

**XENIA CITY COUNCIL  
REGULAR SESSION  
MEETING MINUTES  
AUGUST 8, 2019  
6:00 P.M.**

**1. CALL TO ORDER:** President Engle called the August 8, 2019, Regular Session to order at 6:05 p.m. in the City Council Chambers, City Administration Building.

**2. INVOCATION:** Mayor Sarah Mays provided the Invocation.

**3. PLEDGE OF ALLEGIANCE:** Councilman Wesley Smith led those present in the Pledge of Allegiance.

**4. ROLL CALL:** Vice President Edgar Wallace, Councilman Will Urschel, Councilman Dale Louderback, Councilman Wesley Smith, Councilman Levi Dean, Mayor Sarah Mays, and President Michael Engle were present.

**5. APPROVAL OF MINUTES:** Motion by Councilman Louderback, seconded by Vice President Wallace, to approve the July 25, 2019, Regular Session meeting minutes as written. No discussion followed. The Roll on this was the following:

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

Motion by Vice President Wallace, seconded by Councilman Smith, to approve the July 25, 2019, Special Session meeting minutes as written. No discussion followed. The Roll on this was the following:

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

**6. SPECIAL PRESENTATION(S):** None.

**7. AUDIENCE COMMENTS:** President Engle explained the procedures for audience comments and invited anyone who wished to speak to come forward. No one came forward to speak.

**8. OLD BUSINESS:**

A. President Engle presented **RESOLUTION 2019-V EXPRESSING THE CITY OF XENIA'S SUPPORT FOR THE GREENE COUNTY MASTER TRAIL PLANNING EFFORT**, originally introduced by Vice President Wallace, and it was read for a second time.

Motion by Vice President Wallace, seconded by Mayor Mays, to adopt Resolution 2019-V as read. No discussion followed. The Roll on this was the following:

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

**B. President Engle presented RESOLUTION 2019-W AUTHORIZING THE EXPENDITURE OF \$10,000 IN ECONOMIC DEVELOPMENT REVOLVING LOAN FUND PROGRAM INCOME ON THE SIMON KENTON BRIDGES OF HOPE FIRE SUPPRESSION SYSTEM PROJECT**, originally introduced by Councilman Smith, and it was read for a second time.

Motion by Councilman Smith, seconded by Vice President Wallace, to adopt Resolution 2019-W as read. Brief discussion followed. Councilman Louderback said this is a grant and not a revolving loan fund. He noted there would be another meeting with Community Action Partnership and Bridges of Hope at the end of August with the hope to get them to work together. Councilman Urschel said he would abstain from the vote because he is on the Board for Bridges of Hope. The Roll on this was the following:

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

Abstain: Urschel

Nays: None motion carried.

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

**10. NEW BUSINESS:**

**A. ORDINANCE 2019-16 AMENDING ORDINANCE 2019-15 TO PROVIDE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF XENIA, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2019, AND DECLARING AN EMERGENCY.** Assistant Finance Director Jason Lake said additional funds are needed to expand the gas monitoring system and install additional passive vent wells at the closed landfill per the Ohio EPA. This appropriation will allow the City of Xenia to expand the existing Master Services Agreement it has with Wood Environment & Infrastructure Solutions, Inc. for this installation of additional passive vent wells.

President Engle entertained a motion to pass Ordinance 2019-16 as presented.

Motion by Vice President Wallace, seconded by Councilman Smith, to adopt Ordinance 2019-16 as presented. Brief discussion followed. President Engle said the City's closed landfill is an ongoing responsibility, and there will be expenses for many decades to come. If the Ohio EPA finds that further remediation is required, the City must abide by those requirements. The Roll on this was the following:

Ayes: Wallace, Urschel, Louderback, Smith, Dean, Mays, Engle

Nays: None motion carried.

**B. RESOLUTION 2019-X APPROVING THE PRELIMINARY CONSENT LEGISLATION FOR THE ODOT BRIDGE INSPECTION PROGRAM, AND DECLARING AN EMERGENCY.** Mr. Merriman said since its inception in 2014, the City has participated in the Ohio Department of Transportation's (ODOT) municipal bridge inspection program, which allows interested jurisdictions a partnership opportunity that eliminates the need to contract with private engineering firms to complete annual bridge inspections. The program saves the City several thousand dollars per year. The City's engineering staff was recently notified

by ODOT that the current three-year agreement will expire on December 31, 2019. Accordingly, he respectfully requested that the preliminary legislation be adopted so the City can continue to be included in the ODOT bridge inspection program over the next three (3) years, or 2020-2022. It is being requested as an emergency because ODOT has requested that each participating jurisdiction adopt the legislation as quickly as possible.

President Engle entertained a motion to pass Resolution 2019-X as presented.

Motion by Councilman Louderback, seconded by Vice President Wallace, to adopt Resolution 2019-X as presented. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Urschel, Louderback, Smith, Dean, Mays, Engle

Nays: None motion carried.

**C. Introduction of Resolution 2019-Y Authorizing the City Manager to Execute a Use Agreement with Gregory P. Bernitt for the Use of City Property located adjacent to 30 S. Detroit Street.** Mr. Merriman said a restaurant plans to open at 30 S. Detroit Street in a building owned by Greg and Pamela Bernitt. The restaurant hopes to include outdoor seating as part of their operation, which is permitted by the Land Development Code, that includes utilizing a public sidewalk if at least five feet of public sidewalk width remains unimpeded. The restaurant proposes an 11 ft. by 22 ft. outdoor seating area adjacent to the south end of the building façade of 30 S. Detroit Street. The seating area would occupy the public sidewalk adjacent to the building. The restaurant will enclose the seating area with a three-foot tall decorative aluminum fence. The business may also wish to install a cover over the seating area in the future. Although the outdoor seating is permitted, a separate Use Agreement with the City is also required. Because this Use Agreement involves an interest in real property, the City Charter requires authorization from City Council via an ordinance or resolution. In order to allow the restaurant to move this project forward in a timely manner, staff respectfully recommends that Council introduce a resolution to approve the proposed Use Agreement. City staff welcomes this improvement because it will enhance the vibrancy of downtown.

President Engle entertained introduction of Resolution 2019-Y as presented.

Mayor Mays presented RESOLUTION 2019-Y AUTHORIZING THE CITY MANAGER TO EXECUTE A USE AGREEMENT WITH GREGORY P. BERNITT FOR THE USE OF CITY PROPERTY LOCATED ADJACENT TO 30 S. DETROIT STREET, and it was read for the first time.

**D. Administrative Motion Authorizing the City Manager to Execute an Option Agreement for the Sale of the Perpetual Communications Easement with American Towers, LLC.** Mr. Merriman said in 1999, the City entered into an agreement with AT&T Wireless (currently American Tower, LLC) for lease of land at 966 Towler Road for a communications tower. A 3,600 sq. ft. easement was granted as part of the agreement and a monthly rent and revenue share was established at that time. American Tower owns the tower and manages the entities using the tower. Through the City's easement agreement, the City receives rent for the land and portion of the revenue derived from the entities using the tower. Over the years, the City's rent has ranged between \$12,000 and \$20,500 annually, and the revenue share, which is 25% of any sublease rental income, has been between \$12,000 and \$23,000 annually based on use of the tower.

The City has been notified by American Tower that through mergers and installation of a nearby tower, Cricket and AT&T will no longer be using the tower as of 2020, leaving only Cincinnati Bell on the tower, which will significantly reduce the revenue the easement provides to the City. Staff has evaluated the option of selling a perpetual easement for a lump sum payment. Given the industry uncertainty and the expected declines in revenue share in the coming months, staff recommends accepting the current offer of \$267,035.00 for the sale of a perpetual easement to American Tower.

President Engle entertained a motion.

Motion by Vice President Wallace, seconded by Councilman Smith, to authorize the City Manager to execute an Option Agreement for the Sale of the Perpetual Communications Easement with American Towers, LLC, in the amount of \$267,035.00. Brief discussion followed. Councilman Urschel said staff has had a number of discussions about this item, and with the anticipated declining revenue for this resource, it is an optimal time to take this action. The Roll on this was the following:

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

Vice President Wallace asked how this revenue would be spent. Mr. Merriman said it will be deposited into the General Capital Fund. As discussed with the Budget and Finance Committee, they have invested quite a bit into the streets over the last few years, and they want to keep a sustainable balance in that fund for future use—planned or unplanned. President Engle noted the paving contracts were executed months ago, and they are approaching the end of paving season. Councilman Urschel said a lot of money was spent on infrastructure repair but preventive maintenance, such as crack sealing, was just as important. He asked if the City Engineer/Public Service Director could come back to Council to discuss that issue. Mr. Merriman agreed that staff will continue to discuss capital improvements and the longer term strategy to fund all needs.

Vice President Wallace asked when the new gas tax revenue would be received. Mr. Merriman said a portion will be received this year, which will be used for next year's paving season.

**E. Administrative Motion Authorizing the City Manager to Execute Work Order No. 2019-08 with Wood Environment & Infrastructure Solutions, Inc., for the Expansion of Landfill Post-Closure Gas Emission Monitoring in 2019 under the Existing Master Services Agreement.** Mr. Merriman said as Council is aware, the Public Service Department has had a long-term relationship with Wood Environment & Infrastructure Solutions, Inc., (formerly AMEC Foster Wheeler) to complete all necessary landfill post-closure gas and groundwater monitoring for compliance with federal and state laws. Wood Environment & Infrastructure Solutions, Inc., has performed such monitoring at the closed landfill since 1996 and has obtained a body of knowledge that offers unique insight and capacity relative to the intricacies of the landfill site. Recent meetings with officials from the Ohio EPA have resulted in the necessity to expand the current gas monitoring system to add five (5) passive vent wells to encapsulate the methane emissions originating from the existing gas probe near the Xenia Hardfill Administrative Office. Consequently, it will be necessary to expand the planned services for 2019 to be provided under the current Master Services Agreement with Wood Environment & Infrastructure Solutions, Inc.

He respectfully recommended authorization to accept the price quotation provided for the installation of the additional passive vent wells in the amount of \$50,360.00.

President Engle entertained a motion.

Motion by Councilman Louderback, seconded by Councilman Smith, to authorize the City Manager to execute Work Order No. 2019-08 in the amount of \$50,360.00 with Wood Environmental & Infrastructure Solutions, Inc., for the Expansion of Landfill Post-Closure Gas Emission Monitoring in 2019 under the existing Master Services Agreement. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Urschel, Louderback, Dean, Smith, Mays, Engle

Nays: None motion carried.

**F. Administrative Motion Approving the Schedule of Bills in the amount of \$252,666.29.**  
Mr. Lake requested the payment of bills in the amount of \$252,666.29.

President Engle entertained a motion.

Motion by Vice President Wallace, seconded by Councilman Louderback, to approve the schedule of bills in the amount of \$252,666.29. No discussion followed. The Roll on this was the following:

Ayes: Wallace, Urschel, Louderback, Dean, Smith, Mays, Engle

Nays: None motion carried.

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

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

Mr. Merriman distributed two items to Council for additional consideration this evening and apologized for the lateness. The first was a Mutual Aid Agreement and the second was a spreadsheet of mutual aid expenses totaling \$11,698.97 provided to the City of Beavercreek following the Memorial Day tornado. He was just notified last Friday evening, and staff has worked over the last several days to calculate the mutual aid expenses. If the City wishes to seek a reimbursement for those expenses, Council would need to pass a motion this evening authorizing a mutual aid agreement that must be in place prior to August 21, which is before their next meeting. He said City of Beavercreek leadership has asked communities to consider allowing those expenses to be a donation to help them offset the 25 percent match that is required by FEMA. In his conversations with the Beavercreek City Manager, they have expended a lot of money for tornado cleanup and are looking to borrow some money from Greene County to meet that cash flow need.

Vice President Wallace said he wishes to be a good neighbor and would like for it to be a donation. While it is almost \$12,000, it could be Xenia next time. Mr. Merriman noted the Finance Director and Law Director are in concurrence that it should be a donation. Vice President Wallace said he could make a motion that it should be a donation. Ms. Fisher noted a motion was only needed to authorize the mutual aid agreement; a motion was not needed for the donation. Councilman Smith felt this action would be reciprocated if their positions were reversed. Mr. Merriman concurred.

President Engle entertained a motion to execute the mutual aid agreement to seek reimbursement. No motion was presented.

Mr. Merriman said he would be requesting a special session during the last week of August to provide updates and seek direction on several topics. Councilman Smith asked if they could provide their availability. Mr. Merriman asked Council to email the City Clerk and himself.

Councilman Smith asked when the final layer of asphalt will go down on Second Street because school will be starting soon. Mr. Merriman said he did not believe the paving would occur before school starts, but staff would contact the School Superintendent once they know when the contractor plans to complete the project.

Mr. Lake had nothing further to share.

Ms. Fisher said she missed the last Council meeting because she was at the Ohio Municipal Attorney's Association conference and provided presentations on annexation, parking violations, and massage parlors. She reported she was elected Vice President of the Association and will start in January. She shared a story about a lady at the hotel who stopped her to tell her how much she loved Xenia. She said they visited on their motorcycles and stopped at Nick's and found that someone paid their bill. Councilman Louderback extended his congratulations on her election. (Applause followed.)

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

Mayor Mays had nothing further to share.

Councilman Louderback extended his thoughts and prayers to Dayton and El Paso, Texas.

Councilman Smith said he and Mayor Mays serve on the City's Charter Review Commission. He said he was impressed by the Law Director's efficiency in running the meeting, including providing the necessary explanations on various topics, which were appreciated. He feels very confident in their task to review and update the Charter to make City government more transparent. He said the tragic events of Saturday night are evil. Americans need to wake up and seek help when someone has a mental illness. Parents need to parent and teach kids responsibility. They need to put a stop to the violence. Now was not a time to be political; it is a time to be in prayer.

Councilman Urschel said he went door to door to get signatures to put his name on the November ballot and had an opportunity to talk to people. They talked about many issues including the roads and drug use and the availability of drugs in this community. He asked if the Police Chief, Law Director, and a representative from the Xenia Municipal Court could come and speak to Council so they can start the conversation about what is being done about the drug problem. He would like to ask the Police Chief if the police force has the proper resources to address this issue. President Engle asked Mr. Merriman if this could be the subject of an upcoming special session. Mr. Merriman said yes.

Councilman Dean had nothing further to share.

