



John Caupp, 936 Orville Way, said he is the Executive Chair of the Republican Party located at 45 E. Main Street. They are planning a Grand Opening for their new headquarters. The owner of the building, Greg Burnett, has been phenomenal to work with throughout the renovations, which exceeded his expectations. Mr. Burnett has invested a lot of money into his downtown properties. There have been some challenges during the renovations, and he is willing to discuss the challenges with Council or staff. The Republican Party is excited about being located in the County Seat directly across from the Courthouse near the Xenia Police Division, Greene County Sheriff's Office, and other administrative offices. They are planning a lot of activities at their new location including voter registration, a library, sale of merchandise, etc. They will send out formal invitations once they set a date for the grand opening. They plan to have a donor appreciation event prior to the grand opening to recognize donors. They are always seeking donations, and without donations the project would not be feasible. Donations can be mailed to The Greene County Republican Party, P.O. Box 401, Xenia, Ohio 45385, and anyone who donates will be invited to the donor appreciation event. Everyone is welcome to visit their new location. He hopes many will attend the grand opening.

## **8. OLD BUSINESS:**

A. President Engle presented RESOLUTION 2018-F AUTHORIZING THE CITY MANAGER TO EXECUTE A THREE-YEAR ECONOMIC DEVELOPMENT REVOLVING LOAN FUND ADMINISTRATION AGREEMENT WITH THE OHIO DEVELOPMENT SERVICES AGENCY FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM INCOME, originally introduced by Vice President Wallace on February 8, 2018, and it was read for a second time.

Motion by Vice President Wallace, seconded by Councilman Louderback, to adopt Resolution 2018-F as read. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Scrivens, Louderback, Smith, Dean, Mays, and Engle

Nays: None motion carried.

## **9. PUBLIC HEARING(S): None.**

## **10. NEW BUSINESS:**

A. **Emergency Ordinance 2018-07 Authorizing the City Manager to enter into a contract with Waibel Energy Systems, Inc., for the purchase of a Chiller System for the Xenia Justice Center.** City Manager Brent Merriman said City Staff is recommending approval of emergency Ordinance 2018-07 authorizing execution of a contract with Waibel Energy Systems, Inc., for the purchase of a chiller system for the Xenia Justice Center at a cost not-to-exceed \$232,401. On January 10, 2018, service staff were notified that the chiller system located in the parking lot on the north side of the Xenia Justice Center building appeared to be damaged. The damage occurred during the severe freeze/thaw events earlier this winter and it appeared to staff that these temperature extremes caused severe damage within the piping and large chiller units. This equipment was not replaced with the recent rehab at the Justice Center and was thought to be near the end of life but with some remaining usability. Replacement of the HVAC system components is critically important to the Justice Center. In addition to ensuring environmental comfort for staff and visitors to the Justice Center, the chiller unit helps to ensure

core temperatures in the facility do not exceed levels that would place essential temperature-sensitive computer and digital dispatching equipment for our 911 and communications systems in jeopardy. City staff solicited an assessment of the chiller system from Waibel Energy Systems, Inc., because of the company's comprehensive familiarity with the Xenia Justice Center HVAC system. Waibel has been the system maintenance consultant to the City for years and has intimate knowledge of the unique system in place and the critical operational needs of the Justice Center. Given its age and the difficulty associated with the potential repair of the system, Waibel recommended that the City consider the entire unit replacement of the chiller system. After evaluation, staff concurred this was the most cost effective approach moving forward and commissioned Waibel to engineer the replacement, and they submitted a cost proposal. It should be noted that the City has filed an insurance claim for failure of the system and hopes to recoup at least a portion of the costs for the new system. Replacement of the chiller system is critically important and given that the expected timeline for ordering, manufacturing, and installing the new chiller system is expected to take upwards of 8 weeks, the City faces an emergency need to advance this project in order to get it operational before warmer weather sets in.

President Engle entertained a motion to approve Ordinance 2018-07 as an emergency.

Motion by Mayor Mays, seconded by Councilman Scrivens, to adopt ORDINANCE 2018-07 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WAIBEL ENERGY SYSTEMS, INC., FOR THE PURCHASE OF A CHILLER SYSTEM FOR THE XENIA JUSTICE CENTER, AND DECLARING AN EMERGENCY. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Scrivens, Louderback, Smith, Dean, Mays, and Engle  
Nays: None motion carried.

**B. Emergency Ordinance 2018-08 Amending Chapter 881 and Enacting Sections 881.98 and 881.99 of the City's Income Tax Code.** Finance Director Ryan Duke said House Bill 49 passed in the State Legislature and has impacted a variety of things; most notably, it impacted income tax collection for municipalities. Many of the provisions of House Bill 49 were supposed to be effective at the end of January 2018, but there are several class action suits filed by municipalities—one of which the City of Xenia is a party to that put a stay on some of the regulations for a period of time. Staff learned yesterday that the Judge hearing the relevant case rendered a decision; unfortunately, the Judge decided in favor of the State. Due to that decision, the City needs to move quickly to enact some of the legislation. There will most likely be a desire to appeal the Judge's decision, and other law suits of a similar nature are filed in other courts, to which there may be different outcomes. Staff will wait to see the results of those decisions to determine if they are in conflict of this Judge's decision, which may go to a higher court. Due to the recent decision, Staff feels it is prudent to amend the City's Code and implement some of the requirements to ensure compliance with the law. The changes are problematic for the City for a variety of reasons, but the part that impacts the City to the greatest extent is that businesses can now file their tax returns with the State through the Ohio Business Gateway, and the State will then charge the City a fee to process those returns. The business can opt to file through the State, but the City has very little to say or do in response. The City cannot audit those returns because the information that supports the returns will not be provided to the City; therefore, the City cannot verify that the information is actually in compliance with the

City's Tax Code or income tax rate. It will also create a lot of work for City staff because the City will have to fill out State forms, which are required to be returned to the State. This requirement will create an additional burden for City Staff, and yet the City will be charged a fee for the State administering it. The biggest issue is that this will set a precedent that will allow the State to become more and more involved in the collection of municipal income tax with the potential to ultimately take all the responsibility away from the City. They do not know what fees or compliance will actually be involved. Staff is troubled in a variety of ways. There is other movement to do things such as enact a law that would permit a City to only tax residents that live in the City but not those who work in the City while living outside the City, which would be a major hit to the City's tax base and catastrophically impact operations. If that occurs, they would have to completely revise the way governmental operations are funded. The City is not thrilled with the decision and is proposing this ordinance in order to follow the law, but begrudgingly and in protest. Staff will see how things play out down the road. He asked Ms. Fisher if she had anything further to add.

Ms. Fisher clarified that the decision was not a decision on the merits of House Bill 49, and the Court has not yet ruled on the constitutionality of the bill. There were certain provisions that the City was required to have in place by January 31<sup>st</sup> specifically in regard to the centralized collections that Mr. Duke discussed. The Judge ruled against the injunction that was filed as part of the lawsuit, which prevented the State from enforcing the deadline on cities. An agreed order came through the Court that required the provisions to be in place by February 24<sup>th</sup>, which is only two days away and why this legislation is being requested as an emergency. The actual merits of the case have yet to be decided. However, the State has been pretty clear that this is the first step. It is basically a "money grab" by the State. The City will continue to fight it; she noted that over 100 Ohio cities are involved in the same lawsuit with Xenia. There is another class action suit; many cities in Ohio are fighting this bill.

Motion by Vice President Wallace, seconded by Mayor Mays, to adopt Ordinance 2018-08 AMENDING CHAPTER 881. AND ENACTING SECTIONS 881.98 AND 881.99 OF THE CITY'S INCOME TAX CODE, AND DECLARING AN EMERGENCY. Discussion followed.

Councilman Louderback agreed with Ms. Fisher that this is another money grab by the State of Ohio. Governor Kasich balanced the State's budget on the backs of cities like Xenia, and this is another example of the State taking funds from Ohio cities. He asked if staff knew what businesses will be filing with the State. Mr. Duke said it is difficult to say; however, they have received six applications for businesses who would like to file through the Gateway. They have to file by the end of the month so staff will see how many actually end up coming in over the next few days. There will be some financial impact to the City because a fee will be assessed. It is difficult to know what the financial impact will be because the City cannot judge whether or not they have enforced the law correctly since the City will not have any of the information to audit the return. It is hard to say exactly what it will cost the City. He did not think this measure will be extremely costly for the City, but it could set a precedent to bring other things to fruition, which would have a significant impact on expenditures or loss of revenue.

Vice President Wallace said this particular type of measure frustrates him because Governor Kasich and others at the State level would be absolutely up in arms if the Federal Government did the same thing to the State of Ohio. Governor Kasich ran all over the State of Ohio talking

about how he balanced Ohio's budget, but he failed to say that he did it on the backs of the cities and counties in Ohio. This is just another money grab. It is frustrating and disgusting, and the cities need to do anything and everything they can to fight it in any way possible.

President Engle said if residents have concerns about rights being removed from cities with home rule authority, he encouraged them to write state representatives, senators, the Governor, the Court, and federal representatives to express their opinions in opposition and let their voices be heard!

The Roll on this was the following:

Ayes: Wallace, Scrivens, Louderback, Smith, Dean, Mays, and Engle

Nays: None motion carried.

**C. Introduction of Resolution 2018-G Establishing Street Lighting District #2 within the Sterling Green Crossing Subdivision and Declaring the Necessity of Improving City Streets and Public Ways within Street Lighting District #2 by the Lighting Thereof for the Years 2019-2022.** Mr. Merriman respectfully recommended introduction of Resolution 2018-G to establish Street Lighting District #2. Pursuant to new requirements in the City's land development code, the developer of a subdivision that is interested in including street lights within his subdivision must agree to a street light assessment for the benefitting lots within the new plat. In accordance with this, M One Development, the developer for the Sterling Green Crossing Subdivision, Section 2, received a cost to install 10 street lights, along with the monthly electricity fee per the City's contract with Miami Valley Lighting (MVL). The developer is responsible for the initial cost to install the lights, but the City is responsible for paying the monthly electricity costs moving forward as currently is the case for other lighting around the City. Adoption of the proposed Resolution of Necessity to establish Street Lighting District #2 will result in a streetlight assessment being included on the individual lot owner's property tax duplicate from the Greene County Auditor. Based upon the City of Xenia's current contract with MVL and including the administrative fees associated with the continued assessment of each lot on a yearly basis, the owner of each of the 37 lots within Section 2 of the Sterling Green Crossing Subdivision would pay an annual fee of \$33.96.

President Engle entertained an introduction of Resolution 2018-G.

President Engle introduced RESOLUTION 2018-G ESTABLISHING STREET LIGHTING DISTRICT #2 WITHIN THE STERLING GREEN CROSSING SUBDIVISION AND DECLARING THE NECESSITY OF IMPROVING CITY STREETS AND PUBLIC WAYS WITHIN STREET LIGHTING DISTRICT #2 BY THE LIGHTING THEREOF FOR THE YEARS 2019-2022, and it was read for the first time.

**D. Administrative Motion Approving the Schedule of Bills in the amount of \$278,313.48.** Mr. Duke respectfully requested the payment of bills as presented.

President Engle entertained a motion.

Motion by Councilman Louderback, seconded by Councilman Smith, to approve payment of bills totaling \$278,313.48. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Scrivens, Louderback, Smith, Dean, Mays, and Engle  
Nays: None motion carried.

## **11. REPORTS OF COMMITTEES:**

**A. Mayors and Managers:** Mr. Merriman said Mayor Mays and he attended the February meeting, which was held in Vandalia. A report was given by Kettering Health Network Physician Services regarding specialized services for public safety personnel. Panelists provided statistical evidence of the substantially higher than normal health risks faced by late-career and retired firefighters and police officers. The statistics were quite startling. Staff will be exploring options to utilize some of the services KHN can provide and looking at how to integrate these types of services into a wellness program for City personnel. An update on Small Cell Legislation was also provided. As Council may remember, provisions under Ohio law allowed companies to use public infrastructure to place small cell infrastructure to allow for improvement of their services. In general, cities support the action because it is good to have that network built out; however, cities would like to have some say in how their public assets are being used. The process has gone through some negotiations involving the Mayors and Managers across from across the state and working with State Legislators as well as representatives from the Telecom industry. He was happy to report that they came to a good resolution; no one loved it, but everyone could live with the results of the negotiations. The result is a bill that has passed the House and is expected to pass the Senate within the next few weeks.

**B. Miami Valley Regional Planning Commission:** Councilman Louderback said MVRPC did not meet in February but will reconvene in March.

## **12. APPOINTED OFFICIALS REPORTS AND COUNCIL COMMENTS:**

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

Mr. Merriman took a moment to acknowledge the efforts of some Public Service Department staff. As Council will recall, staff has been working with the OEPA to address issues associated with gas migration at the closed municipal landfill. One of the things the City was required to do was install deeper trenching adjacent to Area A along Towler Road to help mitigate the gas migration off-site. This was a big project ultimately running over 300 feet with a very deep trench making the project both difficult and somewhat dangerous. After evaluating options, the decision was made to do the project in house. He was very pleased to report that the City's maintenance staff has almost completed the project ahead of schedule and without incident. The City's cost for the effort was \$71,000. While this does not include labor expenses, it represents a significant savings for taxpayers—staff solicited bids for the work last year and estimates for contractual services at that time for just a 200-foot trench ranged from \$142,000 to \$197,000. Doing the project in-house saved the City almost half the estimated cost. He commended the following employees who worked hard to complete the project: John Collins, Robert Hughes, Chad Galliger, Josh Kell, Adam Jones, Josh Blackburn, Trett Solli, Scot Hiller, and Marty Livingston. He offered a big thank you for great leadership to the supervisors Eddy Walker and Ray Ferrell. The City does a lot of work on different projects, but staff typically does not handle projects involving deep trenches. He was really proud of staff for branching out into this new

area in a cost-effective way. They did great work, especially during the winter months while they are dealing with all the weather-related obstacles.

Mr. Duke reminded the public that the income tax deadline of April 17<sup>th</sup> is approaching. There are several ways to file taxes; online through the City's website, through secure e-mail, mail in a return, or residents can visit the tax office from 8 a.m. to 5 p.m. and staff can assist them in preparing their income tax returns free of charge. Residents must bring their W-2s, Schedule C's and E's and any other information necessary. He noted the lines will be much shorter in the next few weeks rather than waiting closer to the April 17<sup>th</sup> deadline.

Ms. Fisher did not have anything further to share.

### **B. Mayor and City Council:**

Mayor Mays thanked Greene Memorial Hospital, specifically Jeff Brock, President of the Greene Foundation, for hosting a lunch last Monday to meet with GMH President Rick Dodds and the Vice President of Operations to discuss their vision for Xenia. Hospital staff are very committed to the community and are excited about serving the City of Xenia and partnering with the City to continue to build a better and healthier community. She visited the men's jail and had an opportunity to work with the Story Chain program, which allows incarcerated parents to record their voices while reading stories that are then shared with their children. The library provides the books to allow children to follow along with their parents' voices. It is a neat and purposeful program, and she thanked them for their work. She participated in the ribbon cutting at the Coffee Hub on Wednesday, February 21<sup>st</sup>. She encouraged the public to visit the Coffee Hub for a cup of phenomenal coffee. She reminded the public that Sunday, March 26<sup>th</sup>, is the Day of Caring pancake breakfast and lunch, which will be held at the Senior Center, 130 E. Church Street, from 8 a.m. to 1 p.m. The proceeds will go towards the home delivery of meals provided by the Senior Center. The Annual Easter Egg Hunt will be held Saturday, March 31<sup>st</sup>, which is a free event made possible by the City of Xenia and the Xenia Area Association of Churches and Ministries. She encouraged area businesses, churches, and the public to donate an Easter Basket for babies and children up to sixth grade. The baskets can be dropped off at the City Administration Building before March 31<sup>st</sup>.

Councilman Louderback and Councilman Dean did not have anything further to share.

Councilman Smith asked Mr. Merriman for an update on Devil Wind Brewing. Mr. Merriman said they are looking at early March for their opening. Their brewing equipment was delayed due to the manufacturing company going out of business, but they are back on track. He will update Council with their opening date once it is known.

Councilman Smith congratulated Xenia business owners for the recent opening of Penn Station and Rapid Fired Pizza. He was told that Xenia's Rapid Fired Pizza location set a record for deliveries. He reminded people to visit One Bistro to help support their mission. It is easy for today's society to use social media as an outlet to vent, but cyber bullying is unfortunately a product of social media. The recent school shooting in Florida was a real tragedy. Mental health is an important subject to discuss no matter what political side you are on. Reach out to a teacher, parent, or police department if you know of a child or adult that is hurting. He has great sympathy for the children and families of the recent shooting. Everyone needs to pray for our

country as a whole because the enemy across the border is not destroying our country—it is coming from within. Lift up those affected by the violence through prayer.

Councilman Scrivens asked if the street sweeper was still in service. Mr. Merriman said it should be working, but he was not sure of the schedule. The crew may be placing priority on pothole filling before they clean the streets. He will check on their schedule. Councilman Scrivens asked if they could clear the places where leaves have piled up, which prevents water from reaching the catch basins. He offered his regrets to the Xenia Area Chamber of Commerce as he will not be able to attend their annual dinner due to a prior church engagement. His church has an Annual African-American Black History dinner on the last Saturday in February at 4 p.m. He asked all Xenia citizens to support the Xenia Buccaneer Basketball team, who will play Fairmont on Saturday at 7:30 p.m. at Trotwood Madison. Xenia knows they either win or go home, but they intend to win! He hopes everyone will come out and support the team. Tickets are available in the Athletic Department Office (trailer behind Xenia High School) between 9 a.m. and 3 p.m. He received the annual report from Judge Murry at Xenia Municipal Court. He has not had the chance to walk through the new Justice Center, but he intends to do so in the near future. The annual report is complete, and he was impressed with their progress. He attended the roundabout meeting at the library and feels the roundabout will be a Godsend. He fully supports the intersection improvement project.

Vice President Wallace extended prayers to the 17 families who lost loved ones in the tragic shooting in Florida. He applauded the surviving youth who have become very proactive in seeking to become change-agents in getting the laws changed. It is ridiculous that eighteen year olds cannot purchase a beer, but they can purchase weapons of war and cause great havoc in gathering places. He was the first customer at the recent opening of Penn Station, and his family enjoyed the meal. He asked when the roundabout project will begin. Councilman Scrivens said a significant amount of money has already been spent on the design and survey. The community input will help move the project forward. Mr. Merriman said the project is approximately 95% through the engineering process; the total local match is \$230,000 and federal safety grant dollars will cover the remaining \$860,000. The City is about \$120,000 into its portion. So far, so good. There have been mixed opinions on the project, but he feels citizens will appreciate the improvement once it is complete. Similarly, people had concerns regarding the Hospitality Drive/Main Street project, which has enhanced value and safety since completion. The roundabout project is a good project and staff is excited to see it move forward. Vice President Wallace said he is excited about the roundabout. He asked about traffic flow during the construction phase. Mr. Merriman said maintenance of traffic is part of the requirements with the overall engineering study to maintain traffic on both routes. Information will be shared as the start date approaches and details are finalized.

Councilman Louderback noted the local match from the City are funds that cannot be spent on anything else. Mr. Merriman said to be clear, a portion of what the City will be paying will be from the limited-use funds and cannot be used on just any street. Again, the vast majority of the funding for the project will be coming from the federal safety dollars through the Surface Transportation Program (STP). The funds could technically be used on some other large roadway, but this project has been in the works since 2013 when the award of this grant first circulated. This project has been a long time in the making. Nearly \$900,000 is from federal

