

**XENIA CITY COUNCIL
MEETING MINUTES
AUGUST 13, 2020**

1. CALL TO ORDER: President Smith called the Regular Meeting to order at 6:00 p.m. in the City Council Chambers, City Administration Building. The meeting was open to the public. Due to COVID-19 and group gathering restrictions, audience members were asked to practice social distancing.

2. INVOCATION: Mayor Mays provided the Invocation.

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

4. ROLL CALL: Vice President Edgar Wallace, Councilman Thomas Scrivens, Councilwoman Rebekah Dean, Councilman Cody Brannum, Councilman Levi Dean (arrived at 6:25 p.m.), Mayor Sarah Mays, and President Wesley Smith were present.

5. APPROVAL OF MINUTES: Motion by Mayor Mays, seconded by Vice President Wallace, to approve the July 23, 2020, minutes as written. No discussion followed. The Roll on this was the following:

Ayes: Wallace, R. Dean, Brannum, Mays, Smith

Abstain: Scrivens

Nays: None motion carried.

6. SPECIAL PRESENTATION(S): President Smith said a Proclamation presentation was scheduled for the meeting to honor Jaymes Heitman and Jim Fry for their efforts in saving the life of a woman, who they pulled from her burning home on Monday, June 29, 2020. However, due to social distancing and group gathering restrictions, it was not possible for the presentation to take place during the meeting. Therefore, it took place before the meeting. The prerecorded video was then shared. (Applause followed.)

7. AUDIENCE COMMENTS: President Smith invited those present to come forward to speak. No one came forward to speak. He noted the City Clerk did not receive any emails for audience comments.

8. OLD BUSINESS:

A. President Smith presented **ORDINANCE 2020-19 ENACTING SECTION 238.08, TITLE "USE OF DIVISION EMBLEMS," OF THE CITY'S ADMINISTRATION CODE AS CONTAINED IN PART TWO OF THE CODIFIED ORDINANCES OF THE CITY OF XENIA, OHIO**, originally introduced by Councilman Dean, and it was read for a second time.

Motion by Councilwoman Dean, seconded by Vice President Wallace, to approve Ordinance 2020-19 as presented. No discussion followed. The Roll on this was the following:

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

Nays: None motion carried.

B. President Smith presented RESOLUTION 2020-T AUTHORIZING A THREE-YEAR LEASE OF SPACE IN THE CITY ADMINISTRATION BUILDING TO THE REGIONAL INCOME TAX AGENCY, originally introduced by Vice President Wallace, and it was read for a second time.

Motion by Vice President Wallace, seconded by Councilwoman Dean, to approve Resolution 2020-T as presented. Brief comments followed. Vice President Wallace applauded the Appointed Officials for their thoughtful and wise efforts in this endeavor. Councilman Brannum asked the status of the existing City Income Tax Division employees. Mr. Duke said he was pleased to share that all three employees were interviewed, offered jobs with RITA, and all three accepted those positions at equal or better wages and a continuance of PERS retirement benefits. Councilman Scrivens commended Mr. Duke for his leadership and the smooth transition that has taken place so far. The Roll on this was the following:

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

C. President Smith presented RESOLUTION 2020-U AUTHORIZING A FIFTEEN-YEAR LEASE OF THE UPPER FLOOR OF XENIA STATION TO THE XENIA AREA CHAMBER OF COMMERCE, originally introduced by Vice President Wallace, and it was read for a second time.

Motion by Vice President Wallace, seconded by Councilman Scrivens, to approve Resolution 2020-U as presented. Brief comments followed. Vice President Wallace asked about the future of the Chamber's existing office building. Mr. Merriman believed they would list it for sale, and when sold, use those proceeds as an emergency and/or event fund. Councilman Scrivens noted the curb appeal needs to be improved. President Smith said this is a win-win situation, and he was happy the City was able to partner with the Chamber of Commerce. The Roll on this was the following:

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

9. PUBLIC HEARING(S): None.

10. NEW BUSINESS:

A. Introduction of Ordinance 2020-20 Amending Sections 1044.06 and 1044.07, Adopting Chapter 1048, and Repealing in its entirety existing Chapter 1048 of the City of Xenia's Streets, Utilities, and Public Services Code as contained in the Codified Ordinances. Mr. Merriman said Ordinance 2020-20 amends Sections 1044.06 and 1044.07 and replaces Section 1048 of the Xenia Codified Ordinances. These code sections establish standards and procedures related to Xenia's wastewater treatment system, specifically the City's Industrial Pretreatment Program. Xenia, like all municipalities in Ohio, is regulated under the Ohio EPA for the purpose of safeguarding wastewater treatment systems and personnel through standards that limit various types of materials that might be introduced into the treatment system, specifically industrial contaminants. Recently, the Ohio EPA completed an audit of Xenia's Industrial Pretreatment

Program, and while most program elements were found to be appropriate, there were noted deficiencies in Sections 1044 and 1048. The agenda report details the specific changes deemed necessary to update the code and bring it into alignment with state requirements. For Section 1048, it is believed that the best approach would be to repeal and entirely replace this code section with new language versus numerous line-item changes. Utilities staff and the Law Director reviewed state requirements and researched best practices among other communities regarding these regulatory functions, and they feel the replacement language as presented will be compliant and more up to date. In developing this amended language, they have worked to balance compliance and safety standards with a sensitivity to business needs including some administrative flexibility where appropriate. He respectfully recommended introduction of the new language as presented.

President Smith entertained introduction of Ordinance 2020-20 as presented.

Vice President Wallace presented 2020-20 AMENDING SECTIONS 1044.06 AND 1044.07, ADOPTING CHAPTER 1048, AND REPEALING IN ITS ENTIRETY EXISTING CHAPTER 1048 OF THE CITY OF XENIA’S STREETS, UTILITIES, AND PUBLIC SERVICES CODE AS CONTAINED IN THE CODIFIED ORDINANCES, and it was read for the first time.

Vice President Wallace noted the City Engineer/Public Service Director Chris Berger was not present at the meeting to answer any questions Council may have. Mr. Merriman said due to COVID-19 and assembly restrictions, he has not asked Department Heads to attend Council meetings, but he would be happy to answer any questions they may have.

Councilman Scrivens expressed his compliments to staff and the Law Director in bringing these code sections into compliance. Mr. Merriman agreed that a lot of work went into these amendments. He noted staff has been working with Ms. Fisher to incrementally review and update the code.

(Councilman Levi Dean arrived at 6:25 p.m.)

B. Introduction of Resolution 2020-V Providing for Assessments to be Levied and Authorizing the Finance Director to certify those assessments to the Greene County Auditor.

Finance Director Ryan Duke said the City must sometimes utilize its internal resources or a contractor to abate certain violations of the City’s Property Maintenance Code on private property when a property owner fails to heed notices of violation and address the violations. These types of violations typically include mowing tall grass and weeds; removing trees, plant or shrubs that overhang or otherwise create a danger in the right-of-way; demolition of unsafe structures; and cleanup of trash that has been improperly strewn about a property or cannot be picked up by the City’s sanitation service. Correcting these types of violations require services for which the City incurs direct costs and/or staff time. The Property Maintenance Code allows the City to recover its costs, plus a service charge, by sending an invoice to the property owner. If the property owner fails to pay, then the City is permitted to assess the costs to the owner’s property taxes. The County Auditor will allow the City to assess up to three (3) times a year. This is the first assessment in 2020; the assessment amounts are as follows:

Weeds/Trees/Shrubs	\$114,909.65
Demolition	\$1,080.00
Trash Cleanup	\$10,065.00

Mr. Duke noted that no utility assessments are being requested at this time due to prohibitions in disconnecting customers due to lack of payment during the COVID-19 pandemic.

President Smith entertained introduction of Resolution 2020-V as presented.

Mayor Mays presented **RESOLUTION 2020-V PROVIDING FOR ASSESSMENTS TO BE LEVIED AND AUTHORIZING THE FINANCE DIRECTOR TO CERTIFY THOSE ASSESSMENTS TO THE GREENE COUNTY AUDITOR**, and it was read for the first time.

Vice President Wallace asked if the assessments will be levied against the property tax bills with the hope that the City would eventually receive what is owed. Mr. Duke said yes, the amounts are assessed to the property taxes, and when those property taxes are paid, the City will receive payment. Vice President Wallace asked if there was a fee for the assessment to be placed or added interest. Mr. Duke said the County Auditor assesses a 5% fee. President Smith asked how much is actually received from the assessments. Mr. Duke said he did not have the information with him, but he estimated about 60% of what is assessed actually comes back to the City each year. He noted if the property is foreclosed and there is an abatement of the taxes, then the City may not receive the entire amount owed—if any at all. Mr. Merriman said there is an ongoing issue with regard to some properties exceeding up to 10 years of delinquent property taxes, noting he and staff are beginning to have conversations with County officials in an effort to improve this issue.

C. Introduction of Resolution 2020-W Authorizing the Sale of City-Owned Property located at 135 E. Church Street (former Xenia YMCA) to Former Y Xenia, LLC. Mr. Merriman said as discussed with City Council, a unique offer has been submitted for the acquisition and reuse of the former YMCA facility located on Church Street. The YMCA is one of the anchor tenants at the REACH Center, and as part of the REACH Center development plan the City took possession of the former YMCA facility in April 2019. The City has been marketing the site through Colliers International since shortly after acquisition. While there have been some serious inquiries, up until now no formal offer has been fully submitted for consideration by Council. He provided some background information on the prospective reuse. Late last year, staff was approached by Dr. Jeremy Ervin who has been pursuing the development of a regional charter school with a focus in Science, Technology, Engineering, Arts, and Mathematics, known as a STEAM charter school. Dr. Ervin and his team have been engaged in a multi-year effort to establish a Xenia-based nonprofit, tuition-free STEAM academy and early on expressed interest in the former YMCA property as a possible host location for the endeavor. Dr. Ervin has advanced the planning of the STEAM academy substantially, including recruiting a team of advisors, initiating the process of State certification, creation of detailed business and financial plans, and commenced efforts to raise capital funds and secure financing. Obviously, securing a site and beginning necessary site preparations is a major and timely task necessary to advance the STEAM academy project towards reality. After discussions with Council, the City entered into a purchase and sale agreement in June with the holding company representing the academy. The agreement stipulates that sale of the property is contingent upon the buyer completing inspections of the building, Council authorizing the sale and execution of an Economic Development Loan Agreement, and the buyer paying the realtor's commission fee. The total purchase price is \$52,500, of which \$50,000 will be subject to the Economic Development Loan Agreement, which will be presented to Council at the August 27, 2020, meeting. This agreement will guarantee repayment

of the \$50,000 to the City either through income taxes generated by the school through new employment or cash payments. The remaining \$2,500 is the realtor's commission fee. The purchaser has completed satisfactory inspections of the building and has agreed with staff on the terms of the Economic Development Loan Agreement. Approval of the presented Resolution 2020-W and the Economic Development Loan Agreement are the remaining steps to complete the sale in order to allow for acquisition of the site by the STEAM academy.

In strategic discussions with City Council, staff has been directed to advance the cause of education in this community in order to promote quality of life and encourage the betterment of community's youth all the while improving Xenia's competitiveness. Council has encouraged staff to pursue unique ideas to ensure Xenia's youth have diverse and contemporary options in the pursuit of educational achievement. In addition to their continued dedication to Xenia Community Schools, they have also partnered with the Greene County Career Center to locate their new state-of-the-art vocational training facility here in Xenia. And now, there is this new partnership opportunity with the STEAM academy. In addition to the educational choice benefits, the academy will create new professional employment and grow the City's tax base. Beyond this, having another community asset located near downtown that draws consumer traffic will serve to benefit local businesses. There are other obvious benefits for the surrounding residential neighborhoods with regard to the presence of a school operation. Staff is recommending Council introduce and ultimately approve Resolution 2020-W to proceed with the sale of the former YMCA to Former Y Xenia LLC, and authorize the execution of agreements and deed transfers necessary to transfer the property.

President Smith entertained introduction of Resolution 2020-W as presented.

Councilwoman Dean presented **RESOLUTION 2020-W AUTHORIZING THE SALE OF CITY-OWNED PROPERTY LOCATED AT 135 EAST CHURCH STREET (FORMER XENIA YMCA) TO FORMER Y XENIA, LLC**, and it was read for the first time.

Vice President Wallace asked about the timeline for this project, noting he was happy that the site would be improved and occupied. Mr. Merriman said the academy is planned to open for the 2021/2022 academic year. President Smith invited Dr. Ervin to address City Council.

Mr. Ervin said he has been in higher education and certified to teach grades 7-12 science and math for 27 years, and he was passionate about the opportunity to bring this project-based, student centered, college/career readiness STEAM academy to Xenia. They plan to start with Grades 4, 6, and 9 and then add three more grades each year. All grades would be offered within four years. He noted the YMCA building needs some major renovations; after all renovations are complete, grades K-3 would be housed at the former YMCA site, with all grades using that site for physical education/dynamic movement. An off-site facility would be added for grades 4-12.

D. Introduction of Resolution 2020-X Supporting the Flexibility for States and Localities Act (H.R. 7094) and Urging the U.S. Congress to Enact said Legislation. Mr. Merriman said staff is recommending City Council take action to endorse H.R. 7094, known as the Davidson Flexibility Act. If approved in Washington, D.C., the Act would grant state governments the discretion to distribute federal aid already provided through the CARES Act to local governments for use in meeting general fund needs. Ostensibly, the Flexibility Act would permit state leaders in Ohio to distribute portions of its CARES Act allotment to local governments to help fill budget gaps resulting from deep revenue reductions in the fallout from COVID-19.

President Smith entertained introduction of Resolution 2020-X as presented.

Mayor Mays presented **RESOLUTION 2020-X SUPPORTING THE FLEXIBILITY FOR STATES AND LOCALITIES ACT (H.R. 7094) AND URGING THE U.S. CONGRESS TO ENACT SAID LEGISLATION**, and it was read for the first time.

E. Administrative Motion Authorizing the City Manager to Execute Addendum No. 5 to Extend the Agreement with Interstate Gas Supply, Inc., through the Miami Valley Communications Council, for Municipal Facility Electric Supply Services. Mr. Merriman said since 2011, the City of Xenia has participated in a regional purchasing group for electric generation and transmission services specifically for municipal facilities. The agreement is coordinated and handled by the Miami Valley Communications Council (MVCC). This partnership has resulted in significant savings for the City related to electricity costs for our municipal facilities. The current glut of energy supply combined with reduced demand for energy due to the COVID-19 economic slowdown has resulted in historically low prices for energy futures. In light of this, MVCC, on behalf of all signatory municipalities participating in the electric facility supply contract, has negotiated an extension to the prior agreement that will lock in extremely low rates through May 2024. The rate would go from 0.04699 per kWh to 0.04387 per kWh. As with the original supply contract and the subsequent extensions through amendments, this amendment requires all participating municipalities to approve the extension amendment in order for the new rate commitment to be honored. Staff is recommending City Council authorize by administrative motion execution of Generation Supply Agreement Amendment No. 5 with Interstate Gas Supply, Inc., that will allow the City and partner communities to benefit from an extended supply agreement at much lower pricing.

President Smith entertained a motion.

Motion by Vice President Wallace, seconded by Councilman Scrivens, to authorize the City Manager to execute the Generation Supply Agreement Amendment No. 5 with Interstate Gas Supply, Inc., at the rates noted above. No discussion followed. The Roll on this was the following:

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

Nays: None motion carried.

F. Administrative Motion Approving the Schedule of Bills in the amount of \$522,813.68. Mr. Duke respectfully requested the payment of bills in the amount of \$522,813.68. He noted two large payments for the meter replacement project (\$212,560) and the playground project at Shawnee Park (\$77,425).

President Smith entertained a motion.

Motion by Vice President Wallace, seconded by Mayor Mays, to approve the schedule of bills in the amount of \$522,813.68. Discussion followed.

Vice President Wallace asked the status of the meter replacement project. Mr. Duke said they are nearing about two-thirds completion. He said there would be a continued issue with the timing of utility bills and meter readings resulting in higher than normal bills, and there is an issue with

irrigation meters, noting some were automatically replaced. Those addresses with irrigation meters that are 10 years or older will be replaced, which they can pay for on a payment plan. For the irrigations meters that have already been replaced, staff will talk with those residents to determine if they want to keep them and pay for them or have them removed. Mr. Merriman said a dispute resolution process has been established to deal with issues as they arise. Vice President Wallace inquired about the status of leniency granted during the COVID-19 crisis with regard to late utility bill payments and halting shutoffs. Mr. Duke said they just went through the shut off process at the end of July/early August. They started with about 650 accounts on the shutoff list and by the time the due date rolled around, they were down to the “normal” number of shutoffs, which is about 250 accounts. He was not made aware of any circumstance relative to a customer’s inability to pay as a result of COVID-19.

Councilman Scrivens inquired about a payment to GFOA and asked what that acronym represented. Mr. Duke said GFOA stands for Government Finance Officers Association. He said annually the City applies to GFOA for a review of the City’s Comprehensive Annual Financial Report (CAFR), and the payment is associated with that review. He noted the City usually receives Certificates of Excellence in Financial Reporting based on these reviews, which indicates the City is adhering to best practices. The Roll on this was the following:

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

Nays: None motion carried.

11. APPOINTED OFFICIALS REPORTS AND COUNCIL COMMENTS:

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

Mr. Merriman thanked the City’s Public Relations Coordinator Christina Schaefer for her efforts in producing various community videos including tonight’s proclamation presentation. He said there have been a lot of cancelled community events, including Neighborhood Night Out events, Xenia Lives music concert, etc. However, they are still hopeful to hold a drive-in movie event in September and a Hometown Christmas event.

Mr. Duke said the City’s income tax services would transition to the Regional Income Tax Agency (RITA) on September 1. He said the three City employees who were offered and accepted positions with RITA will be gone for two weeks for training; however, the remaining Accounts Receivables staff would receive income tax paperwork, etc., as needed during that training period. He said RITA mailed welcome letters to all Xenia taxpayers.

Ms. Fisher said at the last meeting, she shared that she would be filing a consolidated claim in regard to the Purdue Pharma bankruptcy case. However, she was advised by Bricker & Eckler to file an individual claim, which she did. She used the calculation tool provided on the bankruptcy court’s website, and she filed a claim in the amount of \$15 million, noting she’d be surprised if the City received even 1% of that amount.

B. Mayor and City Council:

Mayor Mays said her schedule of mayoral events was light this past two weeks. She publicly acknowledged Mr. Heitman and Mr. Fry once again for their heroic efforts, noting it was so nice

to have something positive to celebrate. She reminded people to continue to be nice and patient with one another and show kindness. She was excited for students to get back to school, including the local colleges.

Councilwoman Dean had nothing further to share.

Councilman Scrivens expressed his condolences to the families of Mable (Nared) McCombs and Byron T. Hurst, Sr. He thanked everyone for their thoughts and prayers before and after his recent surgery. It was good to be back.

Councilman Brannum thanked the volunteers on the City's Planning and Zoning Commission for taking the time to meet last week to review an item regarding the former Hospitality West property, which was approved. The property will be occupied by another nursing home, which is a good use for that location.

Councilman Dean inquired about the status of the Shawnee Park playground project. Mr. Merriman said there have been a few delays with some contractors working on the project, but they are getting back on track. The project should be completed within the next two weeks, and a virtual ribbon-cutting ceremony with Mayor Mays will be planned. A video announcement will also be published so the public knows when the park is officially open for their enjoyment.

Vice President Wallace had nothing further to share.

President Smith said he and Mayor Mays feel it is important for Council members to report on the Boards and Commission on which they serve to provide as much transparency as possible; therefore, starting the first meeting in September, the City Clerk will add Reports of Boards/Commissions to the Council agenda. He thanked Dr. Ervin for attending the meeting this evening. He also thanked those who are watching the meeting via the live broadcasts. He said Council would take a short recess before going into Executive Session. The Council was recessed from 7:07 to 7:15 p.m.

12. EXECUTIVE SESSION: Motion by Councilman Scrivens, seconded by Vice President Wallace, to go into Executive Session at 7:15 p.m. to discuss the Purchase or Sale of Property per XCO §206.04(a)(2) and ORC §121.22(G)(2), Pending Litigation per XCO §206.04(a)(3) and ORC §121.22(G)(3), and Personnel Matters to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a public employee per XCO §206.04(a)(1) and ORC §121.22(G)(1). No discussion followed. The Roll on this was the following:

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

Nays: None motion carried.

The Council convened in Executive Session with the same members present. At 8:22 p.m., the Council reconvened the Regular Meeting.

13. ADJOURNMENT: Before adjournment, Mr. Merriman provided Council with information on a few topics including the following:

- There is a need for a study session/driving tour to include a look at the proposed DORA district (Downtown Outdoor Refreshment Area) and a drainage ditch situation that can no

longer be ignored. After a brief discussion, they decided to hold the special session/driving tour on Thursday, September 17th.

- He said MVRPC drafted a resolution, which was distributed, that included a declaration that racism is a public health emergency. He said the resolution has been met with some strong opinions; therefore, MVRPC tabled action on the resolution for 60 days and asked each jurisdiction's representatives to bring it back to their respective legislative bodies for discussion. After review, the sentiment of City Council members was that MVRPC should focus on public transportation issues and not foray into public health issues.

Motion by Mayor Mays, seconded by Councilman Brannum, to adjourn the Regular Meeting at 8:40 p.m. No discussion followed. The Roll on this was the following:

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

Nays: None motion carried.

Michelle D. Johnson
City Clerk

Wesley E. Smith
President, Xenia City Council