

**XENIA CITY COUNCIL
MEETING MINUTES
JANUARY 28, 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: Councilman Cody Brannum 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 Mayor Mays, seconded by Councilwoman Dean, to approve the December 22, 2020, 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 Councilman Brannum, seconded by Councilwoman Dean, to approve the January 14, 2021, minutes of the Regular Meeting as written. No comments followed. The Roll on this was the following:

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

Abstain: L. Dean

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 no items were received.

8. OLD BUSINESS:

A. President Smith presented **RESOLUTION 2021-D AUTHORIZING THE SALE OF A PORTION OF THE CITY-OWNED PROPERTY AT 153 N. COLUMBUS STREET TO ROBERT HAMILTON AND PERMITTING LIMITED USES WITHIN THE CITY'S PERMANENT HIGHWAY EASEMENT ON SAID PROPERTY**, originally introduced by Councilwoman Dean on 01/14/2021, and it was read for a second time.

Motion by Councilwoman Dean, seconded by Councilman Urschel, to adopt Resolution 2021-D 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.

9. PUBLIC HEARING(S):

A. ORDINANCE 2021-02 PROVIDING APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2021, AND DECLARING AN EMERGENCY (2021 FINAL BUDGET AND ANNUAL APPROPRIATION ORDINANCE). President Smith opened the Public Hearing at 6:06 p.m. and asked the City Manager for his staff report. Mr. Merriman said the City is required by statute and local charter to annually adopt legislation to set forth the spending plan for City operations and provide appropriations to meet these financial needs. Ordinance 2021-02 is the official appropriations measure for fiscal year 2021 and its adoption will constitute the last step in a year-long process of budget development that was initiated last February when Council approved the 2021 budget priorities. This spending plan provides resources to maintain current levels of service in all key operational areas; additionally this appropriation ordinance will authorize various capital programs for 2021 as detailed in the CIP and through planning discussions with the Budget and Finance Subcommittee and with the council as a whole. While this budget plan meets core service delivery needs and provides resources for various capital projects for 2021, it should be recognized that comprehensive community needs outweigh the resources we have available to address them. Continued tax base growth combined with measured cautious spending are necessary to ensure the City's fiscal health into the future. The 2021 budget plan as presented in this ordinance totals \$74,440,346.43 among all funds. He stressed that this does not represent the amount of money available to the City as cash to be spent in this fiscal year. Rather, the final budget total is artificially inflated due to the City's requirement to follow generally accepted accounting principles, and therefore, they must budget fund transfers and such that in layman's terms serve to "double count" resources. The budget plan as presented provides for a positive ending balance in key operating funds that will meet the City policy for reserve fund balance. Staff recommends that Council conduct the public hearing and move to approve Ordinance 2021-02 as an emergency to allow for the expeditious implementation of the 2021 final budget.

President Smith said normally during a public hearing, he would ask for those wishing to speak for or against an item to come forward to speak. However, due to Covid-19, the meeting was closed to the public. Those wishing to express comments were asked to contact the City Clerk by 3 p.m. today. No comments or questions were presented. He closed the public hearing at 6:08 p.m. and entertained comments from Council.

Vice President Dean inquired about the fund balances noting the total budget amount was over \$74 million, but in past years, the actual expenditures totaled about \$30 million. Finance Director Ryan Duke said key operating expenditures have been around \$25 to \$30 million, and total expenditures have totaled around \$45 to \$50 million. Interfund transfers and loans total about \$25 million. Further, while it's important to note the \$45 to \$50 million in total expenditures, that total includes grant revenue, et al, and is not all City tax dollars and utility fee collections, etc.

Mr. Merriman said as an example, two projects (S. Columbus Street bridge repair project and the Kinsey Road resurfacing project) are grant funded and total seven figures.

Councilman Scrivens asked if the 603 Fund was the City's contribution to the Community Housing Improvement Program (CHIP). Mr. Duke said it is related to some Community Development Block Grant (CDBG) dollars, but the 603 Fund is program income, which is revenue received. He noted there are strings attached to those dollars because it is federal funding, and there are parameters they have to abide by in how the program income money can be spent. He said the amount used to be much higher, but they have been permitted to spend money on a number of eligible projects.

President Smith entertained a motion on Ordinance 2021-02 as presented.

Motion by Councilman Scrivens, seconded by Mayor Mays, to adopt Ordinance 2021-02 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.

10. NEW BUSINESS:

A. RESOLUTION 2021-E ENCOURAGING GOVERNOR MIKE DEWINE TO LIFT RESTRICTIONS ON OHIO BUSINESSES AND ENCOURAGING THE PUBLIC TO TAKE PERSONAL RESPONSIBILITY FOR THEIR HEALTH AND WELLNESS, AND DECLARING AN EMERGENCY. Councilwoman Dean said the cure cannot be worse than the problem. Covid-19 has been politicized by both parties (democrats and republicans), which is very unfortunate. Americans deserve better than that. She noted the survival rate denoted in the resolution was based on numbers on the Centers for Disease Control's (CDC) website. She fully supports people making personal choices regarding wearing masks and social distancing, but she did not support the government mandating mask wearing and all other Covid-19 restrictions. She did not take this lightly, but they need to stand up for local businesses and our citizens.

President Smith entertained passage of Resolution 2021-E as presented.

Motion by Councilwoman Dean, seconded by Councilman Brannum, to adopt Resolution 2021-E as presented. Comments followed.

Councilman Brannum thanked Councilwoman Dean for her work on this resolution. He feels this action is necessary and a great way forward. They have to get out of that grove and start getting revenue back into the City. He hopes the curfew is lifted so local restaurants and businesses can get back to normal.

Mayor Mays said she appreciated the work that went into preparing this resolution. She appreciates the struggle that local businesses are experiencing. In the last few weeks, she has visited some local businesses and talked with them about this. She will vote no on this resolution – not because she does not support local businesses because they know she does support them. There is a lot of good with the resolution; however, she is not comfortable with some of the language. Further, in light of some recent passings of her own friends, she will be voting no this evening.

Councilman Urschel said the resolution is asking to lift all restrictions on the businesses, which includes rescinding the various instructions in Governor DeWine's declarations of a state of emergency on March 9, 2020, and void all current health director orders pertaining to Ohio businesses including restaurants and bars, banquet and catering facilities, hair salons, nail salons, day spas, tattoo parlors, barber shops, tanning facilities, body piercing parlors, gyms, dance instruction studios, and other personal fitness venues. There was also an order for retail and business compliance for facial coverings. Most recently, an order was amended just yesterday about business closures. The resolution for consideration is asking for all those restrictions and guidelines to be rescinded. He was very concerned about Covid-19's impact on the health care system. From the first case of Covid-19 in March in Ohio until about October, he didn't know anyone with Covid-19. On September 1, one in 24 patients in local hospitals had Covid-19. By December 1, the in-patient Covid-19 hospitalization rate for non-ICU patients in Greene County was 1 in 4. ICU rates were the same—1 in 4. In May, there were plenty of beds. Covid-19 patients could be isolated to a Covid ward and isolated elevators. With the current 1 in 4 numbers, they can no longer segregate Covid patients. Two of his children are physicians, and they are at their breaking point. He feels the strain on hospital employees and doctors is the reason the curfew was put in place. Hospitals cannot give assurance that they can treat you. He acknowledged the numbers have dropped since December; however, they are still at a 14% Covid patient load. Governor DeWine has extended the curfew due to patient load numbers. The National Hospital Health Organization and the CDC state that anything over a 10% patient load with a communicable disease means they are in crisis mode. All local area hospitals are in crisis mode. If they fall below a 6% patient load, Governor DeWine has said he will lift the order. Some question if the current orders are accomplishing anything. In response, he said the CDC has a strict regiment of tracking influenza for the last 40 years, and influenza is down about 60% in Greene County this year as opposed to past years. He is very concerned for medical personnel who work in hospitals, nursing homes, assisted living facilities, etc. They have to hold the hands of the patients who are dying alone without their families. He is also concerned for local businesses, and he is all in favor of lifting restrictions if the transmission rates go down. He noted Governor DeWine already has plans to do that. He personally also operates a small business. They have seven employees, they've been worried about payroll, isolation, etc. Greene County has a high load of Covid-19 patients, and in that respect, he did not recommend to Governor DeWine to remove all restrictions.

Vice President Dean said nobody has data to back up whether or not the Governor's orders are helping. They are almost a year into this situation, and they still do not have any conclusive evidence that his orders are helping to reduce the numbers.

Councilman Urschel said since the transmission, media, and type of Covid is very close to influenza in terms of aerosolized droplets, the best reading is the fact that there has been a mass reduction in influenza. They can only surmise what that would have looked like without those restrictions. He was fine with people having personal responsibility, but the medical system is a shared resource. If people do not take personal responsibility in that shared resource, it puts a burden on him and his family and everyone else and their families.

Vice President Dean said it sounds like socialism to him.

Councilman Scrivens complimented Councilwoman Dean on her leadership on this issue. He too still has some concerns, but he will support the resolution. The infection rate, morbidity rate, and mortality rate are lower in this area. Notwithstanding a personal responsibility, there is a familial responsibility. Everyone has to protect themselves.

President Smith asked to whom this resolution will be sent if it is passed. Councilman Scrivens said it will be mailed to everyone listed in Section 3 of the resolution. Ms. Fisher concurred; if it passes, the City Clerk is directed to send certified copies to those listed. President Smith said if it fails as an emergency, he asked if it could be brought back for an introduction. Ms. Fisher said it could be introduced as is or amended and submitted as an emergency as a “new” item.

President Smith thanked Councilwoman Dean for putting this resolution together; he appreciates her compassion for the small businesses in this community. He also worries about the shops, retail, and the environment. He also owns a small business, and they have been impacted by a 30% reduction. He was obviously not prepared for that, so he had to lay people off. He knows Covid-19 is real, and it has affected some of his family members. It is serious. It can be treated, but it can be deadly. He agreed with Councilman Urschel that the issue has gotten worse since October and November. He hopes and prays that they see a decrease in the spring. He knows some people who have received the vaccine without any issues, but some have had issues, especially with the second shot. For that reason, some people may be reluctant to take the vaccine. He does not know the solution, but this is a national issue. Everyone is being asked to give a little, and he did not think it was too much to ask for people to wear a mask in grocery stores. However, he didn’t like the curfew, especially for restaurants. He thinks the curfew works against businesses because if they are open for fewer hours, they are forcing more people in a shorter amount of time.

President Smith suggested they take a vote, and Councilmembers can vote their conscience. If it fails, it can be brought back because this is an important issue. Covid-19 is affecting everybody all the time no matter what.

Councilwoman Dean said she would like to take a vote. Even if they disagree, America is a republic and free speech is important.

Vice President Dean said the effects of Covid-19 are devastating for many people and many families. However, the effects of the lockdown can also be devastating including isolation, unemployment, suicide, depression, alcohol abuse, drug abuse, domestic violence, etc.

The Roll on this was the following:

Ayes: L. Dean, R. Dean, Brannum, Scrivens

Nays: Urschel, Mays, Smith motion failed.

B. Mr. Merriman said Ordinance 2021-03 was removed from the agenda.

C. Introduction of Ordinance 2021-04 Amending Sections 298.01, 238.02(B), and 618.02(F) and repealing Chapters 808., 820., 1054., 1440., and 1468. of the Xenia Codified Ordinances. Mr. Merriman said occasionally, usually on an annual basis, staff works with Council to review the City’s fee structure for various services to ensure appropriate rates are on the record. In recent years, they have worked incrementally to complete more comprehensive reviews with

the intent that outdated fees and code language would be removed entirely. However, with the pandemic emerging in 2020, staff elected not to pursue any fee changes last year and subsequently no broad review of fee-related code language has been conducted in nearly two years. It was time to re-engage this work, and for the past several weeks, staff has worked to identify needed changes to various code sections related to service fees. With the introduction of this ordinance, staff is recommending a series of amendments for five code sections and the repeal of several other sections. The agenda item report details specifically the code sections targeted for change and provides justification for such; however, he pointed out that the majority of changes recommended in this legislation seeks to reorganize, reduce and/or remove outdated and unnecessary language. Only a few actual fee increases are included in these changes, specifically to increase the amount levied for bad check charges to be more reflective of the actual cost the City incurs in these instances, and to increase the returned item fee in our business regulations. Other notable changes are as follows:

- Removing all cable franchising fees as the State has long since usurped local controls over this service;
- Removing dog registration fees as this is no longer a City function but rather a County one;
- Removing language and fees related to escort services;
- Conversion of the water/sewer billing structure from a cubic feet to gallons to bring this in line with the new meter platform;
- Removing fees related to building and housing code services as these services are not billed by the City and the external rates are entirely different; and
- Adding language to allow the Public Safety Director to issue fees for the use of City facilities for regional public safety training events.

He reiterated the majority of changes will clean up outdated language and remove unneeded code sections. It should be noted that staff is not recommending any rate increases to water or sewer services for the third straight year. He recognized that the volume of the materials presented in the agenda report is considerable; therefore, he offered to review any of the information in more depth with Council members individually before the second reading and vote at the next regular meeting. He was certain the Finance Director and Law Director would be happy to make themselves available as well. He respectfully requested introduction of the ordinance this evening.

President Smith entertained introduction of Ordinance 2021-04 as presented.

Mayor Mays presented ORDINANCE 2021-04 AMENDING SECTIONS 298.01, 238.02(B), AND 618.02(F) AND REPEALING CHAPTERS 808., 820., 1054., 1440., AND 1468. OF THE XENIA CODIFIED ORDINANCES, and it was read for the first time.

D. Introduction of Ordinance 2021-05 Authorizing Submission to the Greene County Board of Commissioners of a Municipal Petition for Annexation of 5.59 acres, more or less, owned by the City of Xenia within Xenia Township, Pursuant to Section 709.16 of the Ohio Revised Code. Mr. Merriman said in line with Council's instructions to review the status of City-owned property and to systematically consider annexation of any such property not in the City, he presented Ordinance 2021-05 for their consideration. The legislation would authorize submission to the Greene County Board of Commissioners of a petition seeking to annex 5.59 acres of City-owned park land known as the Old Town Reserve through the municipally-owned property annexation procedure. This small park is operated by the County under a long-standing agreement

but the property has been wholly owned by the City for many decades. This annexation would be low-impact in terms of services, costs, and revenue. The required impact analysis was completed with the findings included in the agenda report.

Councilman Scrivens asked if the highest and best use of the property will remain as it exists today. Mr. Merriman said yes; it will continue to be a parking lot and small camping area. He said it is a nice amenity to have along the bike trail.

Councilman Brannum suggested that someone reach out to the County to give them a heads up. Mr. Merriman agreed to do so. Councilman Scrivens said this is a request to annex City-owned property. Mr. Merriman agreed; this is City-owned property in Xenia Township that is maintained by Greene County. President Smith asked about the impact to Xenia Township and if they should be notified as well. Mr. Merriman said there is no impact because the property is already tax exempt. Councilman Brannum said he wouldn't support this annexation request if it would create an issue with the County and ends up becoming another City park that Public Service has to figure out how to maintain. He said Greene County Parks has been doing an excellent job with this and all their other parks, and they have many more park employees. Mr. Merriman said the contract that is in place is a long-standing contract that has been in place for many decades.

Hearing no further comments, President Smith entertained introduction of Ordinance 2021-05 as presented.

Councilman Scrivens presented ORDINANCE 2021-05 AUTHORIZING SUBMISSION TO THE GREENE COUNTY BOARD OF COMMISSIONERS OF A MUNICIPAL PETITION FOR ANNEXATION OF 5.59 ACRES, MORE OR LESS, OWNED BY THE CITY OF XENIA WITHIN XENIA TOWNSHIP, PURSUANT TO SECTION 709.16 OF THE OHIO REVISED CODE, and it was read for the first time.

E. Introduction of Resolution 2021-F Authorizing Submission to the Greene County Board of Commissioners of a petition, jointly with Mt. Holly Farms, Inc., for annexation of 24.544 Acres (11.049 owned by the City and 13.495 owned by Mt. Holly Farms, Inc.), more or less, from Xenia Township to the City of Xenia, Ohio. Mr. Merriman said this item is another annexation-related measure, though different in nature. The City was approached by the owner of 855 Lower Bellbrook Road, Mount Holly Farms, Inc., who desires to annex a 13.495-acre parcel into the City, pursuant to a water service agreement previously approved by Council and executed with the City last year. Adjacent to this site, the City owns a 5.004-acre undeveloped parcel and a 6.045-acre bike path parcel that are currently in Xenia Township. Based on Council's prior directive, City staff believes it is in the City's best interest to file a joint annexation petition with Mt. Holly Farms, Inc., for the annexation of all three of these parcels into the City simultaneously. Again with this item, and as is required by policy, staff conducted the impact analysis to provide Council with core quantitative and qualitative information on this proposed annexation as noted in the agenda report. With this particular annexation scenario, there is a much larger impact, and the potential for economic gain for the City is substantial as demonstrated in the impact analysis. Given Council's prior willingness to authorize the water service agreement, staff is recommending Council introduce and ultimately approve resolution 2021-F as presented to authorize submission of the necessary petition to the Greene County Board of Commissioners seeking annexation of the aforementioned properties pursuant to the relevant sections of ORC 709.

President Smith asked if this was the site of the former Nationwide Bi-Weekly. Mr. Merriman said yes, noting the property owner has invested a lot into the site including a City water connection. He said the building is very nice that includes a loading dock and a lot of office space (heavily wired, as it used to be a call center), and there are a lot of opportunities there.

President Smith entertained introduction of Resolution 2021-F as presented.

Mayor Mays presented RESOLUTION 2021-F AUTHORIZING SUBMISSION TO THE GREENE COUNTY BOARD OF COMMISSIONERS OF A PETITION, JOINTLY WITH MT. HOLLY FARMS, INC., FOR ANNEXATION OF 24.544 ACRES (11.049 OWNED BY THE CITY AND 13.495 OWNED BY MT. HOLLY FARMS, INC.), MORE OR LESS, FROM XENIA TOWNSHIP TO THE CITY OF XENIA, OHIO, and it was read for the first time.

F. Introduction of Resolution 2021-G Approving the Amended Solid Waste Management Plan of the Greene County Solid Waste Management District. Mr. Merriman said staff has been participating with the Greene County Solid Waste Management District's Policy Committee to prepare an amended Greene County Solid Waste Management Plan, as required by ORC Chapter 3734., and intended to guide general policy for the District. The former plan was approved in January 2015. The central focus of the amended plan is to support and bolster recycling in the residential and commercial sectors of the County, with a specific emphasis on cardboard recycling. Currently, the District's recycling rate is 31% for residential and commercial sectors and 80% for industrial businesses. The ORC provisions require that the legislative authority of each municipal corporation under the jurisdiction of the District approve or disapprove the Solid Waste Management Plan as amended. Staff has no issues with the amended plan as presented; therefore, he respectfully recommended that Council introduce and later adopt Resolution 2021-G to approve the amended plan.

Councilman Scrivens said he spoke with the City Planner and received a copy of the amended plan. After his review, he noted there is not a City representative assigned to the Greene County Solid Waste Management District. Mr. Merriman said the City representative on the Policy Committee is based on the largest city (by population) in the County, which is Beavercreek. There is not a voting position, per se, but to the credit of the Director of the Environmental Services Division, she always includes representatives from the participating communities. For instance, when Xenia made the transition to the current refuse and recycling system, she and her staff were very helpful in drafting the competitive bidding specifications, communications to the general public, etc. The Director, Dana Doll, and her staff do a great job, and the scope of services they provide are a great value in the County. Councilman Scrivens noted the Policy Committee includes two positions who represent the general interest of citizens and the public, and he encouraged those interested to seek involvement in that regard. Mr. Merriman agreed, noting Xenia residents have served in that capacity in the past.

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

Councilman Brannum presented RESOLUTION 2021-G APPROVING THE AMENDED SOLID WASTE MANAGEMENT PLAN OF THE GREENE COUNTY SOLID WASTE MANAGEMENT DISTRICT, and it was read for the first time.

G. Introduction of Resolution 2021-H Requesting the Advance Payment of 2020 Tax Settlements from the Greene County Auditor. Finance Director Ryan Duke said every year City Council is asked to approve a Resolution authorizing him to procure from the County Auditor advance payment of various taxes the Auditor collects and holds for the City. The regular schedule for distribution of taxes collected by the County Auditor to local jurisdictions is February and August. This Resolution will allow him to request and receive advance payment of 2020 property taxes collected and held by the County. He noted property taxes are collected a year in arrears.

President Smith entertained introduction of Resolution 2021-H as presented.

Vice President Dean presented RESOLUTION 2021-H REQUESTING THE ADVANCE PAYMENT OF 2020 TAX SETTLEMENTS FROM THE GREENE COUNTY AUDITOR, and it was read for the first time.

H. Administrative Motion Approving Amendments to the Utility Billing Rules and Regulations. Mr. Duke said this agenda item is tied to the amendment to the fee schedule (Ordinance 2021-04) that was presented to Council earlier in the meeting, and many of the changes in the Utility Billing Rules and Regulations are related to the change from cubic feet to gallons. He noted water usage is no longer to be rounded to the nearest 100 cubic feet but instead billed for actual usage based on monthly readings, which is a positive change as City utility customers are more in tune with gallons as a measurement unit rather than cubic feet. Other changes include the following:

- Clarifying the owner's requirement to pay an account initiation fee when moving an account back into a tenant's name;
- The owner only needs to fill out an application listing a tenant's name. Leases and other documents are no longer required;
- Updating office hours open to the public;
- Removing language about monthly reads because the new system allows for more frequent reads;
- Language allowing installation of remote shutoff meters for repeat offenders;
- Removing language concerning third-party bill drop-off sites (there are no longer any local retailers collecting for the City);
- Streamlining final bill process (rather than filing a civil lawsuit, assessments will be the primary mechanism for collecting outstanding amounts); and
- Removing redundant language, as several rules were reiterated multiple times in different sections.

Councilman Brannum asked about the cost of installing the remote shutoff meters. Mr. Duke said staff would swap out the existing meter with the remote shutoff meter, and depending on the age of the meter that is removed, it should be able to be used elsewhere in the City.

Councilman Urschel asked for more details on the final bill process. Mr. Duke said if a tenant has closed out an account and moved, the account is finalized out and there may or may not be a new tenant. However, if the former tenant hasn't paid the final bill, the landlord is also held responsible. If the bill is not paid, the services will be disconnected. The tenant is gone and probably no longer cares about that final bill, but the final bills still need to be paid. Councilman Urschel asked if the

property owner is ultimately responsible. Mr. Duke said yes. Mr. Merriman said although past City Council's have authorized Utility Billing Rules and Regulations changes to help reign in some of the issues with landlords and tenants, this Council may need to be updated about the constant struggle they have with the number of rental properties in the City and the associated late fees, shut offs, etc., that, in general, the vast majority are consistently associated with the same rental properties. The remaining utility billing customers should not have to subsidize those who do not pay. Mr. Duke agreed they need to get this Council's input on the subject of requiring the utility bills to be in the property owners' names, which makes the issue much easier to manage from a practical standpoint. Law Director Donnette Fisher said it is not just a practical standpoint—it is also a legal standpoint. Under Ohio law, utilities are somewhat unique, and they are able to put property liens for unpaid water and sewer bills. Councilman Urschel said Council definitely needs to look at this issue because there are a number of property owners (landlords) who are not maintaining their properties, specifically with regard to water leaks. The property owner is responsible for the property and the water leak, but the bill is in the tenant's name. If the property owner doesn't fix the leak, the tenant gets billed for that consumption. Therefore, the tenant is sometimes forced to repair the leak, which is not part of the rental/lease agreement. Mr. Merriman agreed. He said the majority of the utility billing disputes that he sees are really landlord/tenant issues more than anything else.

Hearing no further comments, President Smith entertained a motion.

Motion by Vice President Dean, seconded by President Smith, to approve the amendments to the Utility Billing Rules and Regulations. No comments followed. The Roll on this was the following:

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

Nays: None motion carried.

I. Administrative Motion Receiving the Application filed by the City Manager for the Creation of a Designated Outdoor Refreshment Area (DORA) and Directing Public Notice of the Application be published and a Public Hearing be scheduled on the Application.

Mr. Merriman said the Ohio Revised Code permits some municipalities that meet specific criteria to create Designated Outdoor Refreshment Areas, or DORAs, which are entertainment zones where outdoor consumption of some types of alcohol is permitted. Xenia qualifies for this option under the ORC provisions. The intent of implementing a DORA in Xenia is to provide an additional mechanism that promotes food service and entertainment options thus benefiting local businesses in the downtown area. Staff provided a presentation to City Council in 2020 regarding the prospect of establishing a DORA in downtown Xenia. The Council at that time voiced support sufficient to warrant the use of staff's time to conduct due diligence and draft the necessary documents and plans to apply for the establishment of a DORA. ORC Section 4301.82 stipulates the procedures required to officially create the refreshment area, and submitting an application to Council is the first step in the process. If Council finds the application includes all the required information, Council may then formally receive the application with passage of an administrative motion. Subsequently within forty-five (45) days, Council must publish public notice of the application once a week for two consecutive weeks in a newspaper of general circulation. The notice must indicate that the DORA application is on file in the City Clerk's office and is available for public inspection. The notice must also state the date and time of the public hearing on the application. Finally, not earlier than thirty (30) days, but no later than sixty (60) days after the

initial publication of the notice, City Council may approve or disapprove of the application by resolution. If Council's ultimate action is approval, notice is then provided to the State of Ohio, and staff would then move forward with the additional steps required to designate the area and administer the program. The proposed DORA footprint rests within the historic core of the downtown area and is reflective of the proposed area when the concept was presented last year (materials were also included in the meeting's agenda packet). Staff seeks Council consideration of the DORA application this evening; he respectfully recommended that they move forward.

President Smith entertained questions or comments.

Councilman Urschel said he was relatively new to this concept and the process and asked if staff was seeking approval to move on to the next step. Mr. Merriman said the action requested this evening is for Council to accept the application, which initiates the process to move forward, advertise the public notice, and conduct the public hearing to allow community members to provide input. Ms. Fisher agreed. All Council is being asked to do this evening is accept the application. Council will not vote on establishment of the DORA until after the public notice is published and the public hearing is held.

President Smith asked about the timeline for this endeavor. Mr. Merriman said if the application is accepted this evening, the public hearing would be scheduled for March 25th. The intent is to have the DORA established for this year's fair weather season starting in the spring.

Councilman Urschel asked how they planned to hold a public hearing if the Council meetings are closed to the public. Mr. Merriman said similar to how they conducted the public hearing on the budget, they would provide an alternative means for the public to make comments. In addition, they have the ability to set up a podium in the lobby space within the assembly limitations.

Councilman Brannum asked Community Development Coordinator Ryan Baker to speak on this matter. Mr. Baker said Mr. Merriman has adequately covered everything. Mr. Merriman said Mr. Baker did a lot of work reaching out to downtown property and business owners that would be within the proposed DORA, noting the effort is intended to benefit them in addition to attracting other operations that could take advantage of it, including the Xenia Towne Square.

President Smith asked if any of his fellow Councilmembers have received any communication from any citizens in support or in opposition to the DORA. Mayor Mays said no; however, as much as she appreciates all the work that went into this, she will probably continue to not support it. She doesn't think they need to count on alcohol to be successful. She thanked staff for their hard work; she doesn't take this decision lightly.

Councilman Urschel said he realized they are not approving the footprint of the DORA at this time; however, he expressed concern about two addiction recovery facilities as well as residential areas being in close proximity to the proposed DORA boundary. In addition, the Xenia Towne Square is proposed to be a part of the DORA. He asked what they are envisioning for that site. He understands the concept, but the proposed footprint is a broad area of the downtown area and this will change the flavor of the downtown area. He wants to take the time to have public discussion on this and not rush it through.

President Smith asked how open carry will work in the DORA. Mr. Baker said the alcoholic beverages have to be in designated plastic containers. For example, if people are at Devil Wind Brewing and wish to walk around inside the DORA, they would get their beers in DORA cups, which will be branded with the DORA logo. Businesses inside the DORA can choose to participate or not. If they participate, people can bring their beverages inside. If not, they cannot. Councilman Urschel asked if wristbands could be issued. Mr. Baker said yes, that is an option.

Councilwoman Dean said if the DORA is approved, she asked if they could make changes later if they see a need to do so. Mr. Merriman said yes. Further, it could be abolished altogether. Mr. Baker agreed—they just have to notify the State of Ohio.

Hearing no further questions, President Smith entertained a motion.

Motion by Councilwoman Dean, seconded by Councilman Scrivens, to accept the application as presented by the City Manager, direct public notice of the application be published once a week for two consecutive weeks, and direct a public hearing be scheduled on the application. No comments followed. The Roll on this was the following:

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

J. Administrative Motion Appointing Council Board, Commission, and Committee Assignments for 2021. President Smith said at the second Council meeting each year, the Council President recommends for approval various Board, Commission, and Committee assignments. Other assignments are made by the Council President and do not require Council approval. He assigned the Mayor and Councilmembers to the following Boards/Commissions/Committees:

- Finance & Budget Review Committee (3): Wesley Smith, Levi Dean, and Cody Brannum
- Greene County Career Center's Health Science Academy Advisory Board (1): Thomas Scrivens
- Miami Valley Regional Planning Commission (1): Rebekah Dean (Alternate Brent Merriman or his designee)

He then entertained a motion on the appointments to the Board for Recreation, Arts, and Cultural Activities, the Planning and Zoning Commission, the Traffic Commission, and the Economic Development Advisory Board as noted in the agenda report.

Motion by Councilman Scrivens, seconded by Councilman Brannum, to appoint the chairs to various Boards and Commissions as follows:

- Chair of Board for Recreation, Arts & Cultural Activities: Wesley Smith
- Chair of Planning & Zoning Commission Chair: Cody Brannum
- Chair of Traffic Commission: Levi Dean
- Chair of Economic Development Advisory Board: William Urschel

Brief comment followed. Mayor Mays asked if BZA needed to be listed. President Smith said no because the Chair of BZA is appointed through his or her term on Council. He thanked his fellow Councilmembers for chairing and serving on the aforementioned boards/committees/commissions as well as the volunteers who sit on them.

The Roll on this was the following:

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

K. Administrative Motion Approving the Schedule of Bills in the amount of \$342,776.64.
Mr. Duke respectfully requested the payment of bills in the amount of \$342,776.64.

President Smith entertained a motion.

Motion by Vice President Dean, seconded by Mayor Mays, to approve the schedule of bills in the amount of \$342,776.64. No comments followed. 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. Traffic Commission: Vice President Dean said the January meeting was canceled due to lack of agenda items. Mayor Mays said a resident asked her about getting a designated handicap spot; she will forward the information to him.

B. Board of Zoning Appeals: Mayor Mays said BZA met on January 25th to consider a variance request to construct a detached garage 6' from a side lot line instead of the minimum required 10' for the property located at 1714 W. Second Street, filed by Chris and Lorraine Gardner, which was approved with a condition. They also welcomed new member Roger Slone to the Board.

12. APPOINTED OFFICIALS REPORTS AND COUNCIL COMMENTS:

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

Mr. Merriman said this is the time of year when the temperature fluctuates, and as a result, they are experiencing some water main breaks. He said Public Service staff will respond 24/7/365, and he asked residents to be patient in those circumstances. Some of the infrastructure is very old, and breaks will occur. If residents see water ponding on the roadway in an unusual amount and not during rainy weather, he asked them to call the non-emergency dispatch number. The sooner they can get a crew out, the better.

Mr. Duke had nothing further to share. Mayor Mays said with the change to RITA, people have been asking if they can still go to the City Administration Building to file their City income taxes. Mr. Duke said originally, RITA was supposed to provide services in the City Administration Building. However, RITA has closed all of their offices across the state of Ohio due to Covid-19, and their employees are working from home. He has had several conversations with RITA representatives to reiterate the City's desire to have them present in the building. He will contact them again tomorrow and express that sentiment again. As people are starting to receive their W-2s, it is extremely important that they are present in the building—especially with this being the first year with RITA administering the tax service. So right now, no service will be provided in person in the building. President Smith asked if RITA's presence in the building was part of the agreement because if he had known they were not going to be present in the building, he would

not have voted to make the change. They are relying on RITA to provide a service, which they are not providing. Mr. Duke said the contract only obligates RITA to pay for the leased space in this building; however, they had no idea that Covid-19 would change things and they would be paying for leased space that they are not using. Again, he will reach back out to them tomorrow and express that Council is adamant that those services are provided onsite. President Smith asked the term of the agreement. Mr. Duke believed it was a three-year agreement.

Ms. Fisher said last year, she, Mr. Merriman, Mr. Duke, and City Clerk Michelle Johnson began reviewing the first draft of the Rules of Council. Due to Covid-19, it was put on the back burner. They are once again reviewing them and will meet one more time before making a recommendation to City Council. Also, they will present recommendations on consolidating some committees. She hopes to have everything to Council by the end of February/beginning of March for their first review. When the Rules of Council are completed, the next project she would like to work on with staff and Council is a rewrite of the City's Administrative Code, which she will present by title, noting they just did Title 12 (Fee Schedule) this evening. Title 8 is Boards, Commissions, and Committees. Councilman Brannum asked Ms. Fisher if she planned to attend the Special Meeting (Retreat) on Saturday, February 6th. Ms. Fisher said she had not heard any details about the meeting yet, but she would probably be in attendance. She planned to wear double masks and asked all participants to do the same.

B. Mayor and City Council:

Councilwoman Dean had nothing further to share.

Councilman Scrivens said they need to do a better job with street sweeping because the curbs are still lined with debris, especially at the grates. He said it seems that nobody cares about how the streets look after the street sweeper is put up for the season. He said he would like to have a meeting and schedule a tour with the Xenia Municipal Court Judge. He has no knowledge or perception on what goes on in the Court. He would also like the Police Chief to brief Council on what's been going on since the Covid-19 pandemic began with regard to property crime, violent crime, etc. He said the Xenia Community Schools will have two levies on the ballot. He received a call about the cities of Kettering and Oakwood and their review of the role of race in their city operations. He was asked what Xenia was doing in that regard, and he suggested they start a conversation. He knows they are trying to get back to normal, and they all need to work together. He would like to see Development Director Steve Brodsky recruit a dry cleaning business for Xenia. They should be recruiting for services they do not have instead of sitting around and waiting for those services to come to them.

Councilman Brannum had nothing further to share.

Councilman Urschel said the success of this City is the key to success for the school system. There are a lot of factors with the success of the school system that are outside the purview of the School Board and the City. The reality is strong families are the key factor to the success of the community and the schools. There isn't a committee or funding resource set up for that, but they need to work with other community organizations and with the school district to start addressing the fact that there is a serious issue with a significant number of families and the strength of those families. He knows the school district is working as hard as they know how and trying to do the best they can, but it is not solely up to them. He hopes Council can have some dialogue with the school district and other

organizations about this issue. Regarding economic development, Wright-Patterson Air Force Base is the largest employer in the State of Ohio. Even though Xenia's cost of real estate is low, other factors do make Xenia as appealing.

Mayor Mays congratulated the new Skyline in Xenia, noting they are now open for drive-through service. She thanked Dave Deskins who set up a meeting with the new owner and local agent of LeSourd Insurance in Xenia. It was a good meeting, and Malcolm Brooker and Joe Hickey are excited about serving this community and getting involved. She thanked Ohio University student Grace Wilson, who she is working with on a project. It was fun to get to know her and talk with her about Xenia.

Vice President Dean had nothing further to share. President Smith thanked him for his willingness to serve as Council Vice President in 2021.

President Smith said they've been relatively lucky with winter weather so far and asked Mr. Merriman if the salt supply was adequate. Mr. Merriman said yes, they are saving a ton of money. President Smith said City Council is comprised of seven different people with seven different opinions. He was pleased they can still get along even if a vote doesn't go a certain way. He appreciates all of them.

13. ADJOURNMENT: Motion by Mayor Mays, seconded by Councilman Brannum, to adjourn the Regular Meeting at 7:50 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