said the existing CIC exists for the benefit of all economic, cultural, and commercial/industrial/residential development citywide. While the initial approach is geared toward downtown, the intent is to exercise opportunities citywide. Ms. Fisher said designating the CIC as an agent of the City is the initial step, but they will come back to Council with an agreement for the CIC to do anything with the Xenia Towne Square project, which should come before Council in March or April. Mr. Merriman agreed. Councilman Urschel asked the status of the CIC (chartered, by-laws, etc.). Mr. Merriman said the members of the CIC have met and the additional board members have been appointed. So there is now a full board, and they have adopted their Code of Regulations to operate the CIC. Councilman Urschel asked for a copy of the Code of Regulations. Ms. Fisher said she would email him the requested information.

Hearing no further comments, President Smith entertained introduction of Resolution 2021-K as presented.

Mayor Mays presented RESOLUTION 2021-K DESIGNATING THE XENIA COMMUNITY IMPROVEMENT CORPORATION AS THE AGENCY OF THE CITY OF XENIA TO ADVANCE, ENCOURAGE, AND PROMOTE INDUSTRIAL, COMMERCIAL, DISTRIBUTION, AND RESEARCH DEVELOPMENT IN THE CITY, and it was read for the first time.

B. Introduction of Resolution 2021-L Authorizing the City Manager to Submit an Application for a SAFER Grant on Behalf of the Xenia Fire Division. Mr. Merriman said the United States Fire Administration, Federal Emergency Management Agency announced the application period for the Staffing for Adequate Fire & Emergency Response (SAFER) Grant beginning February 8, 2021. Applications must be submitted electronically or otherwise received on or before the close of business on March 12, 2021. He noted the City has been successful in receiving SAFER grants in the past. However, past grants only paid a percentage of the cost of additional firefighters, and this grant would cover 100% of the costs of three (3) firefighters (one per shift), which would increase staffing to 15 per shift. Having that extra person per shift puts the Division at a new threshold to reduce response times and increase the number of trained personnel at an incident scene. He turned the presentation over to Fire Chief Ken Riggsby and Assistant Fire Chief Mike Bogan to provide background information regarding call volume, etc.

Chief Riggsby said he has been the Fire Chief for the past 11 years, and one of his goals was to increase staffing to 15 per shift due to the gradual increase in call volume. As noted below, the call volume in 2019 exceeded 6,100 calls. The call volume for 2020 was down about 400 calls, which he attributed to a reduction in calls during the initial few months of the Covid-19 pandemic. As of February 17, 2021, they have already responded to 750 calls this year. Deputy Chief Bogan said if the call volume for 2021 remains as is, they are on track to exceed 6,350 runs this year.



Councilman Brannum said if an engine and a medic both respond to the same call, he asked if that is counted as one run or two runs. Chief Riggsby said they used to count it as two runs, but they now count it as one run.

Assistant Chief Bogan said as noted below, Xenia’s call volume per population is the highest in the area, which could be attributed to Xenia being the County seat and many County services are provided in the City of Xenia. Therefore, Xenia may have a larger majority of residents who utilize County services.

Call Volume per Population	
Xenia	.23
Piqua	.21
Troy	.20
Fairborn	.16
Kettering	.16
Huber Heights	.15
Beavercreek	.15
Washington Twp.	.14

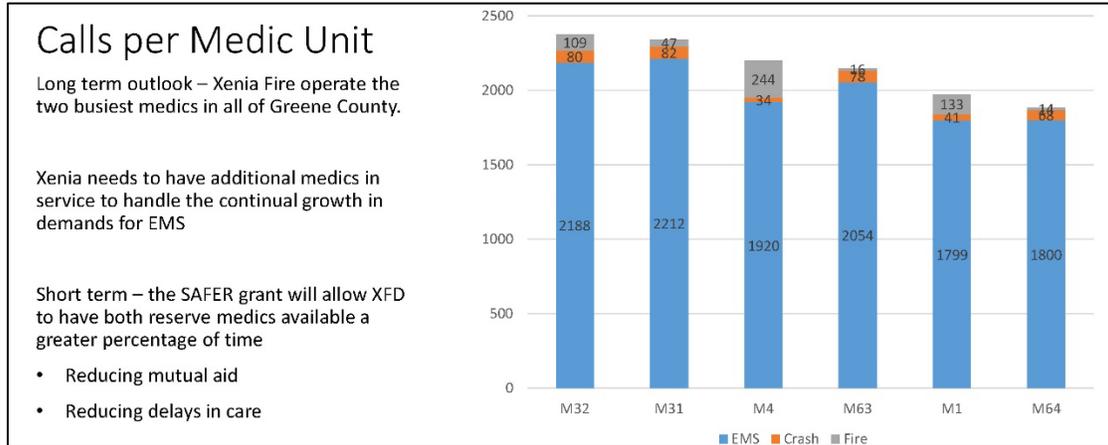
XFD has a higher factor than that of all of our surrounding jurisdictions.
 This is due to several factors

- As the county seat we have a higher percentage of residents that utilize county services
- Those residents also have a higher percentage of utilizing 911 services
- We have a higher than average amount of nursing homes and assisted living facilities in our jurisdiction

Mr. Merriman said with the new EMS billing provider, there has been a shift in the nature of EMS calls from advanced life support (ALS) to basic life support (BLS). More runs are deemed BLS, which means there has been a decrease in revenue even though the call volume has increased.

Chief Riggsby said as shown below, the call volume for EMS calls has gradually increased since 1988, but the fire calls have remained steady. He explained the changes in staffing from 13 to 14 per shift with SAFER grants and levy revenue and then back down to 13 per shift due to budget deficits and the expiration of SAFER grants. Basically, without additional funding with a SAFER grant, there needs to be growth in the City’s income tax base to sustain 15 per shift. With some leftover SAFER grant funds, they have the ability to keep at least 14 per shift through May 2021. The proposed restructuring of the Fire Division will give them the capability to do that, which

reduce their dependency on mutual aid and keep EMS revenue here. Chief Riggsby reiterated that Xenia has two frontline medics, Fairborn has four frontline medics, and Beavercreek has four to six frontline medics on a daily basis, and Xenia takes an average of only 50-110 fewer calls per year than Beavercreek (with four or more medics) and only 200 fewer calls per year than Fairborn (with four medics).



Chief Riggsby said with additional manpower, there would be a savings in overtime, which he estimated would exceed \$25,000. He said the fourth medic would not be available if staffing is not available. Mr. Merriman noted if the SAFER grant is received and Council accepts it, the firefighters hired under the grant would have to acknowledge that they are hired with SAFER funding, and their positions are subject to the availability of funding. With attrition (anticipated retirements) and the possibility of losing personnel for any other reason, he did not believe they would have to layoff anyone hired under the SAFER grant. He remains very concerned about the dynamics of Xenia’s population, which is not likely to change. They also need to consider the wear and tear that the ever increasing call volume puts on staff.

Overtime savings	4 th Medic
<p>Overtime savings – 15 per shift</p> <ul style="list-style-type: none"> • Looking forward in 2021 • 480+ hours could be eliminated • Cost savings > \$25,000 	<p>Additional Medic Availability</p> <ul style="list-style-type: none"> • 4th medic is not available when staffed at minimum • The grant will help keep us above minimum up to 77% of the year. An increase of 22%! • Revenue from EMS billing stays with Xenia, not Mutual Aid neighbors

President Smith entertained additional questions or comments. Hearing none, he entertained introduction of Resolution 2021-L as presented.

Councilman Scrivens presented RESOLUTION 2021-L AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION FOR A SAFER GRANT ON BEHALF OF THE XENIA FIRE DIVISION, and it was read for the first time.

C. Administrative Motion Authorizing the City Manager to Execute a Professional Service Agreement with Dillin, LLC, for Property Management Services at Xenia Towne Square and a Professional Service Agreement with CB Heritage Dillin Property Group for Leasing Services at Xenia Towne Square. Mr. Merriman said as the City acquires the leasehold interests in Xenia Towne Square, it will be necessary to both manage the property and look for additional opportunities to lease space. Property management services that will be needed include collecting rent, property maintenance, building maintenance of vacant spaces, and dealing with

tenant issues. City personnel do not have the capacity to manage the day-to-day operations of this large shopping center, nor the expertise to act as the leasing agent. Therefore, it is staff's recommendation that they enter into a contract for these services with companies that have the experience and strong track records of leasing and managing retail properties. The entities recommended are associated with the proposed development partner, providing seamless transition as they move forward with redevelopment of the property. Costs associated with both these agreements would be paid from the revenue derived from the leases in Xenia Towne Square. He noted the 4% fee to be paid per the agreement is a very reasonable fee based on the market rate.

President Smith entertained a motion.

Motion by Mayor Mays, seconded by Councilman Urschel, to authorize the City Manager to execute the Professional Service Agreement with Dillin LLC for Property Management Services at Xenia Towne Square and the Professional Service Agreement with CB Heritage Dillin Property Group for Leasing Services at Xenia Towne Square upon such terms and conditions as are approved by the Law Director. Discussion followed.

Councilman Scrivens asked how the realtor was selected, noting it was not a local realtor. Mr. Merriman said staff reached out to companies who participate in commercial development that also have a property management capability. They looked at several options, and ultimately selected Dillin based on their great reputation and project history. Development Director Steve Brodsky said Dillin group has a licensed commercial realtor through a joint venture with CBRE¹. This arrangements allows Dillin to manage the leasing component under the licensure of the CBRE.

The Roll on this was the following:

Ayes: Scrivens, Brannum, Urschel, Mays, Smith

Abstain: R. Dean

Nays: None motion carried.

D. Discussion on the First Draft of the Rules of Council and Proposed Reorganization of City's Boards, Commissions, and Committees. Law Director Donnette Fisher said she developed the Rules of Council, and she, Mr. Merriman, Finance Director Ryan Duke, and City Clerk Michelle Johnson started reviewing them last year. Their progress was delayed due to the Covid-19 pandemic. They are now presenting the first draft of the Rules of Council, noting Council currently has none, along with a proposed reorganization of the City's Boards, Commissions, and Committees, some of which are codified and some are ad-hoc groups. Currently, they fall back to Roberts Rules of Council, which is cumbersome. She then reviewed **Section 1. Construction of Language**, **Section 2. Definitions**, and **Section 3. Meetings** and entertained comments or questions.

Councilman Urschel asked about the language (*shall* vs. *may* broadcast) in *3.02. Regular Meetings* vs. *3.03 Special Meetings*. He asked why Special Meetings would not automatically be broadcasted. Mr. Merriman said there are two reasons: 1) additional IT personnel would be needed

¹ CBRE is a full service commercial real estate firm that provides solutions to property owners, investors, and occupiers.

to run the equipment during the meeting and then produce the video following the meeting, and 2) the topics are usually more discussion oriented vs. procedural, and the back and forth conversation is much harder to track on camera. Ms. Fisher agreed; Regular Meetings are more legislative in nature and Special Meetings tend to be more administrative in nature. Mr. Duke added that at times the Special Meetings are not held in the Council Chambers, sometimes even off-site, and in that case, a live broadcast would be impossible. Councilman Urschel asked if the choice to broadcast was solely up to City Council (i.e., it is not regulated by the Ohio Revised Code). Mr. Merriman said yes; that said, he feels they have been very transparent with live broadcasts on the government channel and YouTube, the availability of archived video recordings of past meetings, very detailed meeting minutes, publishing the entire agenda packet on the website, etc.

Ms. Fisher reviewed **Section 4. Procedures for Regular Meetings**, calling their attention to the removal of the Invocation from the Regular Meeting lineup due to issues with the separation of church and state. Further, she noted she has received a few complaints about the Invocation. She suggested doing the Invocation or moment of silence before the call to order, which could still be “on camera.” It could also still be listed on the published agenda. This way, if the City is challenged on this issue, she has an argument that it was not part of the official meeting. Mayor Mays asked how many complaints she had received. Ms. Fisher said she personally has received two complaints, and she knows a local reporter has made comments about it. President Smith asked when the House of Representatives and Senate conduct their Invocations. Ms. Fisher said they both do an Invocation before the Call to Order. Councilwoman Dean said she preferred to keep the Invocation as part of the meeting (as is). President Smith asked if they could list the Invocation as Item A and the Call to Order as Item B. Ms. Fisher said that is up to City Council to leave it as part of the order of business. Mr. Merriman felt that the Invocation was an important component for both the community and City Council; however, Ms. Fisher is trying to protect the City and this change will ensure a separation of church and state, and it only takes one person to get the City into an extrapolated legal process. President Smith said he has served on Council for 12 years, and he did not see it as a problem to do the Invocation.

Councilman Brannum said at the end of the day, they will not be able to please everyone. If they keep it or do away with it, some people will agree and some will disagree, noting only three people out of 26,000 have complained about the Invocation. Ms. Fisher agreed, but if they keep the Invocation as part of the meeting and the City gets sued, she would probably lose the case. She suggested adding an additional section (a new 4.01) to allow the Council President to call for an Invocation. Mayor Mays agreed; she did not want the Rules of Council to be silent on this issue; she definitely wants something in writing in the Rules of Council. Ms. Fisher agreed to write some language accordingly and present it for their review.

Ms. Fisher then reviewed **Section 5. Procedures for Special & Emergency Meetings**, **Section 6. Executive Sessions**, and **Section 7. Procedures Applicable to All Meetings**. She called their attention to how they can vote (7.08. *Voting*) (yes/aye, no/nay, or abstain ... cannot vote “present”). President Smith asked if an abstention was the same as a recusal. Ms. Fisher said it means the same thing, but the word “abstain” should be used. Further, if a member needs to abstain, then the member should also not participate in any of the discussion that precedes the motion and roll call. Further, if a Councilmember has a question about a possible conflict of interest, he or she should absolutely contact her before voting on the matter. She will review the matter and advise them accordingly.

Ms. Fisher reviewed **Section 8. Councilmembers** and **Section 9. Code of Conduct**. She noted that Councilmembers have a duty to vote (*8.06. Voting*)—that’s what electors expect them to do. Otherwise, they could be deemed guilty of contempt of Council and may be censured by a majority vote of Council. She then reviewed *9.05. Censure*, noting the Council should have the ability to censure each other—it should not be up to the members of the public, which is what the current Code of Conduct states.

President Smith said due to the late hour, he suggested that Councilmembers reach out to Ms. Fisher with any additional questions or concerns they may have, and they will pick this back up in a special session at the end of the February 25th Regular Meeting. Councilman Urschel said he would like a visual diagram to further explain the changes to the City’s Boards, Commissions, and Committees. Mr. Merriman agreed, noting Councilman Urschel is the chair of the Economic Development Advisory Board (EDAB) and significant changes are proposed for that particular board. Councilman Urschel asked if the Boards, Commissions, and Committees are per the Charter, the Codified Ordinances, ad-hocs, etc. Ms. Fisher said “all of the above.” However, without a Charter change, the Charter-required Boards, Commissions, and Committees cannot be changed. For the codified ones, the Council would have to pass ordinances to make any changes. The ad-hoc groups are the easiest to change by Administrative Motion.

President Smith said he appreciated everyone making themselves available for this Special Meeting. He then entertained a motion to adjourn.

4. ADJOURNMENT: Motion by Mayor Mays, seconded by Councilwoman Dean, to adjourn the Special Meeting at 7:45 p.m. No discussion followed. The Roll on this was the following:

Ayes: Scrivens, R. Dean, Brannum, Urschel, Mays, Smith

Nays: None motion carried.

Michelle D. Johnson
City Clerk

Wesley E. Smith
President, Xenia City Council