

**XENIA CITY COUNCIL
MEETING MINUTES
FEBRUARY 25, 2021
REGULAR MEETING**

1. CALL TO ORDER: President Wesley Smith called the Regular Meeting to order at 6:00 p.m. Due to COVID-19, the meeting was closed to the public and some members joined via Zoom videoconferencing.

2. INVOCATION: Councilman Will Urschel provided the Invocation.

3. PLEDGE OF ALLEGIANCE: President Smith led those participating in the meeting in the Pledge of Allegiance.

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

5. APPROVAL OF MINUTES: Motion by Councilwoman Dean, seconded by President Smith, to approve the February 6, 2021, minutes of the Special Meeting as written. No comments followed. The Roll on this was the following:

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

Nays: None motion carried.

Motion by Councilwoman Dean, seconded by Councilman Brannum to approve the February 11, 2021, minutes of the Regular Meeting as written. Brief comments followed. Councilman Urschel said the minutes include discussion on the annexation of the Lower Bellbrook Road property; however, he would like to include a comment that was not voiced at the meeting, which is the Economic Analysis said the annexation would be detached and the property tax revenues would be coming to the City. However, the annexation will remain attached and the property taxes would remain with Xenia Township. He would like the analysis and the minutes to be corrected as noted. The City Clerk noted the addition to the minutes and the correction to the Economic Impact Analysis. The Roll on this was the following:

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

Nays: None motion carried.

6. SPECIAL PRESENTATION(S): None.

7. AUDIENCE COMMENTS: President Smith said since the meeting is closed to the public, those wishing to present comments for Council consideration were asked to send an email or written correspondence to the City Clerk. He reported that one email was received from Mr. Micah Adams, a student from Xenia who attends Ohio State University. He commented on the Xenia Towne Square property and expressed his excitement for the project, noting it has the potential to change Xenia for the better. He said Council has done an outstanding job using its resources and coming up with creative solutions while being transparent and realistic about what can be accomplished at the site. He also expressed his excitement that Dillin Corp. was chosen for this project.

8. OLD BUSINESS:

A. President Smith presented **RESOLUTION 2021-J DECLARING THE NECESSITY FOR AND AUTHORIZING THE TRANSFER OF FUNDS FROM THE GENERAL OBLIGATION BOND PAYABLE FUND TO THE GENERAL FUND, AND AUTHORIZING THE LAW DIRECTOR TO FILE AN ORC 5705.14 PETITION FOR SAID TRANSFER WITH THE GREENE COUNTY COURT OF COMMON PLEAS**, originally introduced by Mayor Mays on 02/11/2021, and it was read for a second time.

Motion by Mayor Mays, seconded by Councilman Scrivens, to adopt Resolution 2021-J as written. Comments followed.

Councilman Scrivens noted this is a request to transfer \$119,037.23 into the City's General Fund.

Councilman Urschel said this is inside millage and is not being used for the bond payable fund and asked Finance Director Ryan Duke if the City would continue to receive that inside millage. Mr. Duke said yes, the City will continue to receive the inside millage; the difference is now it goes directly into the General Fund, whereas before they were required to receipt it into the 471 Fund (General Obligation Bond Payable Fund) to cover the debt service. That debt has now expired, which is why it makes sense to request a transfer of the balance into the General Fund. He expects that the request will be approved. Councilman Urschel asked if the deposit into the General Fund began in 2020 or 2021. Mr. Duke said 2021.

Councilman Brannum said City Council should do their due diligence and determine how the \$119,037.23 will be used. He would like to see the funds be used for infrastructure improvements. President Smith agreed, noting they can discuss it when they consider this year's street improvement plan.

The Roll on this was the following:

Ayes: L. Dean, Scrivens, R. Dean, Brannum, Urschel, Mays, Smith
Nays: None motion carried.

B. President Smith 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**, originally introduced by Mayor Mays on 02/18/2021, and it was read for a second time.

Motion by Mayor Mays, seconded by Councilman Scrivens, to adopt Resolution 2021-K as written. No discussion followed. The Roll on this was the following:

Ayes: L. Dean, Scrivens, Brannum, Urschel, Mays, Smith
Abstain: R. Dean
Nays: None motion carried.

C. President Smith presented **RESOLUTION 2021-L AUTHORIZING THE CITY MANAGER TO SUBMIT AN APPLICATION FOR A SAFER GRANT ON BEHALF OF**

THE XENIA FIRE DIVISION, originally introduced by Councilman Scrivens on 02/18/2021, and it was read for a second time.

Motion by Councilman Scrivens, seconded by Vice President Dean, to adopt Resolution 2021-L as written. No discussion followed. The Roll on this was the following:

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

Nays: None motion carried.

9. PUBLIC HEARING(S): None.

10. NEW BUSINESS:

A. Introduction of Ordinance 2021-03 Amending Section 260.03 of the Codified Ordinances of the City of Xenia, Ohio, to add the Classified Positions of Police Service Aide (Parking Function) and Engineering Project Manager and Amending Maintenance Worker, and Amending Section 274.07 of the Codified Ordinances of the City of Xenia, Ohio, to add the Classified Position of Engineering Project Manager. City Manager Brent Merriman said this Ordinance is being presented to make changes to some staff positions to maximize the utilization of staff members. These changes affect the Police Division and the Public Service Department. For the Police Division, he recommended that the current Parking Enforcement Officer position be transitioned into an additional Police Service Aide position. He noted this would not be an additional position, just a “one for one” change, and funding for the position would be split 50/50 between the Parking Fund and the Police and Fire Fund due to the nature of the position’s responsibilities. In reviewing the Police Division administrative staffing, they discovered one of the key areas of concern was a Detective was responsible for property and evidence, and because a Detective could be involved in a case where he/she is overseeing the evidence, the chain of custody was modified. Therefore, the operational responsibility for the property and evidence room was transitioned over to existing staff (Police Service Aides). This additional responsibility has reduced staff’s ability to respond to records requests and other functions of the position. As many of these responsibilities create liability issues for the City if left undone, the Parking Enforcement Officer took on many of those critical tasks—working outside the scope of his job description—and his pay has been plus rated when performing these tasks. At this point, it makes sense to make the position a Police Service Aide, which is a higher classification, and align the position with the scope of responsibilities.

For the Public Service Department, the City used to have two Construction Inspector positions; one was eliminated due to financial difficulties more than 10 years ago. This position, along with numerous other Engineering and Public Service positions, were never restored—all the while they continued to add infrastructure and overall responsibility and work load to this one position. During this time, the Construction Inspector position is clearly acting more as a Project Manager. Typically, the primary tasks associated with a Construction Inspector center on direct oversight of the work of contractors to ensure compliance with City standards. Over the last 7-8 years, the Engineering Division has been utilizing the current Construction Inspector’s knowledge and experience to oversee and administer contracts including daily inspections, negotiation of change orders, approving invoices for payments, and final approval/rejection of the work. In addition, he works directly with the Assistant City Engineer and Public Service Director/City Engineer on the

design of improvements and their “constructability.” Most notably, he consistently works with the Public Service Supervisor for Facilities to address problems that constantly arise with the plumbing, HVAC, and electric at the City Administration Building and Justice Center. To address the daily exceedance of expectations for the Construction Inspector, the Engineering Division would recommend a change to the job title and description to Engineering Project Manager. The creation of this position would more accurately and fairly reflect the current daily duties of the Construction Inspector. He noted they do not wish to maintain both the Construction Inspector position and the Engineering Project Manager position; rather, the Engineering Project Manager will replace the Construction Inspector position. In addition to the creation of the Engineering Project Manager position, the Public Service Department is requesting the elevation of the four (4) Laborer positions to Maintenance Worker positions, as defined in the current collective bargaining agreement with AFSCME. He explained that a number of years ago when the Laborer position was added, the labor market was very different—they had a much greater ability to fill these entry level positions at the established wage point. In recent years, their ability to do that has declined while the turnover for that position has increased. He noted they recently lost two Laborers to Greene County due to higher pay with better benefits. For reference purposes, a Laborer position is considered entry level and when a Maintenance Worker position opens up, a Laborer can move up to that position. He noted the qualifications and duties of the Laborer and Maintenance Worker positions are the same, with the exception of the requirement for a Commercial Driver’s License, Class A (CDL-A), which limits the types of vehicles that can be driven. From a financial perspective, while the overall annual salary would increase, the effect to Key Operating Funds (KOF) would be a decrease because the Laborer position is 45% funded by the KOF and the Maintenance Worker position is 25% funded by the KOF. The current AFSCME contract permits Laborers to be called in for overtime work only for snow removal at City-owned lots, parks/streetscape maintenance, and mowing. It is only if the Maintenance Worker list(s) have been fully exhausted without sufficient personnel to address a problem after hours may a Laborer be offered the same opportunity for overtime. In order to more fairly address the difficulties associated with filling the Laborer position and to attract a more talented pool of candidates, transitioning the Laborer positions to Maintenance Worker positions would not only offer a higher rate of pay and an ability to attain overtime, but it would enhance operations because it would expand the afterhours call-in lists. If the four Laborers were transitioned to Maintenance Worker, the call-in eligibility list for streets would increase from 8 to 12.

President Smith entertained comments or questions.

Mayor Mays asked if it would be harder to fill the Maintenance Worker positions since they are not “entry level” positions. Mr. Merriman said it may make things more difficult on the front end versus the costs associated with turnover and training on the other side. He noted the only additional requirement for a Maintenance Worker over a Laborer was for a CDL-A.

Councilman Brannum said when he worked for the City, he was a Laborer, and the Laborers worked together as a team and they worked hard. He hopes this change will break the divide and the “that’s not my job” mentality. Mr. Merriman believed there would be an environmental benefit. Unfortunately, Laborers may have been considered at a “lower” level, and sometimes they were treated that way. He agreed the Laborers have done exceptional work. That said, they will definitely need to re-set expectations and make operational changes in Public Service. He expected the overall net result to be positive.

Councilman Scrivens asked if the current Laborers would automatically be moved from Range 109 to Range 112. Mr. Merriman said yes; they will move to at least the minimum of the first step of Range 112, unless they are already above that wage.

President Smith entertained introduction of Ordinance 2021-03 as presented.

Vice President Dean presented ORDINANCE 2021-03 AMENDING SECTION 260.03 OF THE CODIFIED ORDINANCES OF THE CITY OF XENIA, OHIO, TO ADD THE CLASSIFIED POSITIONS OF POLICE SERVICE AIDE (PARKING FUNCTION) AND ENGINEERING PROJECT MANAGER AND AMENDING MAINTENANCE WORKER, AND AMENDING SECTION 274.07 OF THE CODIFIED ORDINANCES OF THE CITY OF XENIA, OHIO, TO ADD THE CLASSIFIED POSITION OF ENGINEERING PROJECT MANAGER, and it was read for the first time.

B. Administrative Motion Appointing a Member and an Ex-Officio Member to the Board for Recreation, Arts, and Cultural Activities. President Smith said Xenia Codified Ordinances Chapter 278 – Board for Recreation, Arts, and Cultural Activities, Section 278.01, titled “Establishment; Composition; Terms; Chairperson; Meetings,” authorizes City Council to appoint five residents of the City (voting members) and one ex-officio, non-voting member of the Board. The ex-officio member may be a student at Xenia High School. The student currently serving in the ex-officio position is a senior at Xenia High School whose term is expiring on April 23, 2021. Mr. Jobe Vogelsong is a student at Xenia High School who wishes to serve as the student liaison to BRACA for the next one-year term. His appointment has been endorsed by XHS Guidance Counselor Ms. Jodi Yaney. All past student representatives have been tremendous assets to BRACA, and it is imperative that we continue to bridge the gap between City government and the youth of our community. There is also a vacancy on BRACA for a voting position, which was created by the appointment of William Urschel to City Council who was serving on BRACA at the time of his appointment. In response to a call for volunteers, Mr. Thomas “Tom” Harlan expressed his interest in serving on BRACA. As the Chair of BRACA, he spoke with Mr. Harlan and is recommending his appointment, noting Mr. Harlan attended one of the City’s Citizen Academies. Mr. Harlan’s background check is satisfactory. He then entertained a motion on the appointments.

Motion by Councilman Urschel, seconded by Councilman Brannum, to appoint Mr. Jobe Vogelsong to serve as an ex-officio member of BRACA with a term expiration date of April 23, 2022, and Mr. Tom Harlan to serve as a voting member of BRACA with a term expiration date of July 31, 2024. Comments followed.

Councilman Urschel was encouraged that Xenia High School students wished to participate on BRACA and volunteer for City events. President Smith agreed. He thanked Garrison Henry for his service on BRACA as this past year’s student liaison. He also thanked the National Honor Society and Student Council students as well as youth from area churches who participated this past year.

Councilman Scrivens thanked Mr. Harlan for his volunteer service and Ms. Yaney for her recommendation. President Smith noted that Ms. Yaney had already retired, and he was pleasantly surprised to see an email from her. Apparently, she is filling in for a short time.

The Roll on this was the following:

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

Nays: None motion carried.

C. Administrative Motion Authorizing the City Manager to Execute Work Order No. 2021-02 with Wood Environment & Infrastructure for 2021 Post-Closure Groundwater Monitoring Under the Existing Master Services Agreement. Mr. Merriman said staff is requesting that the City continue its long-standing relationship with Wood Environment & Infrastructure Solutions, Inc., (formerly AMEC Foster Wheeler) to complete the necessary landfill post-closure groundwater monitoring in 2021. Wood Environment & Infrastructure Solutions, Inc., has performed groundwater monitoring at the closed landfill since 1996, and therefore has a body of knowledge that offers unique insight and capacity relative to the intricacies of the landfill site. The price quotation provided by Wood Environment & Infrastructure Solutions, Inc., for the bi-annual groundwater monitoring in 2021 (Work Order # 2021-02) is \$35,458. This annual service will be provided under the existing 2012 Master Services Contract.

President Smith entertained a motion.

Motion by Mayor Mays, seconded by Councilman Brannum, to authorize the City Manager to Execute Work Order No. 2021-02 in the amount of \$35,458 with Wood Environment & Infrastructure Solutions, Inc., for landfill post-closure groundwater monitoring for 2021. Brief comment followed. President Smith said this landfill has been closed since 1996, but it continues to be an expensive liability that does not generate any revenue. The Roll on this was the following:

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

Nays: None motion carried.

D. Administration Motion Awarding the Bid and Authorizing the City Manager to Execute a Contract with Brumbaugh Construction, Inc., for the S. Columbus Street Bridge Project. Mr. Merriman said in February 2018, the Engineering staff applied for State of Ohio grant funding through the Ohio Department of Transportation (ODOT) Municipal Bridge Program to replace the deteriorating S. Columbus Street Bridge. This project includes the replacement of the existing bridge beams with a concrete box culvert structure. The Engineer's estimate for this project was \$659,000 with the costs of construction being covered by ODOT. Because the City will directly oversee construction activities on this project, contingency funds have been set aside if it becomes necessary to seek outside structural engineering and/or geotechnical review services if unanticipated circumstances are uncovered. On February 9, 2021, seven (7) competitive bids were received from qualified contractors to complete this project. Brumbaugh Construction, Inc., submitted the lowest and best bid in the amount of \$461,990. Brumbaugh has successfully completed many similar projects in the region over the years; therefore, City staff recommends moving forward with this contractor.

President Smith entertained a motion.

Motion by Councilman Brannum, seconded by Councilwoman Dean, to award the bid and authorize the City Manager to execute a contract with Brumbaugh Construction, Inc., for the S. Columbus Street Bridge Project at a cost not-to-exceed \$461,990. Comments followed.

Councilman Scrivens said this was the first project that Council considered in 2018 when he first served on City Council. The government may take its time to do things, but it eventually works and he looks forward to the bridge being done.

Mr. Merriman noted that road closure signs and a detour route will be posted when the project begins because the road will be closed for a period of time.

President Smith said he knows the normal practice is to go with the lowest bid, but since this project is 100% grant funded, he asked if the lowest bid was the best choice. Mr. Merriman said the normal practice is to accept the “lowest and best” bid, and in this case, Brumbaugh has provided the best price, the company has a proven demonstrated track record, and staff is confident in their ability to successfully complete the project. City Engineer Chris Berger noted that when they apply for grants, they tend to over-estimate the engineer’s estimate to ensure the grant will cover the cost of the project while trying to remain competitive to receive the grant dollars. Regarding Brumbaugh construction, the company has been around for many years and is more than capable of successfully completing this project.

Councilman Brannum expressed his thanks to Mr. Berger, Assistant Engineer Dominic Miller, and Construction Inspector Sherman Horsley for their work on getting this grant. Mr. Merriman agreed. This project and the next two agenda items are attributed to the success of the Engineering Department staff in securing much-needed grant funds.

President Smith asked about the estimated completion date for this project. Mr. Berger said the completion date is September 30, 2021, per the contract documents.

The Roll on this was the following:

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

Nays: None motion carried.

E. Administrative Motion Awarding the Bid and Authorizing the City Manager to Execute a Contract with John R. Jurgensen Co. for the Bellbrook Avenue Resurfacing Project. Mr. Merriman said in October 2019, the Engineering staff applied for federal grant funding through MVRPC to address the rapidly deteriorating condition of Bellbrook Avenue from Maumee Drive to Peacepipe Trail. This particular project would be the next phase of the City’s efforts to rehabilitate Bellbrook Avenue in an eastward direction toward its terminus at W. Second Street. The total project estimate was \$427,334, with the approved funding for the project at a \$294,860.46 (69% federal) and \$132,473.54 (31% local) split. On February 9, 2021, three (3) competitive bids were received from qualified contractors to complete the resurfacing project. John R. Jurgensen Co. submitted the lowest and best bid in the amount of \$286,986.24. John R. Jurgensen Co. has successfully completed many similar projects for the City of Xenia, and staff recommends moving forward with this contractor.

President Smith entertained a motion.

Motion by Councilwoman Dean, seconded by Vice President Dean, to award the bid and authorize the City Manager to execute a contract with John R. Jurgensen Co. for the Bellbrook Avenue

Resurfacing Project at a cost not-to-exceed \$286,986.24. No comments followed. The Roll on this was the following:

Ayes: L. Dean, Scrivens, R. Dean, Brannum, Urschel, Mays, Smith
Nays: None motion carried.

F. Administrative Motion Awarding the Bid and Authorizing the City Manager to Execute a Contract with John R. Jurgensen Co. for the Kinsey Road Resurfacing Project.

Mr. Merriman said in July 2019, the Engineering staff applied for grant funding through the Ohio Public Works Commission (OPWC) to rehabilitate Kinsey Road from Old Springfield Pike to Yellowstone Road. The project involves the asphalt base repair of the drive lanes ahead of the full-width resurfacing of the street, along with the replacement of select sections of curbing, sidewalks, and ADA Ramps. The total project estimate was \$393,373 with the approved funding for the project at a \$291,096 (74% State) and \$102,277 (26% local) split. On February 9, 2021, three (3) competitive bids were received from qualified contractors to complete the resurfacing project. John R. Jurgensen Co. submitted the lowest and best bid in the amount of \$253,443.54. John R. Jurgensen Co. has successfully completed many similar projects for the City of Xenia and, therefore, City staff recommends moving forward with this contractor.

President Smith entertained a motion.

Motion by Mayor Mays, seconded by Councilman Scrivens, to award the bid and authorize the City Manager to execute a contract with John R. Jurgensen Co. for the Kinsey Road Resurfacing Project at a cost not-to-exceed \$253,443.54. Comments followed.

President Smith noted the project will start at Old Springfield Pike and asked why they are not starting at N. Detroit Street. Mr. Merriman said with the intersection's recent signalization improvements at N. Detroit Street and Kinsey Road, the asphalt up to Old Springfield Pike is still in good condition. The condition of the pavement significantly deteriorates at Old Springfield Pike.

Councilman Brannum suggested that Public Service employees exercise the valves in that section of the roadway to ensure there are no bad valves that need to be replaced before the road is repaved. Mr. Berger agreed.

Councilman Urschel noted there was a significant cost difference on the low bidder's base repair price versus the other two bidders' prices (spread of \$70,000) and asked Mr. Berger to address that. Mr. Berger said Engineering staff also noted the difference, but there are several things to consider: 1) John R. Jurgensen has done the City's annual street improvements for many years—they know the roads, the City's inspectors, the City's expectations, etc., and 2) the project was bid at the right time—paving companies are building their project lists for this year, and the earlier the bid, the better. He was not concerned at all about the base repair cost difference.

President Smith asked the timeline for this project. Mr. Berger said this project will be done by June 30, 2021, per the contract documents. Mr. Merriman said the plan is to avoid the school year and not impact bus routes.

Councilman Urschel asked if the bid consisted of fixed prices. Mr. Berger said the bid consisted of unit price bids. President Smith asked if that meant the prices are “locked in” even if asphalt prices skyrocket. Mr. Berger said yes, they are locked in.

Councilman Brannum inquired about the yearly street improvement plan. Mr. Berger said staff is still waiting for word from Greene County regarding the City’s ability to participate in that group bid. He hopes the bid is published sooner than later; admittedly, if it doesn’t move fairly soon, they may need to consider putting the City’s street improvements out for bid on their own.

Mayor Mays expressed her thanks and appreciation to Mr. Berger and his team for their planning and efforts related to securing grant funds for this project and the previous two projects.

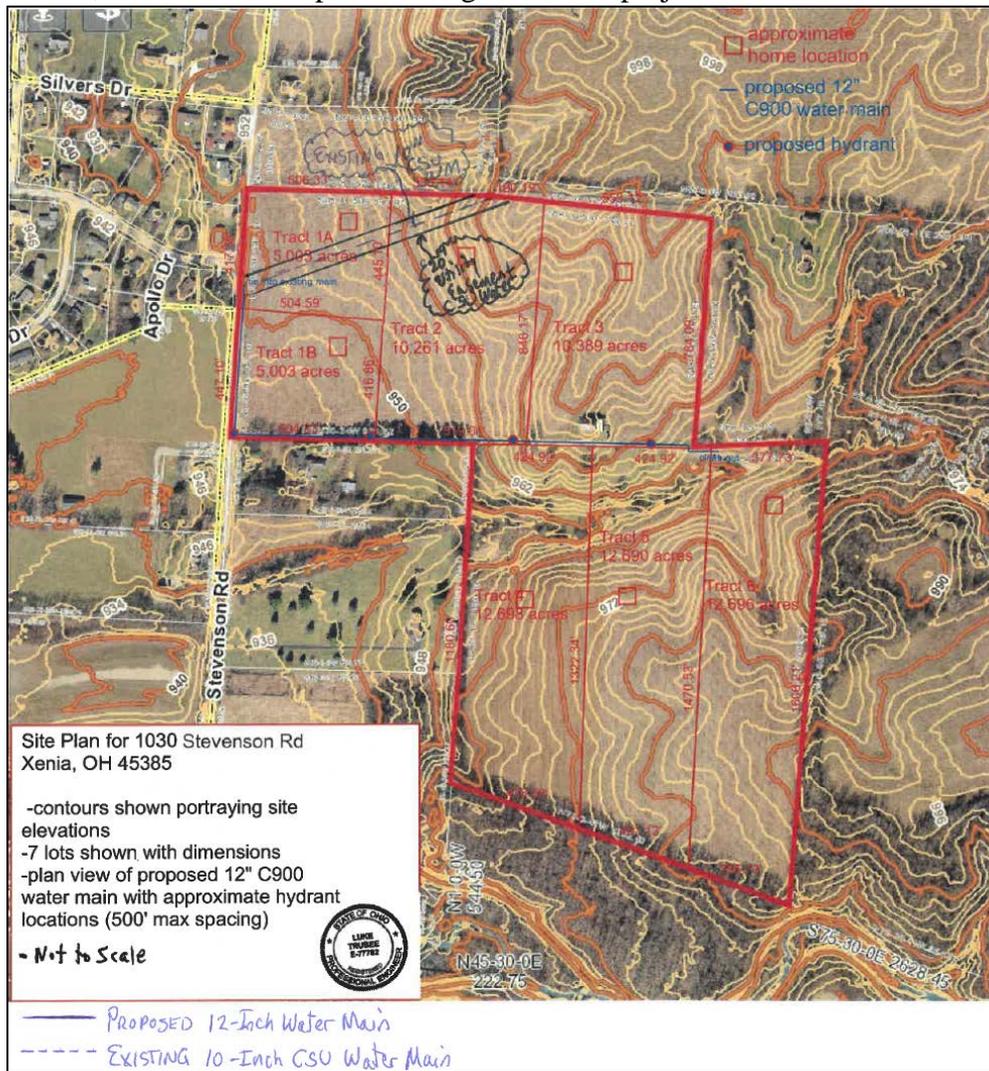
The Roll on this was the following:

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

Nays: None motion carried.

G. Administrative Motion Authorizing the City Manager to Execute a Water Service Agreement with KTD Partners, LLC. Mr. Merriman said the owner of 1030 Stevenson Road, KTD Partners, LLC, wishes to connect to the City’s water system to service up to a maximum of seven (7) tracts of land upon approval of a survey plat by the Greene County Regional Planning Commission. The property at this address is approximately 68.74 acres and KTD Partners, LLC, is proposing to divide this into seven (7) tracts to enable future construction of residential properties to be served by a private drive originating from Stevenson Road. Because the subject property is outside the City’s corporate limits, the City would normally require annexation before water service is provided. The property owner does not wish to annex into the City at this time, but his proposed extension(s) of a 12” water main to service the seven (7) tracts of land – along with the fact that his property encompasses the existing 10” water main that provides service to Central State University (CSU) – will bring long-term benefits to the City. While there is little doubt that the prospects for future annexation and development are enhanced by the new water mains, the greater and more immediate benefit to the City will be the opportunity to “clean up” and secure the existing water main easement that traverses a portion of this property for the 10” water main that services CSU. As it currently stands, staff can confirm only that there was an easement dedicated in 1947 to the State of Ohio through this property to service CSU with water; however, staff cannot confirm whether the existing 10” water main is contained within the easement nor can it confirm the actual width of the easement. This may be attributable to legal descriptions not necessarily being required for easements at that time. The creation of a new 20’ utility easement pursuant to the terms of the proposed agreement will allow the City to have a new survey completed and to secure the desired easement width through the property. The securing of the easement will also facilitate the future up-sizing and replacement (10” to 12”) of a new water main to service CSU as it expands its operations. Under the proposed agreement, the Owner will construct a new 12” water main in a southerly direction along Stevenson Road from the current 10” water main; in addition, they will then extend the new 12” water main in an easterly direction for approximately 1,621 feet to service the future seven (7) tracts. The 12” water main will enhance the City’s ability to attract and service properties to the east and south to accommodate future annexations. Per City requirements, new water mains installed for development must be, at a minimum, 8” in diameter. Because larger size water mains are not required to service the proposed

seven (7) tracts, the City will pay for the difference in upsizing the water main to 12", estimated to cost \$49,925. To ensure that the City will receive the desired benefits without the Owner having to immediately annex the property, he proposed that any annexation required pursuant to the service agreement may not be requested by the City for a period of twenty (20) years. Although the City will not be able to request any of the seven (7) parcels be annexed within the twenty (20) years, any owner of one of the seven (7) tracts will be able to request annexation of his or her own accord. Per the agreement, the owners will be required to pay a higher rate for water service, as all customers whose properties are outside of the City must do. Thus, it is possible that one of the potential owners of these new tracts may request annexation. The City's costs for its portion of the work under the proposed service agreement is estimated to be \$49,925. As the work will be done by force account, he did not anticipate needing to bid this project.



President Smith entertained a motion.

Motion by Councilman Scrivens, seconded by Vice President Dean, to authorize the City Manager to execute a Water Service Agreement, at an estimated cost of \$49,925, with KTD Partners upon such terms and conditions as are approved by the Law Director. Comments followed.

President Smith asked why the property owner did not want to be annexed, noting he was a bit offended that the property owner wants City services but did not want to be part of the City. Mr. Merriman said the City has made a good faith effort in its commitment, and the property owner understands that this requires Council approval. He cannot speak for the property owner as to why he did not wish to annex at this time but it was a significant issue for him. However, he noted he would not endorse this if it were not for the mitigating circumstances, and the City is gaining some benefits for the utility system noting the CSU water line is very old—still functioning—but at high risk for failure. President Smith said if this request is not approved, he asked if the property owner would have to install wells. Mr. Merriman said the property must have utility access; otherwise, he was not sure the County would approve the plan. Mr. Berger agreed.

Councilman Urschel clarified that approval of this agreement would delay the potential for annexation for 20 years, but at the 20-year mark, the City can request annexation. Mr. Merriman concurred. Mayor Mays asked if the limitation for only seven (7) tracts would be stipulated in the agreement. Mr. Merriman said yes. Mr. Berger noted it would be part of the deed restrictions.

President Smith asked if the City's portion for the upsizing would be paid from the Water Fund. Mr. Merriman said yes. President Smith asked who would be paying for the two bids that are attached to the proposed agreement. Mr. Merriman said the property owner would pay the contractor, and the City would pay \$49,925. President Smith asked how the seven (7) tracts would be accessed. Mr. Berger said a private drive would be constructed between the north and south tracts. President Smith asked how the drive would be approved. Mr. Berger said private drives do not need to be approved. President Smith asked what happens if the properties are annexed in 20 years and the road becomes City property. Mr. Berger said it would have to be brought up to City standards at that time.

Councilman Scrivens asked if the property was currently on a well and septic system. Mr. Berger said it is a privately-owned 68.74-acre tract of land. He did not know the particulars of the existing services.

Councilman Urschel noted there are a number of properties in the City that have septic systems, gravel drives, etc., that do not meet the City's zoning requirements because they were grandfathered when they were annexed. Mr. Merriman agreed. Councilman Scrivens believed that the State of Ohio requires connection to water and sewer services if they are available. Mr. Berger concurred the Ohio Administrative Code requires connections if the water and sewer lines are accessible (located within a certain distance from the property); in this case, the closest sewer is not contiguous to this particular property and connection would not be required.

President Smith asked what would prevent the property owner from building something other than residential properties, such as an industrial company. Mr. Merriman said the property owner has to abide by Xenia Township Zoning Regulations, which take into consideration the surrounding land uses and zoning.

Councilman Brannum said the above drawing indicates the existing 10" line (indicated by a dashed line) which is where they will be establishing the utility easement. He asked if they would also have a utility easement for the new line that would extend past the property in question. Mr. Merriman said yes; they would have the ability to maintain the existing 10" line, and with the

addition of the new segment, there would be a dedicated easement on the new 12” line. Mr. Berger agreed. He further explained that they know there is a dedicated easement, but they do not know the width, etc., and their intent is to establish a 20’ wide easement for the existing water main. Councilman Brannum said in the future if they extend the new water main all the way to CSU, he asked if they would be tying into the 12” or 10” main. Mr. Berger said according to the study on the CSU water system that was completed several years ago, the recommendation is that the water main be replaced in its entirety with a 12” main. He noted similar easements would need to be secured from those additional adjacent property owners.

The Roll on this was the following:

Ayes: L. Dean, Scrivens, R. Dean, Brannum, Urschel, Mays, Smith
Nays: None motion carried.

H. Administrative Motion Approving the Schedule of Bills in the amount of \$261,221.20.
Mr. Duke respectfully requested the payment of bills in the amount of \$261,221.20.

President Smith entertained a motion.

Motion by Councilwoman Dean, seconded by Councilman Brannum, to approve the schedule of bills in the amount of \$261,221.20. Comments followed. Councilman Scrivens inquired about the services provided by Glickler Funeral Home and asked if the City had conducted any interments. Mr. Merriman said yes, the first plot was set last fall with six interred at that time. They have another seven in the queue, so they will do another interment this spring. Councilman Scrivens said he would like some historical signage put in place at the burial ground. Mr. Merriman said markers would be installed for each grouping. They are also looking at the signage for the cemetery. The Roll on this was the following:

Ayes: L. Dean, Scrivens, R. Dean, Brannum, Urschel, Mays, Smith
Nays: None motion carried.

11. REPORTS OF COMMITTEES

A. Board of Zoning Appeals: Mayor Mays said the February meeting was canceled due to lack of agenda items.

12. APPOINTED OFFICIALS REPORTS AND COUNCIL COMMENTS:

A. City Manager, Finance Director, and Law Director:

Mr. Merriman said he hopes they are finally through the worst of winter weather. He thanked the Public Service Department for their efforts in preparing and clearing the City’s roadways, especially during the month of February. Unfortunately, water main break season continues, and they will continue to address any problems that arise. As always after the winter months, potholes are also a concern. The Public Service Director and his staff are intending to do a very aggressive push to fill the potholes, noting anything done over the next few weeks will be temporary “cold patch” fixes. Once the asphalt plants reopen, more permanent patches will be done. He mentioned an anticipated price increase for natural gas, which includes Xenia as an aggregate community,

everyone in the region, and even much of the State of Ohio. The 10% to 20% increase will likely be seen in the February billing cycle due to additional fees levied by the regional transmission company.

Mr. Duke had nothing further to share.

Ms. Fisher said she and the Engineering staff extensively researched the CSU water line easement several years ago. They pulled as many deeds that they could find. The State of Ohio has the right for most of the water line, but most of that was done in the late 1930s/early 1940s. At that time, the easement was just mentioned in the property owners' deeds and not recorded as separate easements, which is the legal mess that Mr. Merriman was referencing that needs to be cleaned up moving forward.

B. Mayor and City Council:

Councilwoman Dean had nothing further to share.

Councilman Scrivens expressed his condolences to the families and friends of "Indian" Richard Coston and Timothy Scott, a former classmate. He was pleased to speak at the services for Mr. Scott.

Councilman Brannum thanked Mr. Micah Adams for his correspondence. He looks forward to him being involved in the public participation process for the Xenia Towne Square redevelopment project. President Smith asked if a committee will be formed. Mr. Merriman said a series of some type of public input sessions are planned, either digital or in person or both. President Smith said they need to reach out to Mr. Adams and invite his participation. Mr. Merriman agreed.

Councilman Urschel said Xenia citizens who pass away and whose remains are not claimed, or cannot be claimed, by family members then become the City's responsibility to handle those remains and perform the burial. He commended the City on how they handle these indigent burials. It is a very solemn responsibility and members of the local pastoral community officiate at these burials.

Mayor Mays said The Jeremiah Tree was holding an online fundraiser called "Growing Pains" that started at 7 p.m. this evening. She noted the event can be viewed at JeremiahTree.org through Sunday, February 28th.

Vice President Dean had nothing further to share.

President Smith said they have reached the end of the agenda items for the Regular Meeting, and they now have a Work Session planned, which will not be broadcasted. He recessed the meeting for five minutes from 7:25 to 7:30 p.m.

13. WORK SESSION: President Smith said they will now continue their review of the draft Rules of Council and the proposed reorganization of the City's Boards, Commissions, and Committees. Ms. Fisher said based on their conversation at the February 18, 2021, meeting, she proposed adding the following to Section 4 as Division 4.01, with the remainder of the divisions in the Section being renumbered accordingly (4.02-4.07):

4.01 Invocation or Moment of Silence. Before opening the proceedings, the Council may hold an invocation or moment of silence; whether an invocation or moment of silence to be decided at the discretion of the President, or in his or her absence by the Vice President, or in the absence of both the President and Vice President, by the Mayor.

Mayor Mays asked why the term “presiding officer” was not used in the above section. Ms. Fisher said typically the presiding officer will be the Council President. In the President’s absence, the Vice President would be the presiding officer, and in the absence of both, the presiding officer would be the Mayor. If all three are absent, the remaining four members would have to vote for a “President Pro Tem” for just that meeting, which would typically occur by motion after the Roll Call.

Mayor Mays said she would like the Invocation to appear on the published agenda before the Call to Order. President Smith agreed. Councilman Scrivens said it could be listed as the first item, but not enumerated. President Smith said he would like the Invocation listed in 4.02 in the Order of Business. Councilman Brannum said if the Invocation remains in the Order of Business, they should just leave everything “as is” and not make any changes. Ms. Fisher said if the Invocation is listed before the Call to Order, then she has an argument that there is no separation of church and state violation. Councilman Urschel said he thought the proposed 4.01 is sufficient. Councilwoman Dean said she wants it left “as is” with the Invocation being part of the meeting. Councilman Scrivens wished to have the Invocation as something Council does before the Call to Order. Vice President Dean said he was fine with it either way.

Councilman Urschel said the order is irrelevant to him. However, he suggested changing the proposed 4.01 to read as follows, “*Invocation or Moment of Silence. Before opening the proceedings, the Council ~~may~~ will hold an invocation or moment of silence; ~~whether an invocation or moment of silence to be decided at the discretion of the President, or in his or her absence by the Vice President, or in the absence of both the President and Vice President, by the Mayor.~~*” Mayor Mays agreed with the suggested change to the text.

President Smith said he and other members of City Council were elected by the church community, and he did not think they should turn their backs on them by removing the Invocation. He reiterated that he would like the Invocation listed in 4.02.

Ms. Fisher continued her review of the Rules of Council starting with Section 10. A discussion was held regarding the “Sergeant-at-Arms,” including overtime costs, the safety of all those in attendance at the meetings, etc. Mr. Merriman said Councilman Brannum had recently inquired about allowing members of Council or staff to conceal carry at Council meetings. Ms. Fisher said she is currently working on a legal review of that subject. Mr. Merriman said he supports the presence of a Sergeant-at-Arms; otherwise, they would need to press the panic button and/or call the nearest duty officer, and that response time could be anywhere from 2 minutes or 20 minutes. Councilman Urschel said a Sergeant-at-Arms could be used for disruptive audience members, Councilmembers, or staff members. Mr. Merriman agreed, noting a police presence helps to *prevent* a problem versus *remove* a problem. Mayor Mays asked if other communities have a police officer in attendance at meetings. City Clerk Michelle Johnson said she would poll City Clerks in the Ohio Municipal Clerks Association and report back.

Councilman Scrivens said he would like *10.05. City Clerk* to note that the position is the keeper of the City Seal. Ms. Fisher said she would add that language.

During the review of *Section 11. Standing Committees* (permanent) and *Section 12. Select Committees* (created for a specific purpose/short-term, “ad-hoc”), Mr. Merriman reviewed the following slides with regard to the proposed Board, Commission, and Committee reorganization:

Existing Charter vs. Codified vs. Ad-Hoc Boards/Commissions/Committees

| <u>CHARTER – Article VIII:</u> | <u>CODIFIED:</u> | <u>Ad-Hoc:</u> |
|--------------------------------|---|--|
| Planning & Zoning Commission | Community Relations Commission (Chap 276) | Budget Review Committee |
| Board of Zoning Appeals | BRACA (Chap 278) | Wellhead (Sourcewater) Protection Committee (inactive) |
| Civil Service Commission | EDAB (Chap 283) | Stormwater Advisory Committee (inactive) |
| Charter Review Commission | Traffic Commission (Chap 284) | Legislative Review (inactive) |
| | Pretreatment Review Committee (Chap 1048) | Loan Review Committee |
| | Tax Appeals Committee (Chap 880) | |
| | Records Commission (Chap 289) | |
| | Loan Trust Fund Committee (Chap 282) | |

Slide 2

Councilman Urschel asked the difference between the terms “board,” “commission,” and “committee.” Ms. Fisher said the terms are interchangeable; however, the names of the Charter-created Boards and Commissions cannot be changed without a Charter amendment. The names of the codified boards, commissions, and committees can be changed with approval of an ordinance. The Standing and Select Committees will be “committees.” Councilman Urschel said they should consider making the terms more consistent while they are making other changes. Ms. Fisher agreed; they could consider changing the names of some of the groups, including the Board for Recreation, Arts, and Cultural Activities. It was noted that BRACA’s new name could speak to community and/or special events and omit arts and cultural activities.

| CHARTER CREATED (ARTICLE VIII) | CODIFIED |
|---|--|
| NO CHANGES | NO CHANGES |
| No changes are proposed to any of the Charter Created Boards or Commissions: | No changes are proposed to the following existing Board established in the Code: |
| <ul style="list-style-type: none"> • Planning & Zoning Commission (Cody Brannum, Chair) • Board of Zoning Appeals (Sarah Mays, Chair) • Civil Service Commission • Charter Review Commission (Sarah Mays and Thomas Scrivens) | <ul style="list-style-type: none"> • Board for Recreation, Arts, and Cultural Activities – XCO Chap. 278 - (Wesley Smith, Chair) |

Slide 3

CODIFIED BOARDS/COMMISSIONS TO BE ELIMINATED

Slide 4

- Community Relations Commission – Eliminate**
 - Created by ordinance – Chapter 276 of Title 8 of Administration Code
 - No current members/not active since March 2002
- Traffic Commission – Eliminate**
 - Created by ordinance – Chapter 284 of Title 8 of Administration Code
 - Council Chair (Levi Dean) and 5 at-large members
 - Duties will be transitioned to new Council **Public Service & Utilities Committee**
 - Hasn't met since June 2019 (only one meeting since November 2018)
- Pretreatment Review Committee – Eliminate**
 - Created by ordinance – Section 1048.06 of Utilities Code (called an “administrative committee”)
 - Members are City Manager, Councilmember, Xenia Economic Growth Corporation Executive Director, Public Service Director and Fire Chief.
 - This Committee is not required under State law and its duties were transitioned with the enactment of the new Chapter 1061 (Illicit Discharges) in August 2020
- Tax Appeals Committee – Eliminate**
 - Created by ordinance – Section 880.13 of Pre-2016 Income Tax Code
 - The current set up for this Committee does not meet the requirements of State law
 - A new Board of Tax Appeals that meets State requirements will be established in Chapter 881

Regarding the proposed elimination of the Traffic Commission, Mr. Merriman said traffic issues fall under the Ohio Manual of Uniform Traffic Control Devices (OMUTCD), which is precise engineering science and an area of liability for the City. Staff has always questioned why a lay board was dealing with traffic issues. Therefore, the Commission will be eliminated and its duties will be transitioned over to the new Public Service & Utilities Committee. Ms. Fisher agreed—having lay people make traffic engineering decisions creates a liability for both the City as well as for the lay board volunteers themselves. The OMUTCD limits what can and cannot be done, where stop signs can be located, how traffic signals are warranted, etc., and those decisions should be made by City Council.

AD-HOC COMMITTEES TO BE ELIMINATED

Slide 5

- Budget Review Committee – Eliminate**
 - “Ad Hoc” Committee created by Council President under Section 220.03
 - Current members are Wes Smith, Levi Dean and Cody Brannum
 - Change from an “Ad Hoc” to a Standing Committee – will become new Council **Finance & Budget Review Committee**
- Wellhead (Sourcewater) Protection Committee – Eliminate**
 - “Ad Hoc” Committee created by Council President under Section 220.03
 - No current members
 - Duties will be transitioned to new Council **Public Service & Utilities Committee**
- Stormwater Advisory Committee – Eliminate**
 - “Ad Hoc” Committee created by Council President under Section 220.03
 - No current members
 - Duties will be transitioned to new Council **Public Service & Utilities Committee**
- Legislative Review – Eliminate**
 - “Ad Hoc” Committee created by Council President under Section 220.03
 - No current members
 - Change from an “Ad Hoc” to a Standing Committee – will become new Council **Legislative Review & Governmental Affairs Committee**

Mr. Duke explained the difference between the existing *Loan Trust Fund Committee* and the *Loan Review Committee* per the next slide. He said the Loan Trust Fund Committee currently approves loan programs, and the Loan Review Committee currently looks at the legitimacy of those loans and whether or not they should be made. The Loan Review Committee is primarily comprised of local bankers. He said they need to continue to have separation between the people who are approving the loan programs and the people who are actually approving the loans.



There was a brief conversation about the restructuring of the Economic Development Advisory Board to the *Economic Development and Incentive Review Board*. Ms. Fisher noted the members of the new Board would not necessarily have to be City residents. Mr. Merriman agreed; they should be able to consider those who reside or own property or a business in the City. Ms. Fisher agreed; the only Boards or Commissions that require the volunteers to be City residents are those created by the City Charter. Further, the membership of the new Economic Development and Incentive Review Board will be five at large members, three Councilmembers (including Councilman Urschel as the current chair of EDAB), and one appointee from the Xenia Community Schools. Further, this Board will set the program guidelines for any types of loans, and the Loan Review Committee would, within those program guidelines, decide what loans are granted. President Smith asked if the Tax Appeals Committee could be combined with the Economic Development and Incentive Review Board. Ms. Fisher said the Tax Appeals Committee is mandated by State law, and they would not be able to comply with the law if it was not a standalone committee.



Mr. Merriman explained the proposed function of each new Standing Committee as noted above. He said the idea with the new Standing Committees, each with three Councilmembers serving on them, is to vet items through the committees before they are presented to City Council as a whole. When they are presented to the entire Council, there will be three Councilmembers who can endorse, explain, and vouch for those items.

President Smith asked the timeline in which to make all the changes as recommended this evening. Ms. Fisher said the five standing committees will be created when Council approves the Rules of Council. The boards, commissions, and committees that are codified will take a bit longer because those changes require a re-write of *Part Two – Administration Code, Title Eight: Boards, Commissions, and Committees* of the Codified Ordinances. Once the ordinance is introduced, it will take at least six weeks to be effective (30 days after the second reading). She anticipates presenting the Rules of Council for final review and approval at their next regular meeting on March 11th along with introduction of the Ordinance to make the changes to Title Eight. Mayor Mays asked if they needed to formally communicate with the Traffic Commission members to thank them for their service and advise them of the changes. Mr. Merriman said absolutely.

14. ADJOURNMENT: Motion by Mayor Mays, seconded by Councilwoman Dean, to adjourn the Regular Meeting at 8:52 p.m. No discussion followed. The Roll on this was the following:

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

Nays: None motion carried.

Michelle D. Johnson
City Clerk

Wesley E. Smith
President, Xenia City Council