

**City Council Meeting Minutes**  
**April 13, 2017**  
**Regular Session**  
**7:00 p.m.**

The Xenia City Council met in a Regular Session on April 13, 2017, at 7:00 p.m., in the City Council Chambers, City Administration Building, with the following members present: Edgar Wallace, Dale Louderback, Sarah Mays, Marsha J. Bayless, and Michael D. Engle.

Wesley Smith and Jeanne Mills were absent.

**INVOCATION:** Pastor Van Holloway, Emmanuel Baptist Church, gave the invocation after which all joined in the Pledge of Allegiance.

Motion by President Engle, seconded by Councilman Louderback, to excuse Vice President Smith and Councilwoman Mills from the meeting due to prior personal commitments. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

**APPROVAL OF MINUTES:** Motion by Mayor Bayless, seconded by Councilwoman Mays, to approve the March 23, 2017, Special Session minutes as written. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

Motion by Councilman Wallace, seconded by Mayor Bayless, to approve the March 23, 2017, Regular Session minutes as written. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

**SPECIAL PRESENTATIONS:**

**Proclamations for Xenia's newest Eagle Scouts** – Mayor Bayless said she prepared proclamations for all five of Xenia's newest Eagle Scouts. She was unable to attend the original ceremony held on February 26, 2017, due to illness. One Eagle Scout was present at the meeting; therefore, she presented a Proclamation to Robert Rowland, Eagle Scout, declaring Thursday, April 13, 2017, as Eagle Scout Day in the City of Xenia. She congratulated Mr. Rowland on his outstanding accomplishment and wished him continued success in his future endeavors. (Applause followed.)

**Xenia Community Schools ~ School Levy** – Mr. Merriman said Denny Morrison, Superintendent of Xenia Community Schools was scheduled for a presentation this evening; however, due to a conflict, the presentation will be rescheduled.

**PUBLIC HEARING:**

**Small Cities Community Development Block Grant (CDBG) Programs for 2017 –** Mr. Merriman said this public hearing is conducted in compliance with Federal Citizen Participation Requirements which stipulate that the City must hold one (1) general public hearing to cover the Community Development Block Grant Program overall and one (1) application-specific public hearing before submission to the State of Ohio. This year the state has changed the timetable and funding for CDBG Allocation. A floor amount of \$150,000 is expected to be available to the City of Xenia every two years starting in 2018 with two years to complete projects. Last year the City received \$88,000 in CDBG Allocation, which will be utilized in several of the Laynewood neighborhoods for curbs and ADA sidewalks. While the allocation grant is not available to Xenia this year, the City is eligible for various competitive CDBG funding resources including Critical Infrastructure Grant, CDBG Target of Opportunity Grants for historic buildings, New Horizons Fair Housing funding, and Economic Development Loan Grants. Also, the City will likely partner with Greene County on another CHIP housing grant, since the County IS eligible for CHIP this year, and the City is not eligible until 2018. Staff requests that Council conduct the public hearing to ensure compliance with public participation requirements.

President Engle invited those in favor of the 2017 CDBG Programs to come forward to speak. No one came forward. He invited those wishing to speak against the 2017 CDBG Programs to come forward to speak. No one came forward. He invited those wishing to speak neither for nor against the 2017 CDBG Programs to come forward to speak. Seeing none, he closed the public hearing at 7:15 p.m.

**AUDIENCE COMMENTS:** President Engle explained the procedures for audience comments and invited anyone who wished to speak to come forward.

Brandon Huddleson, County Administrator, and Tom Koogler, Greene County Commissioner, 35 Greene Street, provided information regarding Hamvention. Mr. Huddleson said they wanted to provide updates, express their gratitude, and bring a gift. As the City Manager and lots of communities have been involved in this great event, it will bring many benefits to the County, but specifically hosted in Xenia. It became evident that they needed to roll out the welcome mat for these folks [Hamvention], and a lot of work has been done. The City of Beavercreek and the City of Fairborn have agreed to fly welcome banners for Hamvention. They wanted the City of Hospitality to not be left out. Xenia had an opportunity to purchase some banners, and since the City was not able to make that purchase, the County purchased 50 banners on behalf of the City of Hospitality. They appreciate the fact that the City has allowed the banners to be hung along Main Street and think it is a great way to welcome Hamvention. Now, they will have welcome banners from Colonel Glenn, Fairfield Road, and up through Xenia. They plan to deliver Xenia's 50 banners to the Public Service Building on Friday or Monday. Also, he thanked the City for their offer for internet access. As they know, Hamvention is very dependent upon broadband and internet service, and the City presented an offer to allow and supply their internet access for the the three-day event; unfortunately, the cost was a little high at \$36,000 so they decided to have the County supply the internet. However, they appreciate the City's willingness to partner with the County for internet services. A lot of preparations are going on [for Hamvention], and they appreciate the City's willingness to help with the event and are looking forward to a great event

in about a month. The event will literally double the size of Xenia [population] for those three days. Mr. Koogler entertained any questions about Hamvention noting there will be 26,000 people coming into the City for the event and every store, restaurant, hotel, and campground for 50 miles will be full to the gills. It will be a very special event, and he hopes Greene County and the community of Xenia will step up and make sure that everybody exceeds their [Hamvention's] expectations. Mr. Huddleson noted it is a world-wide event and is an event like no other to expose Xenia.

Councilman Louderback asked Mr. Huddleson if the City was unable to help with the banners or if he misunderstood something. Mr. Huddleson said no, he understood correctly. The City of Fairborn and City of Beavercreek purchased some banners, but they were told the City of Xenia was unable to make that purchase. Councilman Louderback asked who told them that. Mr. Huddleson said the City Manager told them it is Xenia's policy not to advertise. Councilman Louderback said he did not understand that, and the idea was never brought before Council to his knowledge. If it had been, he was certain the City of Hospitality would have stepped up to the plate. Hamvention is going to be a big event. Mr. Huddleson said it will put Xenia on the map. Mr. Koogler said it will be bigger than it is now. Councilman Louderback said his point is why wouldn't the City of Xenia be involved in it. Mr. Merriman said he did not think the request was ever made for the City [of Xenia] to purchase the banners, and if that was their intent, then there was some miscommunication. He pointed out that the City of Xenia is making a substantial contribution to the overall event. He estimated Xenia's Police overtime will be approximately \$15,000. There will also be Firefighter and Public Service overtime expenses. The City's sign shop has also made signs for the event to be displayed at various locations around the City. They will also use the City's electronic signs at various locations throughout the City. Therefore, the City is making a substantial commitment overall to the event. In addition, the City will be hanging the smaller banners and an over-the-street banner downtown. The City has been involved with the planning process, and to Mr. Huddleson's point, it is a significant event—an event unlike any other that has been hosted previously. There are a lot of logistics involved and a pretty substantial commitment—not just from the City of Xenia but also from Xenia Township, the Greene County Sheriff's Department, and other local agencies to provide security and logistics for the event.

John Caupp, 936 Orville Way, said obviously Hamvention is one of the biggest events in the Miami Valley for years. It is a big score to have the event in the City of Xenia, and he did not think the City realized its impact on every business in the City. The City should be opening the front door to them. The County is also absorbing a lot costs for Hamvention. He is sure the Fairgrounds will be patrolled by the Sheriff's Office, which will include overtime—it is not just Xenia dealing with the overtime costs. When Xenia is asked to make small financial contributions, they should probably participate because hopefully this event is a long-term partnership. He was concerned about the perception if Council and staff did not open their doors for this event. In regard to the Simon Kenton building, staff's recommendation is to work with Community Action Partnership (CAP). The fact that CAP wants extra land as part of their proposal concerns him because the City has talked for years about putting a road through that property. He wondered if that would be possible with CAP's proposal. His other concern with CAP's proposal is the HUD housing. Everyone knows where there is HUD housing, there are typically more EMS runs and police services needed; therefore, if Council is concerned about staff time and costs, then they need to consider these factors. A for-profit company made an offer

of \$81,000 to fill the facility and bring 15 full-time and some part-time employees to the area. Those jobs would pay taxes in Xenia, and hopefully people will relocate to the City of Xenia. It concerns him when a for-profit company is looking at the building and willing to pay \$81,000; the City could possibly recoup some of the costs spent on the building. The City has done several studies and spent a lot of staff time while spending thousands of dollars on the building; therefore, the City has incurred costs that will never be recouped unless a for-profit venture takes over the building. The for-profit company is 4 The Kids, LLC, who would be working with teenagers who are foster kids. He did not know if Council knows much about foster kids, but they are 17-18 years of age and are typically shoved under the rug. Therefore, this company would be working with foster kids to help them transition into further education, employment, etc. Council needs to consider the proposal from 4 The Kids, LLC, before making a decision.

Mr. Caupp said Miami Township and Miamisburg formed the Miami Valley Fire District in 2012, and he and Councilman Louderback worked with the townships, County, the State, etc., since 2008 to save money for everyone and get rid of redundant services. Councilman Louderback and he spent hours meeting with a dozen different cities, fire chiefs, city managers, etc., to see how they run their operations before they commissioned a study, which cost thousands of dollars in 2012. The study showed recommendations, and he asked Council to look at the study to see if they have followed through with the recommendations from that study and to see what has been accomplished so far. The article in the newspaper said the partnership between Miamisburg and Miami Township has been successful for the last five years; therefore, they are going to make it a permanent partnership. The partnership is saving taxpayers millions of dollars, and 82% of the fireman said the project was successful. Council members, City Staff, and Township Trustees change, but he asked if the conversations with the Township about the possibility of a fire district have continued so they can get rid of redundant costs. The partnership would help the Township and their need for paramedics. A fire station on the north side of town would be of benefit to the residents there. The City has one of the best fire divisions in the state, but it could be better while saving the taxpayers a lot of money. The City is going to ask the taxpayers for more money and a possible road levy, but he asked what the City was doing to save money. The City added a supervisor's job at the garage, and now they are interviewing for an Assistant City Engineer. He asked where the money was coming from for these additional jobs. He said 85% of the budget is for personnel and benefits. The school system is asking for a tax levy for new schools, and noted Mr. Morrison can provide a list of what the schools have done to save money. So much so that other school districts in the State are looking at Xenia Community Schools to model their ideas. Therefore, he did not mind giving money to the schools when they can show that they have been extremely good with their money. The schools are putting in a track at the football field out of their general fund because they have saved so much money. He asked what the City has done lately to save money. He noted a fire district would save taxpayers some money.

Thomas Scrivens, 725 Lexington Avenue, presented several items to Council:

- He has not heard an update regarding the possibility of an additional bulk pick-up. President Engle asked Mr. Merriman to address the topic during the City Manager's Office updates.
- He readdressed concerns with the lack of attention to the landscaping at the entrances of the City. People coming into the City have an opinion, which is formed immediately upon entering the City. The City can do a lot better.

- He felt the City should use its seal to represent itself as opposed to a logo. If the City is going to be the City of Hospitality, then do that. They don't need to "explore" anything.
- Additionally, the City street sweepers have missed a number of places where residual leaves still remain, which will eventually find their way into the storm sewer catch basins. The leaves will continue to pile up until they are removed. Obviously, the residents are not going to remove the leaves, or they would have already done so.
- Unfortunately, snow plows nicked the curbs during the winter season, and a number of curbs are in need of repair especially in the downtown area. It only needs some spackle and yellow paint to patch the curbs. It is spring and the City should be inspired to spruce up the appearance of the City. He has not seen any street crews out doing clean up, painting, or fixing.
- He has seen a number of places blowing their cut grass into the street and suggested amending the general offenses code to establish a \$25 offense when residents blow cut grass into the street, which makes the curbs look bad and eventually gets washed down into the catch basins.
- There was a bike rack at the previous City Hall, and one is needed at the new City Administration Building.
- Finally, a number of street lights are either off or blinking in the downtown area, and the light directly in front of the new Administration Building is burned out. He suggested a City employee working evening hours could identify these issues. The City can do better, and he tasked Council with addressing these issues since City employees are being paid salaries, pensions, and benefits to do so. He wondered if residents are getting the services they are paying for. About 99% of the time, they are, but right now, the City can do better.

David Miles, 2746 Jenny Marie Drive, said he is the Pastor at Emmanuel Baptist Church and a member of the Xenia Association of Churches and Ministries and the African American Ministerial Association. He was very grateful to have lived in the City of Hospitality. He read a short verse from the Book of Ezekiel in the Bible when there was a lot of destruction going on in the land. Currently, there is a major heroin epidemic, and Dayton is ranked number four in the nation with a lot of drug trafficking along US 35. Many kids, people, and future generations are being affected and decimated by the epidemic. Recently, there was a picture of two children in the back seat of a car with two parents overdosed in the front seat; kids and parents are wondering if hope exists during moments like that. Communities need to partner in the fight and have an action plan in place, but in the midst of all that, there needs to be hope. He is speaking on behalf of the Bridges of Hope proposal for Simon Kenton. Last fall, there was a meeting to address the heroin epidemic and equipping the church to do so, which brought representatives from Attorney General DeWine's office, representatives from TCN, and a number of churches together to address this major epidemic that is hitting our city. The meeting was held at First Church of Christ on Ledbetter Road. He found it interesting that the City received a proposal that has a for-profit aspect to address the issues of the community. He would not doubt that a proposal that deals with dollars and cents is an important thing. One of the most formative things that has happened in the nation happened through a civil rights leader named Martin Luther King, Jr. Most people don't realize that he only had a net worth of less than \$6,000 at the time of his death, but his impact was so profound. The impact to a community that is experiencing the devastation of homelessness, poverty, and drug addiction is sometimes worth more than just dollars and cents. There are 88 churches in the community, and it has been a joy to see groups of ministerial organizations and churches work together in a way that Xenia's churches and ministries have done. There are resources in this group that are really hard to quantify in dollars and cents; yet, he sat in on the meeting with the area churches and ministries unanimously voted to support the Simon Kenton project and partner with SKBOH. Tomorrow, many will celebrate

Good Friday, but sadly Good Friday is only good because Christ died on the cross; however, Sunday morning came, which was filled with hope. And that is what this community needs right now ... hope. Xenia is the City of Hospitality, and there is a great partnership that is meant to happen through the City and the SKBOH ministry. People are not only physical, mental, emotional, and social; at the core, they are spiritual, which means many things to many different people. Yes, there is a great proposal on the table, and there may be another proposal that doesn't offer as much money, but he implored Council to step up in hope and give hope back to the City. He was grateful to have lived in the City of Xenia for five years, and he likes to tell people that Xenia is one of the best kept secrets. There are so many possibilities in the City, yet some things are devastating this City including homelessness, addictions, etc. Families are caught in cycles of poverty who need help, and he believed the SKBOH ministry can be a significant part of bringing that hope to the people of this community. He has been called to service in New York, and he will miss many members of the Xenia community. He thanked Council for their time; he will continue to pray for the City, for Council, and for the leaders of the Xenia community.

#### **REPORTS OF COMMITTEES:**

**Board of Recreation, Arts & Cultural Activities:** This report was postponed due to Councilwoman Mills' absence.

**Board of Zoning Appeals:** Mayor Bayless said BZA met on March 27<sup>th</sup> on one item to consider a variance to allow a residential facility providing accommodations, supervision, and personal care services for five unrelated persons to be located at 255 W. Third Street filed by HerStory, Inc., which was denied.

**Economic Development Advisory Board:** Councilman Wallace said EDAB met on March 28<sup>th</sup>. They unanimously voted to recommend that City Council endorse a resolution in support of the upcoming Xenia Community School levy. He said Kevin Osterfeld, a developer working in the area of Hospitality Drive, was concerned about the \$38,000 water and sewer tap fees for two properties. He directed Mr. Osterfeld to contact the City Manager's Office. Mr. Osterfeld expressed his appreciation regarding the ease of working with City Staff, especially Mr. Merriman and Mr. Forschner. It was unfortunate that Mr. Huddleson and Mr. Koogler left before he could express Mr. Osterfeld's feelings regarding the difficulty he experienced in working with County Staff during this process. He asked if staff could revisit the tap fees because he did not want to discourage future development in the City of Xenia. Mr. Merriman said he had a very good conversation with Mr. Osterfeld and will have a follow-up meeting with him to discuss his overall experience with regard to development in the City. Staff provided cost comparisons to Mr. Osterfeld from surrounding communities. He noted Montgomery County had a similar fee structure, Fairborn was substantially lower than Xenia's fees, and Greene County and Beavercreek were both substantially higher than Xenia. He agreed with Councilman Wallace's thought process on the issue; the City wants to be as competitive as possible. Therefore, amending the tap fees should not have a significant negative impact on the water and sewer system. The City should consider making some adjustments if it would create a competitive advantage and reduce some up-front costs for the developer. Staff will evaluate the issue with the Engineering and Public Service Departments and bring it back through EDAB because that board has a direct link to Economic Development.

## **ITEMS FROM CITY COUNCIL AND MAYOR:**

**Introduction of an Ordinance amending XCO Section 220.11 Salary of City Council members.** President Engle said City Charter Section 4.04, Salary of Members of Council and Adjustments, states that the salary of Council members, including the Mayor, shall be adopted by June 1 of any odd-numbered year. Further, the annual salary adjustment shall not exceed three (3) percent. The last increase was approved by Ordinance 13-20 in April 2013. Council elected not to amend their salary in 2015; therefore, the salary has remained at \$4,028.25 per year. With 2017 being an odd-numbered year, he respectfully submitted the question to his colleagues and asked that they consider introduction of legislation to amend their salary.

Councilman Louderback introduced an ORDINANCE AMENDING SECTION 220.11 - SALARY OF CITY COUNCIL MEMBERS OF CHAPTER 220 OF TITLE FOUR, ADMINISTRATIVE CODE OF THE CODIFIED ORDINANCES OF THE CITY OF XENIA, OHIO, BY ADJUSTING THE SALARY OF MEMBERS OF THE XENIA CITY COUNCIL, and it was read for the first time.

Councilman Louderback said he was in his office on Saturday evening on Progress Drive. He noted some barrels were put up on Progress Drive, which was very confusing because it said “no left turn.” There were three police cruisers in his parking lot waiting to ticket motorists as they turned left. He received several calls from citizens, and the cost of each ticket was \$161. He suggested the officers should have issued warnings instead of citations since Xenia is the City of Hospitality. He asked why police officers would intentionally sit and wait for motorists to turn left when it was a very confusing situation. In the spirit of public relations for the City, he felt it was wrong to ticket the motorists and feels they should be reimbursed for the cost of their tickets. He asked Mr. Merriman if he could find out how many tickets were issued at that location. Mr. Merriman said he would look into it. Councilman Wallace asked Mr. Merriman what was going on with the situation. Mr. Merriman said he was not certain, but ODOT must have had the turn lane shut down as part of the Hospitality Drive/Main Street improvement project to reduce the traffic flow because there is a restriction from Hospitality Drive out to Progress Drive. The traffic was restricted onto Harner Drive to help reduce the flow. Councilman Wallace asked why they did not put a physical police officer at the intersection to direct traffic. Mr. Merriman said that didn’t happen because it was over an extended period of time. The project is being led by ODOT; therefore, the City did not have complete control over the situation, but he will look into it and provide information back to Council. Councilman Louderback said in the meantime, the barrels have been removed; he asked who put the barrels up. Mr. Merriman said ODOT put them up as part of the project. Councilman Louderback asked why the barrels were removed. Mr. Berger said they were removed due to complaints. Councilman Louderback said that shows there was a big problem. Mr. Berger agreed. Councilman Louderback said the people who received the tickets did not appreciate it, and he did not appreciate it either. President Engle asked for a rundown on the reasons for installing the barrels and any relationship to the safety of workers, etc.; typically, things are set up for a particular reason, and he would like to have those details.

**Actions to Address Law Director Position Vacancy.** President Engle said the Law Director submitted his resignation and accepted a new [private sector] position; Council is very sad to see him go. However, they appreciate his service to the City of Xenia over the last year.

With this position vacancy, Council needs to take action to facilitate continued operations of the Law Department and it is necessary for City Council to articulate its intentions regarding replacement services, which will be done in two phases. First, City Council should take into consideration the immediate service delivery needs and providing for interim assistance, and second, a permanent replacement arrangement. Staff is seeking a transfer of funds (personnel to operating) to solicit a contract for legal services for a period of time until they can find a permanent replacement. Mr. Merriman noted it was not a request for new dollars; it was simply a transfer of funds from personnel (salaries) to contractual services.

Councilman Louderback presented an ORDINANCE AMENDING ORDINANCE 17-03 TO MAKE ADJUSTMENTS IN APPROPRIATIONS FOR CURRENT EXPENDITURES OF THE CITY OF XENIA, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2017, AND DECLARING IT TO BE AN EMERGENCY.

Motion by Councilman Louderback, seconded by Councilman Wallace, that the rules requiring the reading of an ordinance at two consecutive meetings be dispensed with and this ordinance be placed at once upon its passage. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

Motion by Councilman Louderback, seconded by Councilman Wallace, that Ordinance Number 17-13 be now passed. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

Motion by Mayor Bayless, seconded by Councilwoman Mays, to direct the City Manager to negotiate and execute a contract for the provision of interim legal services for the City with a qualified firm. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

## **REPORTS OF CITY OFFICES:**

### **City Manager's Office:**

**Emergency Resolution authorizing the City Manager to enter into an Agreement with the Greene County Engineer's Office to complete the 2017 Street Program.** Mr. Merriman respectfully recommended approval of an emergency Resolution to authorize an agreement with the Greene County Engineer's Office to complete the 2017 Street Program. Xenia has partnered with the Engineer's office over recent years with great success for our street program allowing the City to maximize the return on investment due to the benefit of economy of scale in bidding quantities. A resolution is required by the Engineer to participate in the program. Due to the timing of when staff received information from the County Engineer's office and given the fact delays could slow the bidding process and negatively impact the final bids, staff is requesting Council authorize the resolution as an emergency. He said this is the first

of two steps; the project has not been bid yet. Staff will come back to Council with a final award of the bid after they have been received.

Councilwoman Mays presented a RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE GREENE COUNTY ENGINEER'S OFFICE TO COMPLETE THE 2017 STREET PROGRAM AND TO EXECUTE ALL NECESSARY DOCUMENTS, AND DECLARING IT TO BE AN EMERGENCY.

Motion by Councilwoman Mays, seconded by Councilman Wallace, that the rules requiring the reading of a resolution at two consecutive meetings be dispensed with and this resolution be placed at once upon its passage. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle

Nays: None motion carried.

Motion by Councilwoman Mays, seconded by Councilman Wallace, that Resolution Number 17-J be now passed. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle

Nays: None motion carried.

**Authorize purchase of Ford F-350 Pick Up Truck via the Ohio Department of Administrative Services Cooperative Purchasing Program.** Mr. Merriman respectfully requested authorization to purchase a Ford F-350 Pick Up Truck through the Ohio Department of Administrative Services Cooperative Purchasing Program and authorize a purchase order to Middletown Ford with a not-to-exceed amount of \$49,358.18. The vehicle being replaced is a 2002 model Ford with substantial mileage and increasing maintenance expense. This replacement was scheduled in the 2017 Five-Year CIP approved by Council and funds have been budgeted for this purpose.

Motion by Councilman Wallace, seconded by Councilwoman Mays, to authorize the purchase of a Ford F-350 Pick Up Truck through the Ohio Department of Administrative Services Cooperative Purchasing Program and authorize the City Manager to execute a purchase order to Middletown Ford in an amount not-to-exceed \$49,358.18. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle

Nays: None motion carried.

**Ordinance to waive competitive bidding to purchase a replacement Durapatch Tank from Northcoast Products.** Mr. Merriman respectfully requested introduction of an Ordinance to waive competitive bidding for the Durapatch Tank Replacement and authorize a purchase order in an amount not-to-exceed \$28,025 to Northcoast Products. The Durapatch machine is a critical part of street maintenance operations. The machine essentially has two components: the application machine and a bulk holding tank. The tank is in need of replacement due to its age and growing maintenance issues, which are affecting reliability. The two components are unique and available through only one production vendor; therefore, the waiving of bidding is required. Despite what was written in the staff report, staff recommends introduction of the Ordinance.

Councilwoman Mays introduced an ORDINANCE TO WAIVE COMPETITIVE BIDDING TO PURCHASE A REPLACEMENT OF THE DURAPATCH TANK FROM NORTHCOAST PRODUCTS IN THE AMOUNT OF \$28,025.00, and it was read for the first time.

**Emergency Appropriation Ordinance and Emergency Ordinance to waive competitive bidding and authorizing the City Manager to enter into a contract with Waibel Energy Systems to purchase and install a cooling system in the 911 dispatch radio room at the Justice Center.** Mr. Merriman said this item is related to the installation of a cooling unit for the 911 Dispatch radio room. As presented in the agenda report, the installation of this unit is not directly related to the Justice Center rehab project; however, staff feels that it is impacted by the project and should be done in conjunction with this project. The radio room houses numerous technical components that are critical for the 911 call center and public safety dispatch functions. These equipment components run continuously, and they collectively generate significant heat. Prolonged overheating for this equipment can result in fatal system failures, which has occurred several times over past years. Public safety and facility maintenance staff have worked to creatively manage the heat issues for years with the building HVAC system. These efforts have been at best marginally successful, and during periods when the building HVAC system goes down, there is no contingency system in place as a backup option. Despite best efforts, it has become clear that the space requires its own dedicated cooling unit with redundancy features. City staff engaged our HVAC maintenance contractor, Waibel Energy Systems, for assistance in engineering a long-term solution. Preliminary results of engineering indicate a likely expense of \$150,000 for purchase and installation of the new air unit, which would be adequately sized to meet the need and would include redundancy features to provide layers of protection when the system experiences problems in the years to come. Staff is recommending authorization to appropriate funding for the project and authorization to waive competitive bidding and contract with Waibel given their extensive knowledge of the City's unique needs. While staff was originally seeking emergency passage of these measures, they have learned that the final engineering for the new system will not be completed until next week at best and the actions requested do not need to be passed as emergencies; introduction of the ordinances would be sufficient. It is possible that at Council's next regular session, staff may request emergency passage after the second readings to alleviate the 30-day wait period after ordinance approval and allow them to initiate the installation process as soon as possible at that time. The City has been combating the issue for a number of years, and these components are essential to the function of the 911 Dispatch Center and the network; the costs are split over a number of different funding resources. A portion of the funding would be shared with the County because the 911 dispatch center is a joint-operation between the City and the County.

Councilman Wallace introduced an ORDINANCE AMENDING ORDINANCE 17-03 TO MAKE ADJUSTMENTS IN APPROPRIATIONS FOR CURRENT EXPENDITURES OF THE CITY OF XENIA, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2017, and it was read for the first time.

Mayor Bayless introduced an ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITHOUT FORMAL COMPETITIVE BIDDING WITH WAIBEL ENERGY SYSTEMS FOR THE PURPOSE OF PURCHASING AND INSTALLING A NEW COOLING SYSTEM FOR THE RADIO ROOM AT THE XENIA JUSTICE CENTER, and it was read for the first time.

**Items for the City Manager:** Mr. Merriman provided the following updates:

- **Bulk trash pick-up:** Staff received a quote from Rumpke, which they feel was too high. The quote included one additional bulk pick-up per month at a cost of approximately \$60,000 per year in addition to the cost of the existing contract. Staff did not feel that would adequately address the issue; while it would be a step in the right direction, it would not effectively solve the problem. Staff has initiated some analysis of additional options and opened discussions with the City's Code Enforcement staff and Public Service staff to find alternatives that could provide a more comprehensive service to the residents. Staff hopes to come back at the next Council meeting with the new Rumpke proposal and an alternate option for Council to consider. He recognized Council's concern with items sitting curbside for extended periods of times; therefore, he did not believe Rumpke's proposal for only one additional bulk pick-up per month would resolve the issue.

Councilman Wallace asked if the entire bid would be provided to Council at the next meeting. Mr. Merriman confirmed but noted Rumpke essentially proposed running their crew one additional full week per month. Again, he thinks that is part of what Council wanted, but he did not feel it would provide an adequate solution. Councilman Louderback asked if staff has explored the possibility of the City providing the service. Mr. Merriman said that is exactly what staff is considering. They are looking into the possibility of the Sanitation Department handling additional bulk pickups, and code enforcement issues with major litter, prohibited debris, etc. Staff wants to provide a good plan with solid numbers for Council to consider.

- **Bike Rack at City Administration Building:** Mr. Merriman said the City is once again partnering with the Greene County Career Center to have additional bike racks fabricated, and the plan is to install one in front of the new Administration Building. He did not have a timeline on the fabrication, but it is a great program.
- **Hamvention:** Mr. Merriman said he thinks everyone is very excited about Hamvention coming to the community; EDAB, Council, and staff have all identified it as a priority. He and staff have spent a considerable amount of time at meetings and having discussions with the Fire Chief and Captains; Police Chief, Captain, and Sergeants; Public Service Director, Supervisor, and staff; Public Relations Coordinator; Assistant City Manager; Finance Director and Information Technology staff; etc. They have all spent a lot of time on the event. He wanted to specifically address the issue raised about the internet. One of the specific needs addressed for Hamvention was for full-service internet capabilities for the three-day event. IT Department staff spent approximately 40 man hours working with private vendors to come up with a solution that would have not only provided internet services for Hamvention, it would have also provided a permanent fiber link from the City's Service Center to the Fairgrounds site, which would have been a 24/7/365 connection. He offered the County the concept where the City would help with the upfront capital investment to install the fiber, and the City would also cover half the monthly additional operational fee, which means the monthly fee for the Fairgrounds would have been \$600 per month. He reiterated the City would have covered \$25,000 in

upfront capital and the other \$600 monthly operational fee. Unfortunately, the County did not want to do that, and the Fairgrounds did not have any money to put into the project. Therefore, he was not sure why it is suggested that the City's option was unaffordable. The only caveat to the arrangement was that it needed to be a three-year commitment. The City more than met them halfway, but they pursued an alternative option, which was fine as long as the service is provided. They are now seeking other alternatives to get a permanent solution, even when the City offered a comprehensive and permanent solution by offering up the City's utilities, assets, and cash to help move the project forward. He has not begun to list the costs the City has incurred, and he did not want to risk good-standing with Council by overextending the City's commitment. The issue with the banners is unfortunate, and he will provide the documentation in the form of e-mail correspondence regarding the issue. To his knowledge, the City was never specifically asked to pay for banners. He thought it was extremely important to identify that while Beavercreek and Fairborn may have agreed to pay a few thousand dollars for banners, they will not have police and fire overtime to pay, public service overtime to pay, and they have zero costs in the event. Beavercreek and Fairborn represent the largest retail communities in the county and will directly benefit from the event. Councilman Wallace noted they will also get hotel/motel taxes as a result of the event. Mr. Merriman agreed. There will be many benefits for the City of Xenia, but they also have substantial costs invested in the event. While the County is putting dollars into the event, they will also receive hotel/motel tax; more importantly, they will receive all the sales tax regardless of where visitors stay. The City is in a similar boat as Xenia Township because they also have substantial costs in the event with zero revenue. Mayor Bayless noted the City of Xenia is only one-third of the entire Fairgrounds. Mr. Merriman agreed; most of the event is in the Township. He did not want to get into any issues with the gentlemen from the County, but it has been Council's priority to support Hamvention, and staff has been actively involved from the time they were informed of the event and continue to be involved literally on a weekly basis. Therefore, the City has a lot of skin in the game; however, it is worth noting that there are other communities that will get far greater financial rewards with little to no financial contribution for the event. Mayor Bayless noted that clarification was worth pointing out to citizens to prevent any misleading ideas. Mr. Merriman said it appeared as if the City was being petty and didn't want to pay for banners, but frankly, that is not an accurate assessment of the situation. He will provide the e-mail to Council to support his comments. Additionally, the City of Xenia is not just putting dollars into the event; they are also trying to arrange the event so that it did not dramatically inconvenience the citizens of Xenia. Traffic, eating out, cell service, etc., will be affected during the three-day event, and staff is working hard to minimize its impact on citizens while trying to recoup some benefits. He felt it was a little disingenuous for Mr. Huddleson and Mr. Koogler to present information in the manner they did, which he did not appreciate. Council and staff are all doing their part to help initiate a successful, five-star event. Finally, it should also be noted that the Hamvention contract was negotiated with the Fairgrounds and County Commission, but the City did not learn about the contract or event until mere days before the public announcement was made—an event that would obviously require substantial local participation and investment. Staff and the City are doing their part and are very proud to do their part. They hope the event will be a part of the community for a long time to come.

Mayor Bayless added the schools will be closed on Friday, which should lessen traffic flow that day. President Engle said he understood the Xenia Community Schools are experiencing some substantial grief with this event's location and the disruption it will bring to the citizens, and the knowledge was also needed for the schools before hand. Mr. Merriman said Xenia Community Schools and Xenia Township were not involved in the planning conversation for the event until early March of this year for an event that was announced last September. Therefore, the Xenia Community Schools were also blindsided; he applauded their decision to go with staff's recommendation [to close schools on Friday, May 19<sup>th</sup>] because it is in the best interest of the safety of the students and parents. Councilman Wallace asked if Mr. Merriman could put together a list of the expenses incurred by the City for the event for Council's information to prevent future blindsides. He likes to put facts on the table when being accused of not doing anything. Mr. Merriman said he could provide that list to the Xenia Gazette and the County Commissioners to remind them that Hamvention is a group effort, and Xenia is doing its share to move the event forward.

**Finance Director's Office:**

**Award of Bid for Digital Copier Lease.** Mr. Bazelak respectfully requested an award of bid for the lease of 12 digital copiers from ProSource in a not-to-exceed amount of \$1,880.37 per month plus \$692.50 for maintenance. These copiers will replace seven existing leased copiers, some purchased copiers, and printers, which are four to six years old. The replacements will be made for an additional \$11 per month. He commended the IT Staff and all the members of the Copier Committee for their time and effort during this process.

Motion by Mayor Bayless, seconded by Councilman Louderback, to award the bid for Digital Copiers to ProSource from Blue Ash, Ohio, for the lease of twelve (12) digital copiers in the amount of \$1,880.37 plus \$692.50 for maintenance, which includes 100,000 black/white and 9,000 color copies or prints per year, regular and on-demand repair maintenance, and toner supplies, with a fair market value per copier buyout option at the end of the lease term. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

**Schedule of Bills:** Mr. Bazelak presented payment of bills totaling \$840,106.38.

Motion by Councilwoman Mays, seconded by Councilman Wallace, to approve payment of bills totaling \$840,106.38. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

Mr. Bazelak said it is City Income Tax filing season. The Tax Office will be open from 8:30 a.m. to 4:30 p.m., Friday and Monday and 8 a.m. to 6 p.m. on Tuesday to assist taxpayers in filling out their City returns. Secondly, he congratulated Mr. Schierloh on his new job and extended well wishes for his future endeavors. He felt he will be successful in whatever he does. Hopefully, he will come back to visit. Mr. Merriman echoed Mr. Bazelak's comments.

**Items for the Finance Director:** None.

**Law Director's Office:**

**Introduction of Ordinances and Resolutions:** Mr. Schierloh said the Ohio General Assembly approved a measure legalizing medical marijuana, which was signed into law by Governor John Kasich on June 9, 2016. The state law includes language permitting local government to ban all or part of the medical marijuana measure. In particular, ORC 3796.29 specifically states that “[t]he legislative authority of a municipal corporation may adopt an ordinance, or a board of township trustees may adopt a resolution, to prohibit, or limit the number of, cultivators, processors, or retail dispensaries licensed under this chapter within the municipal corporation or within the unincorporated territory of the township, respectively.” Thus, despite the General Assembly’s efforts to legalize medical marijuana, the City may take action to effectively ban the cultivation and processing of such product within its boundaries, along with prohibiting retail dispensaries that dispense medical marijuana to qualifying customers. Staff has thoroughly discussed this issue and has previously engaged in a special presentation with Council to debate the benefits and disadvantages of permitting the cultivation, processing, and dispensing of medical marijuana within the City’s municipal boundaries. As a result of this evaluation, staff has determined it to be in the best interest of the community health, safety, and welfare to prohibit any cultivation, processing, or retail dispensing of marijuana for medical purposes in any form within the City of Xenia. And, in accordance with State law, staff recommends that Council adopt an emergency ordinance thereby establishing a new Chapter within the City’s Business Regulations effectuating a ban on the cultivation, processing, and dispensing of medical marijuana within the City of Xenia’s municipal boundaries.

Councilman Louderback presented an ORDINANCE TO AMEND CHAPTER 802 - DEFINITIONS AND CREATE CHAPTER 872 - MEDICAL MARIJUANA CULTIVATORS, PROCESSORS, AND RETAIL DISPENSERS IN PART EIGHT – BUSINESS REGULATION AND TAXATION CODE, TITLE TWO – BUSINESS REGULATION OF THE XENIA CODIFIED ORDINANCES TO PROHIBIT RETAIL DISPENSARIES, CULTIVATORS, AND PROCESSORS OF MEDICAL MARIJUANA WITHIN THE CORPORATE LIMITS OF THE CITY OF XENIA, OHIO, AND DECLARING IT TO BE AN EMERGENCY.

Motion by Councilman Louderback, seconded by Councilwoman Mays, that the rules requiring the reading of an ordinance at two consecutive meetings be dispensed with and this ordinance be placed at once upon its passage. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

Motion by Councilman Louderback, seconded by Councilwoman Mays, that Ordinance Number 17-14 be now passed. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle  
Nays: None motion carried.

**Authorize litigation to challenge SB 331.** Mr. Schierloh said Senate Bill 331 was introduced in May 2016 and was originally intended to address pet retailers. However, when Gov. John Kasich signed SB 331 into law in December 2016, it had become an omnibus bill covering a variety of seemingly unrelated topics applying only to cities and counties. In particular, the bill included an amendment that gave utility companies full rein to install “small-cell wireless nodes” to such structures as street signs and traffic lights within cities’ public rights of way. When such structures are not present, the bill allows companies to install a tower, similar to a telephone pole, for infrastructure. SB 331 took effect on March 21 and has been opposed by many cities because the bill takes power away from local governments by giving utility companies the ability to install small-cell wireless nodes almost anywhere within public rights of way. The City of Xenia, along with many other municipalities in this region as well as throughout the state, believes that SB 331 is a direct attack on the home rule authority granted to municipalities under the Ohio Constitution. A group of 50 cities, mainly from central Ohio and near Dayton, banded together for a lawsuit against the state to challenge SB 331. Many of the cities are in the Central Ohio Mayors and Managers Association, including Bexley, Canal Winchester, Columbus, Delaware, Dublin, Gahanna, Grandview Heights, Grove City, Hilliard, New Albany, Pickerington, Powell, Reynoldsburg, Upper Arlington, Westerville, Whitehall and Worthington. Xenia has been asked to join in the lawsuit as well. The Ice Miller law firm in Columbus will handle the lawsuit in Franklin County, and partner Greg Dunn will be leading the case. The different cities will share in the cost for the litigation; Xenia’s contribution is \$6,000.

Motion by Councilman Louderback, seconded by Mayor Bayless, to authorize City staff to engage the City in the litigation to challenge SB 331 and expend \$6,000.00 as part of a cost sharing agreement for the court action. Discussion followed.

Councilman Wallace said he believed EDAB also endorsed this issue.

Councilman Louderback thought it was comical that legislators tried to slip this [small-cell wireless nodes] into a pet bill; they must think everyone is stupid. Mr. Merriman said it should be pointed out that the intent of the City of Xenia, as well as the other participating communities, is not in any way to stifle the growth of these cellular networks because it is good for local citizens, the economy, etc. However, the key issue is that it was a mandate from the State of Ohio that impacts home rule; when those infrastructures are installed, it should be pursuant to local requirements. This was meant as a give-back to the big cell companies, which is why it is important to small communities like Xenia to have the home rule.

President Engle said if he understood the measure correctly, there is essentially no right of refusal by the cities. Mr. Merriman and Mr. Schierloh said that was correct—as long as these devices follow the size limitations, they could be placed anywhere in the City’s right-of-ways. Mr. Merriman said they could also use the City’s existing infrastructure if they so desired. President Engle said the addition of these devices would be for the cell companies’ profit. Councilman Wallace said and it would be without the City’s approval. Mr. Merriman and Mr. Schierloh confirmed. Mayor Bayless said the local Managers & Mayors organizations put money into this litigation to join the fight with the individual communities. Councilman Wallace said he found it interesting that the State Legislature would roll over if the Federal Government did this to the State, but yet, they are attempting to do it to the cities and counties; it seemed a little disingenuous.

The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle

Nays: None motion carried.

**Second Readings of Ordinances and Resolutions:** Mr. Schierloh presented an ORDINANCE REZONING A THREE-ACRE PARCEL AT 626 NORTH COLUMBUS AVENUE FROM R-1B ONE-FAMILY RESIDENTIAL TO P-1 PUBLIC AND INSTITUTIONAL DISTRICT, and it was read for a second time.

Motion by President Engle, seconded by Councilwoman Mays, that Ordinance Number 17-15 be now passed. No discussion followed. The Roll on this was the following:

Ayes: Louderback, Mays, Bayless, and Engle

Nays: None motion carried.

Councilman Wallace recused himself from the vote.

Mr. Schierloh said there are some jobs that are easy to walk away from, but his job with the City of Xenia was not one of them. The people in the City that he has had the opportunity to work with have been remarkable, intelligent, bright, and very welcoming. He appreciated Council giving him the opportunity in trying to make the City a better place, and he has enjoyed working with each Council member individually and collectively, along with everyone at the City of Xenia. There are few people who have impressed him in this world as much as the honorable Mayor Bayless. What a wonderful ambassador she is for the City of Xenia; she truly cares from the top of her head to the bottom of her feet about the City. He has never met anyone so passionate about the community where they live. She attends every event possible and provides a wonderful detailed description at the end of every Council meeting. He has really appreciated his time with Mayor Bayless. Mayor Bayless thanked him for his kind words. He thanked Council and staff for the opportunity and hopes to keep in touch with everyone in the future.

**Items for the Law Director:** None.

**READING OF COMMUNICATIONS AND DISCUSSION:** Councilman Louderback wished Mr. Schierloh the best of luck in the future. He said there are 20 public parking spaces available behind the City Administration Building. Mr. Merriman confirmed and added the entire southern portion of the parking lot is available to the general public as two-hour parking. Staff is working on a video regarding parking, which will be playing in the lobby and will be posted on Facebook. Councilman Louderback said he hopes everyone finds the true meaning of Easter. For those who believe, Jesus died on the cross so that they might have eternal life, and three days later he arose. He wished everyone a Happy Easter.

Councilwoman Mays concurred with Councilman Louderback and hopes people find a church to celebrate Easter, which is a wonderful day to celebrate. She can provide a list of 15 local churches and can point people in the direction of a church if they contact her. The Community Easter Egg Hunt will be held on Saturday, April 15<sup>th</sup> at 11 a.m. at Shawnee Park, with basket give-a-way registration beginning at 10 a.m. They currently have 40-50 baskets to give out, there

are 10,000 eggs to hunt in age specific and special needs categories, and the Easter Bunny will be present. She noted Strong Tower Media will provide music. This event is possible due to the partnership of the Xenia Area Association of Churches and Ministries and BRACA. She thanked Cheryl Marcus and the Xenia United AME Church for inviting her to be the guest speaker at their Women's Missionary Society prayer breakfast on April 1<sup>st</sup>, which was an honor. It was a lot of fun and a great breakfast. She thanked Cheryl and the church for the invitation.

Councilman Wallace extended his sincere apologies to Councilwoman Mays for missing the event on April 1<sup>st</sup>. He invited anyone interested to celebrate Easter at First United Christian Church at 6:30 a.m. on Sunday for their Sunrise Service. Breakfast will be provided immediately following the service. He wished everyone a Happy Easter. He thanked Mr. Schierloh for his service; he appreciated and enjoyed having him with the City. He wished him the absolute very best in his future endeavors; God speed. He thanked Judge Murry for his letter in regard to the raise for Court Staff, which was supported by City Council.

Mayor Bayless provided the following updates:

- She reminded the public that Charlie Huff will be doing his Good Friday march starting at IHS Pharmacy on Friday at noon.
- She congratulated City Staff for an excellent job sponsoring the first Neighborhood Night Out at Shawnee School. There was a great turnout with great participation by the community.
- She attended a ribbon cutting for Fastenal who has a new building in the Industrial Park off of Home Avenue because they outgrew their previous location. She encouraged citizens to drive around and explore the business area.
- She attended another ribbon cutting for Spark Place on the upper floor of the Greene County Library. Spark Place offers the latest technology, tools, and software available to record a demo tape, make buttons, sew a blanket, edit photos, design ads, solder jewelry, and even create carved wood pieces with the use of a computerized router. Everything is offered for free or at a very low cost for the material. They are open every day except Sunday.
- She attended the CSU Community Land Grant Day, which was very informative. There were student speakers who spoke at very high scientific and environmental levels. She noted there was a live snake at the event.
- She attended a farewell surprise that was held at the Xenia Municipal Court for one of their probation officers, Jason Parsons, who is being deployed to Kuwait for a year. Mr. Parsons is a recent new father and will be leaving his wife and three-month old daughter. She provided comments at the event along with General Loren Reno from Cedarville University. General Reno ended his presentation by holding the baby in his arms and telling her how great her dad is; there was not a dry eye in the place. It was an excellent farewell for Mr. Parsons.
- There are a lot of good people who pass through the City, and just like Mr. Schierloh, some are only here for a season, but the mark they leave is so great that it will be remembered always. She is thankful that she had the chance to get to know Mr. Schierloh and that he was able to touch the lives of so many people. It is hard to put a salary on the character of a person, but the City definitely got its money's worth with Mr. Schierloh. She is thankful for his time and service.
- She wished everyone a Happy Resurrection, and reminded them that it is not about the eggs or the Easter Bunny. Rather, it was about what Christ has done to save each of them.
- She briefly attended the Business After Hours at Elmcroft earlier in the evening.
- She congratulated One Bistro on their one-year anniversary.

President Engle wished everyone a Happy Easter and wished everyone the best in celebrating Passover or other celebrations. He said he was truly sorry to see Mr. Schierloh go. They spent a

lot of time finding him and he was the best possible candidate. He was certain Mr. Schierloh will go on to a great opportunity, and the person who follows him will have big shoes to fill. He has known many individuals in the legal profession, but Mr. Schierloh exemplifies what anyone should look for in a lawyer or Law Director. He is engaged, available, and always ready to lend an ear or offer insightful words, which is in short supply everywhere these days. For all those reasons, he is terribly sorry to see Mr. Schierloh go. If Mr. Schierloh ever changes his mind, the City would be happy to have him back. The City greatly appreciates his service and wishes him the best of luck in the future.

**ADJOURNMENT:** Motion by Councilman Louderback, seconded by Councilman Wallace, to adjourn the Regular Session at 8:42 p.m. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Louderback, Mays, Bayless, and Engle

Nays: None motion carried.

Michelle D. Johnson  
City Clerk

Michael D. Engle, President  
Xenia City Council