

**XENIA CITY COUNCIL  
MEETING MINUTES  
JULY 22, 2021  
6:00 P.M.**

Jeremiah Byrd, SOS Ministries, provided the Invocation before the Call to Order.

**A. PLEDGE OF ALLEGIANCE:** All present stood and recited the Pledge of Allegiance led by Councilman Cody Brannum.

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

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

Motion by Mayor Mays, seconded by Councilwoman Dean, to excuse Councilman Urschel from the meeting. She noted he is caring for family out of state. No discussion followed. The Roll on this was the following:

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

**D. APPROVAL OF MINUTES:** Motion by Councilwoman Dean, seconded by Councilman Brannum, to approve the July 8, 2021, minutes of the Regular Meeting as written. President Smith entertained comments. No comments followed. The Roll on this was the following:

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

**E. SPECIAL PRESENTATION(S):** President Smith invited Mayor Mays to present the proclamation to Mr. Ken Collier, Greene CATS Executive Director, in celebration of Greene CATS Public Transit 20<sup>th</sup> Anniversary. Mayor Mays presented the proclamation to Mr. Collier. (Applause followed.) Mr. Collier thanked Mayor Mays and City Council for the recognition. He said the last year was difficult, but they were able to continue providing services. He was thankful that the City continues to support their services and allowed them to continue to use Xenia Towne Square as a transfer point. He looks forward to being involved with the Towne Square's revitalization. Mayor Mays thanked Mr. Collier and his staff for the work they do and the services they provide. She noted she had an opportunity to do a ride along with Mobility Manager Shannon Webster, who was very helpful in answering her questions and explaining how the system works. She encouraged those with questions to contact Ms. Webster at Greene CATS to learn more.

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

Dale Louderback, 1272 Eagles Way, said Council will be discussing the proposed changes this evening in a work session. He expressed concerns about the proposed amendments to the elections process. He said it is a conflict of interest for the City Clerk to review petitions. The staff at the Board of Elections will thoroughly explain how to fill out the petition. He noted some past Council

members did not fill out the forms correctly, and they paid the consequences. He believed it would be a bad decision to bypass the Board of Elections. He was opposed to this proposed amendment and many others.

John Caupp, 936 Orville Way, said he was also present to discuss the proposed Charter amendments. He read through them, and there are a lot of sweeping changes, which he felt was too much to do all at one time. He did not believe all the Council members would agree to put all those amendments on the ballot at one time in addition to expecting voters to agree to all of those changes at one time. He did not agree with changing the terms of Council members so the terms are staggered 3-2-2; he said 4 terms one year and 3 terms two years later has worked for many years—there is no reason to change it. With the change, the lowest two vote getters would only serve three-year terms. Regarding residency requirements, he feels it was very important to require the City Manager, as CEO of the City, and the Finance Director, as CFO of the City, to live in the City limits; the individuals in those two positions should live in the City and be ambassadors for the City. He disagreed with removing this requirement from the Charter, and if those on Council agreed with that change, then they should not be serving on Council. He feels the sweeping changes are disingenuous to voters because he did not feel they would understand all the changes.

Rosemary Bradley, 491 W. Second Street, said she is one of the owners of Country Blessings, and she was present to discuss the ongoing and growing issue of homelessness in the community. At one time, Xenia and other organizations stated they were going to work on and with the homeless individuals in this community to offer services and shelter; she was still waiting to see when and where those services will take place. There has been lots of loitering around her business and the bike path, on her business property, and in the Midtown District—an area commonly referred to as “the highway of activity.” She has called the police numerous times to help and assist in removing numerous individuals. She has also had to increase her security system and change the way they operate in order to avoid issues and conflicts with homeless individuals. On numerous occasions, she has been concerned for her own safety. As a business owner, she wants to be proud of this community, and when out of town customers visit the store, the last thing she wants them to see is a boarded up community and homeless individuals sitting around and camping out all day. Something needs to be done—the organizations who said they would do something to help these homeless individuals find housing and jobs need to be held accountable. The increase in homeless individuals, the lack of respect that they have for business properties, and the abuse of tax payer dollars by constantly having to call the police to come and deal with them will only further the downward spiral of the City. The safety and wellbeing of her customers and her business are her top priority—the City needs to help local small businesses like hers feel safe again.

**G. OLD BUSINESS:** None.

**H. PUBLIC HEARING(S):** None.

**I. NEW BUSINESS:**

**1. Introduction of Resolution 2021-EE Authorizing the Execution of an Agency Agreement with the Xenia Community Improvement Corporation.** Assistant City Manager Jared Holloway said in February of this year, Council authorized the establishment of the Xenia Community Improvement Corporation (XCIC) with the intent that they would act as an agent of

the City upon its formation to assist in 1) planning for economic development and land reutilization; 2) the sale or lease of lands owned by the City for uses that will promote the welfare of the City's citizens by promoting development and employment; and 3) the conveyance of lands to the XCIC. Since that time, the board has been formalized and they have secured indemnification coverage and budgetary resources, and they are working to formalize as a non-profit entity with the State of Ohio. Resolution 2021-EE is a formal next step in this process, requesting the City Manager be authorized to sign an agency agreement with the XCIC, thus allowing the City and XCIC to begin engagement on projects that advance the economic interests of the community. Staff respectfully recommends introduction of Resolution 2021-EE to authorize the City Manager to execute an agency agreement with the XCIC.

President Smith entertained comments or questions. Hearing none, he requested introduction of Resolution 2021-EE as presented.

Mayor Mays presented RESOLUTION 2021-EE AUTHORIZING THE EXECUTION OF AN AGENCY AGREEMENT WITH THE XENIA COMMUNITY IMPROVEMENT CORPORATION, and it was read for the first time.

**2. Administrative Motion Authorizing the Execution of a Contract with Right Stuff Software Corporation for Scheduling and Timekeeping Software and Implementation Services.** Finance Director Ryan Duke said in March 2013, the City began the implementation of its first electronic scheduling and timekeeping system once OSL Solutions was awarded the contract by City Council in February 2013, after an RFP process solicited potential software solutions. As City staff evaluated the responses, it became clear that there were only two viable vendors—one of course being OSL Solutions, and the other being Right Stuff Software. Ultimately, because of a significant difference in price, staff recommended the contract be awarded to OSL Solutions. At that time, OSL provided a nice step forward helping to properly account for time and centralizing scheduling efforts. The City's scheduling and payroll rules are fairly complex with each of the City's seven bargaining units having their own unique provisions in addition to non-union rules and policies. OSL accommodated probably 95% of the requirements but there was a small portion of the functionality that never quite hit the mark. As time has gone by, very little has changed and the product has become somewhat antiquated, i.e., OSL is basically the same product as was implemented in 2013 and has not adapted to changes or been improved over time. He noted the owner is a good guy, but he is a one-man show and serves as the owner, the developer, the service tech support person, etc., and as a result, it is clear that he is okay with the status quo. Over time, the system has become more and more unreliable, and there are several issues every week that need to be resolved. There are also some accessibility issues. He explained that when employees are using the system on the City's network, it can be accessed quite easily; however, employees who wish to use the system offsite or while working through a VPN, the system doesn't work and/or respond well—sometimes taking up to 30 minutes to load the product, which makes it impossible to use outside the City network. Another issue encountered over the years is staff has to routinely enter time in both the OSL timekeeping/HR software as well as the payroll software, resulting in a lot of duplicate entries because the systems do not talk to each other. In making a change, staff desires to be a little more efficient with whatever product they move to and enter information only once. In September 2019, staff issued an RFP seeking a replacement product for OSL in addition to a replacement of the City's payroll system. The City received six responses with each recommending different software platforms and approaches for service delivery.

Unfortunately, none of the six delivered on all three desired components. However, staff felt that BS&A stood out from the rest and were impressed by its HR/payroll software. As they moved forward in trying to implement that product, they realized that it could not handle the complex Public Safety scheduling and timekeeping needs. Instead, BS&A proposed that a company called Novatime be used, which was a preferred partner who had built an interface to interact with HR and Payroll. Staff, however, was not impressed by Novatime and requested some other alternatives. Ultimately, staff landed on a company called Time Clock Plus whose demonstrations seemed quite promising. Unfortunately, the implementation process stalled as staff endeavored to implement the scheduling component for police and fire. It became very evident that the system could not handle Public Safety schedules leaving the City without a viable timekeeping solution for the future.

After reaching out to some other local public safety departments to inquire about their scheduling and timekeeping solutions, staff found that both the Greene County Sheriff and the City of Beavercreek are using Right Stuff Software with whom of course several City staff members are familiar. Staff reached out to Right Stuff to inquire about a rebooting of the conversations they had begun with them almost a decade ago. After multiple demonstrations, staff was even more impressed with the new iteration of the software and requested a quote from Right Stuff, which has been updated several times since they had last seen it and includes new and innovative ideas. Staff feels that pairing Right Stuff's software with the BS&A payroll/HR software is the best long-term solution. While he was not recommending any action with regard to BS&A this evening, he would like to move forward with Right Stuff's software. Right Stuff's software is remotely hosted, which means employees and supervisors will be able to access the product from anywhere there is an internet connection. Supervisors will be able to manage their employees' time and schedules from their mobile device and employees will be able to access the system from the field. For example, police officers will now be able to access the scheduling system from their cruisers. This functionality is not available today. Employees will also now be able to view their schedule from home—an important feature for 24/7 operations. Employees can also request time off or approve their timesheets remotely. Many other pieces of functionality will greatly enhance City operations, improving reliability, accountability, and the efficiency with which time can be managed. Personnel is the City's most significant cost and ensuring the accuracy and the reliability of the system managing that time is of the utmost importance. The cost of the Right Stuff product is a one-time fee of \$35,200 for data conversion, setup, installation, and training. In addition to the initial setup fees, there are annual software service fees costing at most \$36,756, which is capped at 3% per year.

President Smith entertained comments or questions.

Councilman Scrivens confirmed that Right Stuff did not provide the HR system software. Mr. Duke said that was correct. Right Stuff is exclusively a timekeeping and scheduling leave management system. The current provider, OSL Solutions, provides a very basic HR component, but BS&A's HR component will be much more complete. He would bring a recommendation to Council at a later date for the HR component. Councilman Scrivens asked how long the current system has been in place. Mr. Duke said the City has been using OSL Solutions since 2013. However, the payroll vendor, Software Solutions, was implemented in 2006 and upgraded in 2013.

Hearing no further discussion, President Smith entertained a motion.

Motion by Councilman Scrivens, seconded by Councilman Brannum, to authorize the execution of a Hosting Agreement and License Agreement with Right Stuff Software, upon terms and conditions to be approved by the Law Director, for the provision of a timekeeping, scheduling, and leave management software platform tailored to the City's environment. The Agreements will not exceed \$35,200 for implementation and \$36,756 annually (with a 3% maximum increase each year) for support and licensing costs. President Smith entertained comments or questions. Hearing none, he noted that he agreed that employees and payroll are the City's biggest expense, and if Mr. Duke believes this is the best way forward, then he supports it. The Roll on this was the following:

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

**3. Administrative Motion Approving the Schedule of Bills in the amount of \$356,242.96.**  
Mr. Duke respectfully requested the payment of bills in the amount of \$356,242.96.

President Smith entertained questions or comments. Councilman Brannum asked about the payment to Advanced Wildlife, noting he thought the City was charged a flat fee but there was an additional fee on the schedule of bills. Mr. Holloway said the City contracts with Advanced Wildlife for the pickup and removal of general nuisance critters located outside. The extra charge noted on the schedule of bills was for services requested above and beyond the contract terms to remove a raccoon from inside the Adult Recreation and Services Center.

Motion by Councilwoman Dean, seconded by Vice President Dean, to approve the schedule of bills in the amount of \$356,242.96. No discussion followed. The Roll on this was the following:

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

## **J. APPOINTED OFFICIALS REPORTS**

President Smith asked Mr. Duke for his comments. Mr. Duke did not have anything further to share.

President Smith asked Ms. Fisher for her comments. Ms. Fisher said she received a notice regarding the Purdue Pharma bankruptcy case, and all states, including Ohio, have reached a point of settlement in the case against Johnson & Johnson and the distributors. She will not be able to attend a meeting the next day on July 23<sup>rd</sup> due to her attendance at the Ohio Municipal Attorneys Association (OMAA) Law Institute; however, Mr. Garry Hunter, OMAA Executive Director, will be attending to share their collective interest in participating in the settlement. She hopes to have some numbers to share with Council very soon.

President Smith asked Mr. Holloway for his comments. Mr. Holloway did not have anything further to share.

## **K. REPORTS OF BOARDS AND COMMISSIONS:**

**1. Public Service & Utilities Committee:** Vice President Dean said the Committee, comprised of Councilman Brannum, Councilman Scrivens, and himself, held its first meeting on July 15<sup>th</sup>. As published on the agenda, they received a presentation on Storm Sewer Funding and discussed an alternative fee structure (Equivalent Residential Unit [ERU] Methodology), they reviewed the 2021 Street Rehab Program and discussed future street projects, and received an update on the closed Municipal Landfill Monitoring and Compliance Initiatives.

**L. COUNCIL COMMENTS:**

Councilman Brannum said he wished to address some of the questions presented during audience comments during the Work Session on the Charter amendments.

Councilwoman Dean had nothing further to share.

Councilman Scrivens expressed condolences to the families of Emanuel Goss, Jr., and Darrel “Fred” Herdman, Sr. Since the last Council meeting, he traveled to Huntsville, Alabama, to lay his cousin Danny Scrivens to rest. He noted they just celebrated astronaut John Glenn’s birthday, and now people can travel into space just like they are getting on a plane. Air travel has come a long way in his lifetime. He wished Mr. Duke and City Manager Brent Merriman a speedy recovery. He noted some roads in Xenia are getting paved, and that’s a very good thing. The street pavement index is still mostly red, but at least there is now one “green” street. Finally, he expressed his disappointment in the recent acts of vandalism in the downtown area. It was never okay to throw bricks through downtown windows, and the vandalism has to stop.

Mayor Mays said on Tuesday, July 13<sup>th</sup>, the City of Xenia hosted the Xenia Area Association of Churches and Ministries, which is a group of ministries and churches that meet monthly. Every July, the City of Xenia hosts the meeting as a way to engage the faith community to update, help, and complement each other. On Saturday, July 17<sup>th</sup>, the Friends of Xenia Station (FOXs) hosted another meet-and-greet as people into Xenia Station. In the short time she was there, two groups of people arrived including five families from Illinois who came to Xenia to stay here, ride the trails, and spend their money here. She had several other positive meetings with good communication. She thanked Mr. Byrd and his wife Carolyn from SOS Ministries for praying this evening, noting they were doing great things with their ministry here and in the Miami Valley. She thanked Ms. Bradley for speaking this evening regarding the homelessness crisis. There are homeless individuals across the country—there is no easy solution and nobody has any great answers. However, it’s important to speak up and make Council aware of community concerns. She thanked Councilman Scrivens’ for his comments on the downtown vandalism, noting she had an opportunity to speak with Ms. Doris Adams on Saturday while shopping downtown. Xenia is the City of Hospitality, and she hopes this community takes that seriously and lives up to that. She encouraged everyone to continue to be thoughtful in their communication and actions.

Vice President Dean said he was also looking forward to discussing the proposed Charter amendments during the work session.

President Smith said Glazed donut shop is now open on N. Detroit Street. He welcomed them to the City, wished them a lot of success, and thanked them for the improvements they made to the building and the parking lot. He concurred with Councilman Scrivens; he was also very

disappointed with the destruction in this community. The Greek word for hospitality is Xenia, and he did not take this community for granted. He loves this town, and he believes all Council members and all those present in the audience also love Xenia. He agreed they needed to continue to be gracious and kind. He knows there is a homeless issue in Xenia, but as others have stated, there is a homeless issue across the entire country. There are some things that can be done, noting Councilman Urschel has been working on some plans and ideas.

**M. EXECUTIVE SESSION:** None.

President Smith said they would take a short recess before beginning the Work Session, which would not be televised. The Council was in recess from 6:45 to 6:53 p.m.

**N. WORK SESSION:**

**1. Discussion on Ordinance to Provide for the Election on Amendments to the Xenia City Charter.** President Smith said the Charter Review Committee was comprised of citizens with some Council representation. He did not expect the Council to take action this evening on the proposed Ordinance to provide for the election on the Charter amendments. He then entertained comments or questions.

Ms. Fisher said she wished to address some of the comments made during Audience Comments. She noted the proposed Ordinance did not include any amendments to Article XI – Elections; further, there are also no proposed amendments to Article XII – Referendum. She agreed the proposed amendments are “sweeping”; however, the Charter has not been comprehensively reviewed and/or amended for 23 years (since 1998). Regarding the proposed changes to the election cycle, the Commission recommended the 3-2-2 cycle because the current Charter does not indicate how elections are to be held, so she was not sure how they landed on 4 terms in one election and then 3 terms two years later. With the proposed change to the 3-2-2 cycle, the two Councilmembers serving the three-year terms would occur only once, and then they would be back to four-year terms. Regarding residency requirements, the State of Ohio passed Section 9.481 in 2006, which prohibits any political subdivision in the State (County, Township, City) from having residency requirements—even in the City Charter. The only residency requirements the City of Xenia can require is for public safety personnel (police officers and firefighters) who can be required to live in the County they serve or in an adjacent County. The residency law has been challenged many times (Youngstown, Cleveland, Toledo, et. al), and the Lima case went all the way to the Supreme Court. In 2009, the Ohio Supreme Court upheld that law, which is a General Law of the State of Ohio and cannot be trumped by a City Charter. If a residency requirement is listed in the City Charter, it cannot be legally enforced because the State of Ohio took away the power to do that in 2006. An audience member asked if an employment contract could require residency. Ms. Fisher said they cannot violate State Law with an employment contract. Regarding the Charter amendments as presented and recommended by the Charter Review Commission, City Council can choose which amendments to place on the ballot, but they cannot amend any of their proposed changes.

Vice President Dean asked if it was permissible to remove one word. Ms. Fisher said no; they could accept the proposed changes as recommended, reject the recommendation and wait until the

next Charter Review cycle (every five years per §8.05), or reconvene the Charter Review Committee and send items back for reconsideration.

Councilman Scrivens thanked all the citizen volunteers who served on the Charter Review Committee for well over a year. Their effort is the best he has seen, and he has yet to decide if he will support all the recommendations.

Councilman Brannum asked if they can remove proposed amendments to a particular subsection of an Article or if they would have to remove the entire Article. Ms. Fisher said they could recommend that amendments to a specific subsection not go forward as long as there is no conflict and the Charter still makes sense with a proposed amendment removed and the existing language remaining as is. She reminded the Council that at this point, the Ordinance to put the Charter amendments on the ballot would need to be passed as an emergency, but even if it was introduced, it would still require five affirmative votes. They can wait until August 12 or 26, but she would prefer action sooner than later so the Ordinance can be certified to the Board of Elections.

President Smith commented on the Charter Review Commission's proposed changes to Article XI – Elections, noting the City Clerk will simply *assist* candidates in the petition process; the changes will not eliminate the Board of Elections' process or circumvent the Board of Elections. Ms. Fisher said that was correct. President Smith said he recently pulled a petition, and the Board of Elections does not help at all. An audience member tried to interject, but President Smith pounded the gavel and said the audience members could remain in the room and observe the meeting, but they could not ask questions, make statements, or participate. President Smith went on to say that in the last eight years, a total of four people pulled petitions to run for City Council, but they were not provided any assistance or the ability to make any corrections and ended up not getting on the ballot. There were several interjections from audience members. President Smith again stated the Council was meeting in a Work Session, and they do not allow audience comments. Again, the audience members were welcome to be present and observe, but that was all.

Mayor Mays suggested they review the proposed amendments one article at a time. Ms. Fisher said the Ordinance included more descriptive information; however, she quickly reviewed the following:

- **Articles I – Name, II – Form of Government, and III – Powers of the City:** No substantial changes; editorial revisions only.
- **Article IV – City Council:** Powers moved from Article V and beefed up; language added to §4.02(c) to address when elections for Councilmember and Mayor are to occur. Change current practice of a biannual election cycle, with four Council seats chosen in one election and the Mayor and two Council seats chosen two years later. Beginning in 2025, establish a three-year election cycle with two Council seats and the Mayor in one year, two Council seats the next year, and two Council seats the following year. Outlined the forfeiture of office in §4.09, which includes a public hearing process.
- **Article V – Legislation:** These proposed amendments are the most important in her opinion as the Council's legal advisor. She noted that Xenia is the only municipality in the State of Ohio that requires two readings for resolutions. She explained the ordinances and resolutions are not the same thing: ordinances are changes to law and resolutions are more temporary in nature to be used to award a bid, apply for a grant, etc. Further, the proposed amendments now include a public hearing for ordinances and Council's ability to solicit public input on a resolution if they so desire. She noted appropriations ordinances are subject to the State's Uniform Tax Levy Law. Other

amendments will make emergency ordinances expire on the 61<sup>st</sup> day, and they will have to be introduced and a public hearing held on the second reading to give citizens an opportunity to voice their opinion and alleviate the ability for Council and staff to take advantage of emergency ordinances.

- **Article VI – City Management:** As previously noted, the residency requirement was removed because it cannot legally be enforced. Language was added that Council has the right to remove the three Appointed Officials. Acting and Interim City Managers and Finance Directors was also addressed with regard to the length of the City Manager’s or Finance Director’s absence and/or vacancy and the ability for City Council to make the appointment.
- **Article VII – Administrative Departments:** No substantial changes. Requires Council to adopt an Administrative Code, which already exists in the Codified Ordinances, that sets forth the departments and divisions of the City and their respective powers/functions and how they will operate, as well as general rules affecting the employees.
- **Article VIII – Boards and Commissions:** No substantial changes; separated Charter required Boards and Commissions into their own respective sections. She explained the differences between the four Charter-required Boards and Commissions: Planning and Zoning Commission, Board of Zoning Appeals, Civil Service Commission, and Charter Review Commission. She noted the Board of Zoning Appeals is the only quasi-judicial board.
- **Article IX – Finances:** No substantial changes; the proposed changes are mostly to “clean up” text that conflicted with the Uniform Tax Levy Law and consolidate the text into fewer sections, especially with regard to the operating budget and the capital improvement plan. The State of Ohio’s current competitive bidding threshold is \$50,000; rather than put an actual dollar amount in the Charter, the language now states that it cannot be less than \$30,000 and Council can establish the threshold by Ordinance. She talked briefly about the changes made with regard to Mechanic’s Lien Law and paying no interest on escrow for construction projects.
- **Article X – Civil Service and Personnel:** In her opinion, the changes made to this Article are also very important. Some items are general laws of the State of Ohio, such as residency, and some are not, including Civil Service. The Ohio State Constitution requires the City of Xenia to have classified service and have some type of examination to ensure the most qualified person is hired and that the process to do so is fair. The current State Law has not been updated in many years and does not recognize the current hiring climate. A proposed change includes adding a provision to allow for lateral hires. A new section has been proposed to require a “Personnel Manual” for all City employees.
- **Article XI – Elections:** No changes; will remain as is.
- **Article XII – Utility Regulation; Franchises:** No changes; will remain as is.
- **Article XIII – General Provisions:** Prohibited activities will remain in 13.01; however, an enforcement mechanism was added, which Council would provide by Ordinance. She reminded them that all City employees and officials are subject to Ohio’s Ethics Law.
- **Article XIV – Charter Amendments; Renumbering:** Delete/repeal Article. §14.01 moved to §13.04; §14.02 repealed as it is not constitutional.
- **Article XV – Separability and Validity; State and Municipal Laws:** Delete/repeal Article. §15.01 moved to §13.06; §15.02 repealed.
- **Article XVI – Safety Services:** Delete/repeal Article; contents moved to §7.04.

President Smith said he recently spoke with Human Resources Director Jackie Potter, who expressed how difficult the hiring process has become. He supports the changes to Article X. He entertained additional comments or questions on any of the proposed amendments.

Vice President Dean said he supports the proposed amendments to Articles V, VI, VII, VIII, IX, and X; however, he presented some questions with regard to Article IV. He asked what would

happen if the Council and the Municipal Court Judge failed to fill a Council vacancy. Ms. Fisher said the Charter Review Commission discussed this issue at length. The current Charter requires Council to fill the vacancy, but there is no mechanism with regard to what happens if that does not occur. Therefore, the Commission recommended having the Xenia Municipal Court Judge fill the vacancy. If that doesn't occur, someone would have to file a mandamus action. Vice President Dean concluded that if the Council doesn't appoint and the Judge doesn't appoint, the mandamus action would be against the Judge and not City Council. Regarding the 3-2-2 election cycle, he believes it was a little unfair for the individuals who come in third and fourth place to have to serve only three-year terms—even though it would only be for one cycle. Also, voters would be bombarded with politics with an election every year for three years out of four. He would rather not have more elections.

Councilman Scrivens asked why the Commission suggested a change to the 4-3 election cycle. Ms. Fisher said the Commission looked at every possibility. A 3-2-2 cycle ensures a more orderly transition and eliminates the possibility of a turnover of the majority of Council. Councilman Brannum said sometimes change is a good thing, and if four new people get elected, then there's an opportunity for four new ideas. President Smith added that only those Councilmembers with two years on Council can serve as the President or Vice President, and if there are four new members, there was a chance that someone would be forced to serve as President or Vice President, even if he/she did not want to.

Ms. Fisher asked if the Council wished to keep the terms as is with the Mayor and three Councilmembers in one term and two years later, the three remaining Councilmembers. Those present expressed their agreement with leaving the terms as is.

Councilman Brannum and Vice President Dean asked about the proposed changes to §13.01 A. (1) with regard to adding the word "sex", noting the term "gender" was already listed:

**§ 13.01 PROHIBITED ACTIVITIES PROHIBITED; PENALTIES.**

A. ~~Prohibited Activities Prohibited.~~ **The City Council shall provide, by ordinance, for the enforcement of the following provisions:**

(1) ~~No person shall be appointed to or removed from, or in any way favored or discriminated against,~~ **any applicant or candidate for** ~~with respect to~~ any City position or appointive City administrative office because of race, gender, **sex**, age, handicap, religion, country of origin, **military status** or political affiliation.

Ms. Fisher said the language was updated to match State Law. President Smith asked if the above section would still be compliant if the word "sex" was removed. Ms. Fisher said Council can either accept the proposed changes or leave the subsection "as is." After a brief discussion, they agreed to leave the subsection as is (no changes).

Mayor Mays asked if they should place the recommended changes as one vote or separate some articles into separate ballot items. Ms. Fisher said if they place all the recommended changes that Council has endorsed as one ballot item (one vote), it would either all pass or all fail. If they wished to separate some articles into different ballot items, she would have to determine which ones could be done together, check cross-references, etc., to ensure there is no conflict if one measure passes and one doesn't.

Mayor Mays said she wishes to get the proposed amendments accomplished, and whatever they vote to put on the ballot, Council needs to take a unified approach to present and promote the changes. She does not want to fight the concept of “sweeping changes” for the next several months. Vice President Dean and Councilwoman Dean both indicated that their concerns have been addressed, and they did not see issues with the remaining proposed amendments. Vice President Dean said there is nothing controversial; the proposed amendments may include a lot of words, but there are not a lot of changes. Councilwoman Dean agreed. President Smith said if they chose to only place a few proposed amendments on the ballot, he feels that the changes to Articles V and X are the most important because Article V affects how they operate and Article X affects how they hire people. Mayor Mays said they need to make sure voters understand they are not changing the City’s governance, and they need to spend the time to educate voters about the proposed amendments.

Councilman Scrivens noted that historically when Charter amendments appear on the ballot, there are always elections for office on the ballot as well.

Ms. Fisher said she would update the ordinance and its exhibit based on Council’s direction this evening, and the items will be available for discussion at their August 12<sup>th</sup> meeting. If Council wishes to take action, they need to do so by August 26<sup>th</sup> because it would have to be certified to the Board of Elections no later than September 5<sup>th</sup>. She would also prepare an exhibit that describes which articles would need to be presented together and which ones could stand alone.

**O. ADJOURNMENT:** Motion by Councilwoman Dean, seconded by Vice President Dean, to adjourn the Regular Meeting at 7:53 p.m. No discussion followed. The Roll on this was the following:

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

Nays: None                      motion carried.

Michelle D. Johnson  
City Clerk

Wesley E. Smith  
President, Xenia City Council