

**XENIA CITY COUNCIL
MEETING MINUTES
AUGUST 12, 2021
6:00 P.M.**

Mr. Josh Cernetic, Xenia Area Association of Churches and Ministries, and The Living Well Clinic, provided the Invocation before the Call to Order.

A. PLEDGE OF ALLEGIANCE: All present stood and recited the Pledge of Allegiance led by Councilman Thomas Scrivens.

B. CALL TO ORDER: President Wesley Smith called the Regular Meeting to order at 6:00 p.m.

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

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

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

Nays: None motion carried.

D. APPROVAL OF MINUTES: Motion by Vice President Dean, seconded by Councilman Brannum, to approve the July 22, 2021, minutes of the Regular Meeting as written. President Smith entertained comments. No comments followed. The Roll on this was the following:

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

Abstain: Urschel

Nays: None motion carried.

E. SPECIAL PRESENTATION(S): None.

F. AUDIENCE COMMENTS: President Smith invited audience members who wished to speak to come forward.

Keith Morris, 367 Hollywood Boulevard, said he has a problem with his driveway, and he presented some pictures that he took of his home up to Purcell Drive, which he gave to the City Clerk after the meeting. He measured the distance of his water meter from his driveway, which is about one and a half feet. No other driveways from his home to Purcell Drive are damaged, but his driveway is cracked and has sunk almost five inches. When he purchased the home, the crack was already present, and he added some dirt in the yard to make it level. He contacted the City, and a worker came out and put a three-inch riser on the water meter to make it level with the driveway. It has now sunk five inches again. He has had two cement contractors come out and look at his driveway, and they can put in a new driveway. However, they won't guarantee the work because the water meter is too close to the driveway and they believed the driveway would crack again. The ground is sinking, which can be seen in the pictures. He feels something is wrong with his water meter, and it has been that way since he purchased the home. He did not want to pay for the repairs to his driveway if it will just crack again. He also expressed his concerns about the roads in his neighborhood. He has called the City numerous times to report potholes, and it takes crews a long time to get out there to

fill them. Hollywood Boulevard is a main drag through the neighborhood, and he feels it should be repaired, and cleared of snow and ice in the winter months, first. Other internal streets do not carry as much traffic as a main drag. Finally, he received some paperwork about the Fairmoor Heights project that will be built just beyond his neighborhood. He said he and his neighbors were not notified that the developer wishes to extend Hollywood Boulevard all the way to Fairground Road. He attended a meeting at Greene County today for a new bike path. He said the existing bike paths are trashed with lots of litter, clothing, shopping carts, etc., and maintenance is lacking. Further, the new development is proposed to have 1,400 sq. ft. homes, which are much smaller than the surrounding homes, and he feels the smaller homes will devalue his home. He thinks the homes should be at least 1,800 to 2,000 sq. ft. He said adjacent property owners deserve to be informed about these development projects.

John Caupp, 936 Orville Way, said he also wishes to present his concerns with the proposed development off of Hollywood Boulevard. Mr. Morris and several others called him with questions about the project. When he served on City Council from 2008 to 2016, Council addressed minimum square footage for homes. The City of Xenia needs more dual-income families, higher income families, and larger homes. At that time, the minimum square footage requirement did not support the Xenia Community Schools. If these new homes are going to 1,400 to 1,600 sq. ft. homes, they will also not support Xenia Community Schools, and Superintendent Dr. Gabe Lofton agreed when he spoke with him today. When he was on City Council, he believed the minimum square footage was moved to 1,500 sq. ft. Per Dr. Lofton, the minimum square footage needed to support the schools with property taxes is 1,800 sq. ft. If so, the City should not be allowing any new development with anything less than that. Otherwise, they are not supporting the community. They need smart planning and smart growth. They don't need Section 8, low-income, or subsidized housing. He hopes Council considers these things before the proposed project is approved. Regarding the proposed Charter amendments, at the last meeting the Law Director mentioned that it was illegal to have residency requirements in Ohio. Everybody knows that the Ohio Supreme Court ruled on residency, and it was a topic of discussion when he served on City Council, especially with regard to public safety personnel. There are three positions in the City who are not hourly employees, who work for the City Council, and who work under an employment contract—Law Director, Finance Director, and City Manager. All three have separate employment contracts with City Council. Ms. Fisher has told Council that residency requirements are illegal, but he did not believe that was correct. He believed it was legal to require residency when it was a term of an employment contract. The Charter can state that the appointed officials should live within the City of Xenia per their employment contracts. The Finance Director did not live in the City of Xenia, and he assumed he was probably in breach of his contract. He knows the residency requirement was included in previous City Manager contracts. When the current Law Director was hired, she made a comment that when her lease was up, she intended to move to the City of Xenia, but he did not think she lives here. The three appointed officials each make well over \$100,000 per year, and if they are not willing to invest in this community, be an ambassador for the City, live in this City, he asked why they are being hired. He said City Council has the control to make residency a requirement in their employment contracts. Once they sign that contract, they are agreeing to the terms of those contracts, and City Council holds them accountable. He wondered if the three appointed officials are being held accountable to their current contracts. He hopes that during any Charter review process, they consider residency. Otherwise, the City Manager could choose to live in Beavercreek, where the schools are A+ rated. Once the City got rid of residency for public safety personnel, most of them moved out of the City.

Dale Louderback, 1272 Eagles Way, said his position—for a long time—has been that the three appointed officials should live in the City. When City Council hired Law Director Donnette Fisher, she said she planned to move to Xenia. The Finance Director does not live in Xenia. The City Manager is the only appointed official who lives here. As Mr. Caupp said, he was concerned how the appointed officials, even the City Planner, City Engineer, etc., could be ambassadors for the City of Xenia if they do not live here. He did not know why they would not want to live in the City they represent—regardless of the law and the contracts, even though they should require residency. He also had a conversation with Mr. Morris today. He talked to the City Planner who stated that Ryan Homes plans to develop the land with 1,400 to 1,600 sq. ft. homes. The existing neighborhood has \$300,000 to \$350,000 homes. He asked what Council thought a 1,400 sq. ft. home would do to those property values. With his experience as a realtor, he believed it would decrease those values. Further, Ryan Homes did not have the best reputation as a builder. He hopes City Council does not agree with 1,400 sq. ft. homes. The last time he spoke to City Council, he raised concerns with some of the proposed Charter amendments with regard to elections and the City Clerk providing assistance with that process. The City Clerk works for the City Council, and he believed it was a conflict of interest for the person in that position to be responsible for validating their petitions.

G. OLD BUSINESS:

1. President Smith presented **RESOLUTION 2021-EE AUTHORIZING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE XENIA COMMUNITY IMPROVEMENT CORPORATION**, introduced by Mayor Mays on July 8, 2021, and it was read for a second time.

Motion by Mayor Mays, seconded by Councilman Urschel, to pass Resolution 2021-EE as presented. President Smith entertained comments. No comments followed. The Roll on this was the following:

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

H. PUBLIC HEARING(S): None.

I. NEW BUSINESS:

1. **RESOLUTION 2021-FF ACCEPTING THE MATERIAL TERMS OF THE ONEOHIO SUBDIVISION SETTLEMENT PURSUANT TO THE ONEOHIO MEMORANDUM OF UNDERSTANDING AND CONSISTENT WITH THE TERMS OF THE JULY 21, 2021, NATIONAL OPIOID SETTLEMENT AGREEMENT, AND DECLARING AN EMERGENCY.** Law Director Donnette Fisher said this Resolution accepts the proposed OneOhio Settlement Agreement concerning the litigation against three distributors – AmerisourceBergen, Cardinal Health, and McKesson. Under the proposed settlement, the distributors will pay an estimated \$804,865,429 to the State of Ohio and its subdivisions over an eighteen-year period with 15% of the estimated amount going directly to the State, 30% will be paid directly to Ohio’s subdivisions (counties, townships, and municipalities), and the remaining 55% will be paid to the OneOhio Foundation to be utilized for the benefit of Ohio’s subdivisions. The OneOhio Foundation will see the State divided into 19 regions, and each region will create its own governance structure to ensure the local governments within the region have representation

on the region’s board and in the selection of projects to be funded from the region’s share. Xenia will be in Region 14, consisting of the following seven counties and the townships and municipalities within those counties: Butler, Clark, Clermont, Clinton, Greene, Madison, and Warren. The amount that Xenia is eligible to receive will depend upon the overall participation rate of all of Ohio’s subdivisions. If a 95% participation rate is reached, the estimated direct payment to the City is \$178,849.16; if 100% participation is reached, then the City’s estimated direct payment is \$255,498.80. Most of the money will be restricted in use to opioid intervention, treatment, education, and recovery services; some money can be used to recover expenses from past costs if Council passes a resolution to that effect. The money cannot be used for streets, etc. The Resolution is presented as an emergency because the filing deadline is tomorrow. She believes the State Attorney General negotiated a good deal that will provide money quickly, and she believes most jurisdictions are participating. She noted the Executive Summary and sample participation form was included in the agenda packet.

President Smith entertained comments or questions. Councilman Scrivens said even though the City will be receiving a good sum of money, he noted the lawyers will be receiving 25% of the settlement. Ms. Fisher agreed the State of Ohio’s and private attorney fees are being paid out of the settlement, but that did not include local jurisdictions’ attorney fees. Hearing no further comments, President Smith entertained passage of Resolution 2021-FF as presented.

Motion by Councilman Scrivens, seconded by President Smith, to pass Resolution 2021-FF as presented. No discussion followed. The Roll on this was the following:

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

2. Administrative Motion Awarding the Bid and Authorizing the Execution of a Contract with National Water Services, LLC, for the Wells #1 and #9 Redevelopment Project.

Assistant City Manager Jared Holloway said the Water Treatment Division regularly cleans and redevelops the production water wells on a five- or six-year rotation to restore lost well capacity and to reveal any problems before they become significant and costly; most notably the corrosion of the well screens. For 2021, the Water Treatment Division has opted to clean and redevelop production wells #1 and #9. In addition to seeking proposals to clean and redevelop the two wells (base item), prospective contractors were also asked to submit a cost proposal to replace the motor/pump/parts (alternate item) for well #9 on an as-needed basis. On July 13, 2021, the City received three (3) bids from qualified contractors to rehabilitate wells #1 and #9, with the lowest bid as follows:

<u>Contractor</u>	<u>Well #1</u>	<u>Well #9</u>	<u>#9 Alternate</u>	<u>Total w/Alt</u>
National Water Services, LLC	\$35,505	\$29,414	\$11,765	\$76,684

National Water Services successfully completed last year’s well redevelopment project for wells #3 and #8; therefore, City staff is confident in the contractor’s ability to complete this year’s contract on time and within budget. Consequently, City staff is requesting Council award the bid, including the alternate, and execute a contract with National Water Services, LLC, in an amount not-to-exceed \$76,684.

President Smith entertained comments or questions.

Councilman Brannum asked how long the alternate prices were valid. Mr. Berger said the alternate prices are for contingency items. Once everything is removed from the well and the pump and motor can be properly inspected, they can determine what can be cleaned and what needs to be replaced. During the project, there is a performance bond, and then upon completion of the project, there is a one-year maintenance bond. Funds are budgeted and are available if needed until the project is closed out.

Councilman Scrivens asked if the project entailed drilling new wells or just servicing existing wells. Mr. Berger said the project involves servicing (cleaning) the existing wells.

Hearing no further discussion, President Smith entertained a motion.

Motion by Councilman Brannum, seconded by Vice President Dean, to award the bid and authorize the City Manager to execute a contract for the Wells #1 and #9 Redevelopment Project, including the alternate bid, to National Water Services, LLC, in an amount not to exceed \$76,684. No discussion followed. The Roll on this was the following:

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

3. Administrative Motion Approving the Schedule of Bills in the amount of \$201,498.99.
Mr. Duke respectfully requested the payment of bills in the amount of \$201,498.99.

President Smith entertained questions or comments. Hearing none, he entertained a motion.

Motion by Mayor Mays, seconded by Councilman Brannum, to approve the schedule of bills in the amount of \$201,498.99. No discussion followed. The Roll on this was the following:

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

J. APPOINTED OFFICIALS REPORTS

President Smith asked Mr. Duke for his comments. Mr. Duke said he wished to address some comments made during Audience Comments regarding residency. While he will leave the legalese to the Law Director about whether or not it is legal to require residency, he stated he was not in breach of his contract. He was very upfront and open with Council about the status of his residency when he was hired as Finance Director. He grew up in Xenia and lived here almost his entire life. He and his wife had their first home in Xenia for over 10 years, and their second home is located about 100 yards from the City limits. He loves Xenia and is invested in this community, and he takes exception to accusations that indicate his desire to live elsewhere. His children go to Xenia Community Schools—he and his wife did not “run to Beaver creek” so their children could go to school there. They are invested in this community, just like so many of his neighbors, some of whom are very well respected in this community. He believes they would also be offended at the notion that they cannot be invested in this community if they do not live inside the City limits. Where he and his family live had nothing to do with how he felt about the City of Xenia.

President Smith asked Ms. Fisher for her comments. Ms. Fisher said she would discuss the proposed Charter Review Commission recommendations during the Work Session.

President Smith asked Mr. Holloway for his comments. Mr. Holloway updated Council on the Natural Gas Aggregation contract for this community, noting a price has been locked in for a period of one year (November 2021 thru October 2022) of .5349 per ccf cubic feet. The price is a fixed price, which is slightly higher than the previous year's fixed price, which is based on the market. He reminded residents that they can opt in and out of the City's aggregation programs at any time with no fees. He invited them to call City offices or the Ohio Municipal League with any questions they may have. The Towne Square community engagement period is concluding, and Dillin reported they received over 2,000 responses to the online survey and dozens of people attended the in-person community meetings over the last several months. At Council's next meeting, Dillin is scheduled for a Work Session to provide Council with an overview of those responses and plans going forward. The property at 271 E. Second Street was recently cleaned out and winterized. Over 20 tons of junk was removed, and the items that are valuable, such as furniture, will be auctioned at an upcoming City auction. He expected that other City surplus items would also be available at the auction.

K. REPORTS OF BOARDS AND COMMISSIONS:

1. Board of Zoning Appeals: Mayor Mays said the July 26th meeting was canceled due to lack of agenda items.

2. Board for Recreation, Arts, and Cultural Activities: President Smith said the August 3rd meeting was canceled due to lack of agenda items. He announced that this year's Youth Fishing Derby has been canceled. Councilman Scrivens asked if there would be a Community Festival (formerly Old Fashioned Days) this year at Shawnee Park. President Smith said that event is not a BRACA event. Mr. Holloway believed the Chamber of Commerce was working to hold an Oktoberfest event this year, which may be downtown and not at Shawnee Park. There is also a "Harvest on Main" City event to be held in conjunction with Dillin Corporation. President Smith clarified the Community Festival will no longer be held due to lack of volunteers. He noted BRACA plans to work with the City and downtown businesses on the annual Christmas event.

3. Planning and Zoning Commission: Councilman Brannum said PZC met on August 5th on the following:

- Case PZC2021-16: PUD Change/Preliminary Plat to change the existing Fairmoor Heights PUD Concept Plan and approve a revised Preliminary Plat, for property located on Fairground Road, filed by Design Homes and Development Company, which was approved with conditions.
- Case PZC2021-17: Final Plat for Greene Way, Section 3, Lot 1A Replat, to create 7 new lots totaling 7.154 acres, for the property located at 36 Hospitality Drive, filed by Justin Spalding, Kleingers Engineering, which was approved as submitted. He noted he did not know what types of businesses would be built there, except to say it would probably be restaurants and/or retail establishments.
- Case PZC2021-18: Final Plat for Summerbrooke, Section 4, an 18.706-acre subdivision consisting of 34 single-family home lots and 2 open space lots, for property located on Stevenson Road, filed by Arnold Development Company, which was approved with conditions.

4. Economic Development Advisory Board: Councilman Urschel said the August 10th quarterly meeting was canceled; however, he looks forward to holding a special session with the group to discuss the changes to the group's membership and powers and duties as they await the Code modification.

L. COUNCIL COMMENTS:

President Smith said a discussion item was listed on the agenda, and he asked Mr. Holloway to discuss the needs for the City's parks, specifically Lexington Park. Mr. Holloway said several community members raised concerns about Lexington Park, and then Council toured the park in April. Several options were presented at that time, and City Manager Brent Merriman wishes to evaluate all neighborhood parks during the update to X-Plan, which is scheduled to start this winter, to establish a holistic, City-wide approach. Council could then decide where they wanted to make investments.

President Smith said summer was already getting away from them, noting it was already August. Two Neighborhood Night Outs are scheduled this year, and he suggested one of them be held at Lexington Park. He said the neighborhood residents could be invited, and they could use the opportunity to get their feedback. Councilman Urschel agreed; if a Neighborhood Night Out was scheduled at Lexington Park, they could use that event to review the proposals with them and get their feedback. He noted they appreciated the port-a-johns that were added. Mr. Holloway said he would work with the Public Relations Coordinator on either scheduling an additional NNO event or moving one of the scheduled events on August 31st (Sterling Green Park) and September 28th (Spring Hill Park) to Lexington Park.

President Smith said additional Council Comments would be entertained at the end of the meeting, and he wished to move forward to the Work Session.

M. EXECUTIVE SESSION: None.

N. WORK SESSION:

1. Discussion on Ordinance to Provide for the Election on Amendments to the Xenia City Charter. President Smith said based on the discussion at the last meeting on July 22nd, Ms. Fisher amended the proposed Ordinance. He entertained comments. Ms. Fisher said she provided Council with an updated proposed Ordinance as well as a breakdown of how the Articles overlap with each other. She tried to prepare a flowchart that indicates which Articles could stand alone and which had to be considered together as one ballot item. It is Council's decision as to which Articles are presented to the voters. Regarding the elections article, the proposed amendments were removed from consideration right away and will not appear on the ballot. She believes there is Council consensus on the proposed amendments to Article V – Legislation, Article X – Civil Service, which has to be done with Article VIII. Regarding residency, she encouraged the public to read Ohio Revised Code Section 9.481. The State statute says "*no political subdivision shall require any of its employees as a condition of employment to reside in any specific area of the State.*" She said it did not matter if it was included in a collective bargaining unit agreement, a Charter, a personnel policy, an ordinance, or an employment contract. Residency cannot be made a condition of employment. It is State Law, and it is what it is. Regarding her personal preference not to reside in the City of Xenia, she was confused that her predecessor never resided in the City of Xenia and was never made to live in the City of Xenia. She was not sure why there would be a different standard for her.

Those present discussed the proposed Articles for amendment as presented by the Law Director.

Councilman Urschel felt that the breadth of all the proposed amendments was a lot of information to consider and consume. If they are expecting the voters to understand all the amendments, the voters will need to invest time in reading it and Council will have to invest time in explaining it. He suggested they just consider putting Articles V, VIII, and X on the November ballot. It will be easier to explain a few pieces at a time versus all of it and just saying “trust me.”

Councilman Scrivens said he would rather put everything on the ballot, except Articles XI and XII. Ms. Fisher said putting amendments on the ballot was not a one-shot deal—they could place different articles at different times over different years until a new Charter Review Committee is named.

Vice President Dean agreed with Councilman Scrivens, noting he would rather put everything that was contained in the proposed ordinance on the ballot in November.

Councilman Brannum also agreed with putting it all on the ballot. The decision is up to the voters. They can always put it back on the ballot if it fails.

Mayor Mays said she understands their logic, but it will take a lot of work to explain all the proposed changes, especially if they present all of them at once. A lot of work went into all the proposed amendments, and she wants to present it well. For her, it makes sense to present Articles V and X in November.

Vice President Dean asked if the changes they discussed at the last meeting were incorporated into what was presented this evening. Ms. Fisher said yes.

After additional conversation, those present agreed to present the following items together as four separate ballot issues:

- Articles I, II, and III
- Articles IV, IX, XIII, XIV, and XV
- Articles V, VIII, and X
- Articles VI, VII, and XVI

Councilman Urschel said they all need to be committed to going out and discussing the proposed amendments with the voters. He said people are busy, but they need to capture their attention and focus on what was really important. If voters do not know what they are voting for, they will vote no.

COUNCIL COMMENTS (continued). President Smith entertained additional Council comments.

Councilman Scrivens said there are two Park Streets located in Xenia. He said they need to fix that.

Councilman Brannum addressed Mr. Morris’ concerns. He thanked Mr. Morris for providing the pictures, and he appreciated hearing his concerns. He was aware of the Fairmoor Heights project, as he serves as the Chair—a non-voting member unless there is a tie vote—of the Planning and Zoning Commission. He said members of the community are appointed to the Commission, and there is currently a vacancy. He invited Mr. Morris to apply to fill the vacancy if he was interested.

Councilman Urschel commended Home Church for partnering with the Xenia Community Schools and the Greene County Career Center to provide a warehouse full of Nike shoes to those in need

this Saturday from 2 to 5 p.m. He attended a recent School Board meeting. He learned that they achieved a lower interest rate on the middle school project than what was projected, and they may even be able to reduce the millage and the number of years to pay back the bonds. He shared with the School Board the proposed developments on the south and north sides of town totaling over 500 new homes, which helps their bond rating. He expressed concern about folks in the community devaluing each other's work, citing the recent vandalism at the Democratic headquarters. He said people have the right to speak and not be threatened. Regarding the recent raid to go after drug activity, he watched a video and City Police Officers and Greene County Sheriff Deputies took verbal abuse for over an hour—and that was just wrong. Law enforcement officers are not reprehensible—drug dealers are reprehensible. Finally, he recently learned the difference between profanity, obscenity, and vulgarity, and there are some signs posted in the community that he feels are obscene and should not be displayed. The obscene signs are not art, and people should not have to drive down the street and see those signs. If those signs remain, it becomes a community standard. He wished to address this issue at a later date.

Mayor Mays said she met with a gentleman from the Association of Ex Pupils Ohio Soldiers' and Sailors' Orphans' Home / Ohio Veterans' Children's Home on July 23rd, who shared great ideas for Xenia and their partnership with Athletes in Action (AIA). She also met with Amanda Dunaway from AIA on July 27th, who was interested in working with the City and serving as a liaison with the schools to promote things that AIA does in the community. She noted AIA is an international organization who do a lot with colleges and professional athletes, and it was exciting that they want to get involved with local student athletes. On July 28th, DeMoley, a group of young men aged 12 to 21, participated in a Government Service Day. They talked about leadership and character and visited with the City's public safety personnel. On July 25th, Wright Place Apartments celebrated their 13th anniversary for their Vesper Services, which they have provided every week for 13 years, even during the Covid-19 shutdown via phone-in conference calls. On August 24th, the Xenia Community Schools Foundation will host a Taste of Italy at Devil Wind Brewing. The event will be catered by Nick's Restaurant and costs \$30 for a meal and two drinks. Tickets are available through the Chamber of Commerce.

Vice President Dean did not have anything further to share.

President Smith said school is starting back up on Tuesday, August 17th, and he encouraged everyone to be on the lookout for school buses and kids. He thanked everyone who was watching the meeting. The next meeting is August 26th.

O. ADJOURNMENT: Motion by Mayor Mays, seconded by Vice President Dean, to adjourn the Regular Meeting at 7:43 p.m. No discussion followed. The Roll on this was the following:

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

Nays: None motion carried.

Michelle D. Johnson
City Clerk

Wesley E. Smith
President, Xenia City Council