

**XENIA CITY COUNCIL  
REGULAR SESSION  
MEETING MINUTES  
SEPTEMBER 12, 2019  
6:00 P.M.**

**1. CALL TO ORDER:** Vice President Wallace called the September 12, 2019, Regular Session to order at 6:00 p.m. in the City Council Chambers, City Administration Building.

**2. INVOCATION:** Pastor Todd Martin, Liberty Worship Center, provided the Invocation.

**3. PLEDGE OF ALLEGIANCE:** Mayor Sarah Mays 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, and Mayor Sarah Mays were present. President Michael Engle was absent. Vice President Wallace entertained a motion to excuse President Engle.

Motion by Councilman Smith, seconded by Councilman Dean, to excuse President Engle from the meeting. No discussion followed. The Roll on this was the following:

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

**5. APPROVAL OF MINUTES:** Motion by Mayor Mays, seconded by Councilman Smith, to approve the August 22, 2019, Regular Session meeting minutes as written. No discussion followed. The Roll on this was the following:

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

Motion by Councilman Smith, seconded by Councilman Urschel, to approve the August 22, 2019, Special Session meeting minutes as written. No discussion followed. The Roll on this was the following:

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

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

**7. AUDIENCE COMMENTS:** Vice President Wallace 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.** Vice President Wallace presented **RESOLUTION 2019-AA AUTHORIZING THE SALE OF CITY-OWNED PROPERTIES LOCATED AT 2046 EL CAMINO DRIVE (BEVERLY HILLS PARK) TO RHONDA P. HILES AND THOMAS & MARLA**

**WHITACRE**, originally introduced by Councilman Louderback, and it was read for a second time.

Motion by Councilman Louderback, seconded by Councilman Smith, to adopt Resolution 2019-AA as read. No discussion followed. The Roll on this was the following:

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

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

**10. NEW BUSINESS:**

**A. RESOLUTION 2019-BB APPROVING THE PRELIMINARY CONSENT LEGISLATION WITH ODOT FOR THE S. COLUMBUS STREET BRIDGE PROJECT, AND DECLARING AN EMERGENCY.** City Manager Brent Merriman said as Council will recall, in 2018 the City applied for and was awarded grant funding from the Ohio Department of Transportation (ODOT) to rehab the S. Columbus Street Bridge over the North Branch of Shawnee Creek. On March 14, 2019, Council authorized an engineering design contract with American Structurepoint, Inc. for this project. The next administrative step necessary to advance this project is approval of preliminary consent legislation as required by ODOT, who has requested that the legislation be adopted as quickly as possible so the aggressive design and administration schedule slated for this project can be maintained. For this reason, staff recommends that the Resolution 2019-BB be adopted as an emergency.

Vice President Wallace entertained a motion to pass Resolution 2019-BB as an emergency as presented.

Motion by Mayor Mays, seconded by Councilman Smith, to adopt Resolution 2019-BB as presented. No discussion followed. The Roll on this was the following:

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

**B. Introduction of Ordinance 2019-19 Amending Chapter 242, Titled “Division of Fire,” and Section 298.01(a), Titled “Fees from Part Two: Administration Code,” of the Codified Ordinances of the City of Xenia, Ohio.** Mr. Merriman said as Council will recall from the study session on July 11, 2019, staff was instructed to move forward with development of legislation to update the City’s policy regarding Emergency Medical Services billing and related matters. Working with the Law Director, staff developed amendments to applicable code sections, specifically a comprehensive update for Chapter 242, titled: Fire Division and also a modification to Chapter 298 titled: Fees from Administration Code. Significant portions of Chapter 242 had not been updated since the 1960s and 70s. Since substantive updates were already needed, the Law Director and he determined it was appropriate to recommend a more complete update of this chapter with notable changes as follows:

- Establishment, leadership, and functions sections of the division were updated to reflect modern standards for the service;

- Work period needed to be updated to the contemporary standard reflected in collective bargaining agreements;
- Appointment provisions were updated;
- The user fees section was substantially modified to reflect Council's directions on policy approach to EMS billing, which includes language directing the City Manager to work with the Fire Chief and Finance Director to establish billing and collection procedures for the various user fees and specifically outlines who these fees may be charged to.

Mr. Merriman said the changes to Chapter 298 remove some of the specific fee amounts from the code and allow a fee structure pursuant to the directives in Chapter 242. Staff recommends introduction of the legislation, and assuming approval of these changes at the September 26<sup>th</sup> regular session, the changes in EMS billing will become effective in conjunction with the changeover on November 1, 2019, to the new EMS billing vendor as previously authorized.

Vice President Wallace entertained introduction of Ordinance 2019-19 as presented.

Councilman Louderback presented ORDINANCE 2019-19 AMENDING CHAPTER 242, TITLED "DIVISION OF FIRE," AND SECTION 298.01(a), TITLED "FEES FROM PART TWO: ADMINISTRATION CODE," OF THE CODIFIED ORDINANCES OF THE CITY OF XENIA, OHIO, and it was read for the first time.

**C. Introduction of Resolution 2019-CC Adoption of the City of Xenia's Americans with Disabilities Act (ADA) Transition Plan.** Mr. Merriman said federal grants, whether directly provided or through the State of Ohio, are an important supplemental funding resource for City projects and specifically transportation-related projects. In utilizing such grant funding, the City must adhere to all applicable standards to maintain eligibility. The Americans with Disabilities Act is one such set of standards they must comply with. Title II of the Act outlines protections for qualifying persons pertaining to the programs, activities and services provided by public entities. In order for the City of Xenia to ensure compliance pursuant to Title II of the Act, they must conduct a self-evaluation of programs, activities and services on publicly owned properties and within public rights-of-way. Most importantly, having an ADA Transition Plan in place that directs both short- and long-term activities allows the City to maintain compliance with Title II of the Act. The ADA Transition Plan, prepared by the Engineering staff, was included with the agenda report and was posted on the City's website and at the City Administration Building and Justice Center for a period of 30 days to solicit comments from the general public. One response was received, which will be examined at the time that construction is proposed for that particular subdivision. Adoption of the updated ADA Transition Plan by City Council will allow staff to submit an eligible grant application to MVRPC in October 2019 to fund improvements on Bellbrook Avenue from Maumee Drive to Peacepipe Drive. He respectfully recommended introduction of Resolution 2019-CC with the intent of adopting the updated transition plan later this month.

Vice President Wallace entertained introduction of Resolution 2019-CC as presented.

Councilman Dean presented RESOLUTION 2019-CC ADOPTION OF THE CITY OF XENIA'S AMERICANS WITH DISABILITIES ACT (ADA) TRANSITION PLAN, and it was read for the first time.

**D. Introduction of Resolution 2019-DD Authorizing the City Manager to Execute a Use Agreement with MKP Detroit Group, LLC, for the use of City-owned Bike Trail Property located adjacent to 1443 N. Detroit Street and terminating the existing lease agreement with MKP Restaurant Group, LLC.** Mr. Merriman said Resolution 2019-DD would allow for the replacement of an existing lease agreement for use of bike trail right-of-way with MKP Detroit Group, the owners of Nick’s Restaurant on N. Detroit Street. Nick’s would like to modify its bike trail lease agreement with the City to allow construction of a paved area that will connect its outdoor seating area with the Little Miami Scenic Trail and provide bike parking and lighting. Staff is very supportive of this request as Council has instructed them to seek creative ways to promote the trail system and its use as an economic generator. With that in mind, he would also like to use this request as an opportunity to revise the City’s approach to bike path right-of-way usage. Currently, the City has five such trail right-of-way leases with various entities, each charging a very nominal fee for use of the property. He believed that the cost, however small, and the burden of maintaining these lease agreements actually discourages creative projects that promote access to and use of the trail system by local vendors. He respectfully recommended that Council introduce and ultimately approve a replacement lease agreement with Nick’s and in so doing establish a new policy on trail right-of-way leasing that eliminates the cost to qualifying businesses and encourages trail use for economic growth. He respectfully recommended introduction of Resolution 2019-DD to advance this endeavor.

Vice President Wallace said Nick’s has been a good neighbor. He entertained introduction of Resolution 2019-DD as presented.

Councilman Louderback presented RESOLUTION 2019-DD AUTHORIZING THE CITY MANAGER TO EXECUTE A USE AGREEMENT WITH MKP DETROIT GROUP, LLC, FOR THE USE OF CITY-OWNED BIKE TRAIL PROPERTY LOCATED ADJACENT TO 1443 N. DETROIT STREET AND TERMINATING THE EXISTING LEASE AGREEMENT WITH MKP RESTAURANT GROUP, LLC, and it was read for the first time.

**E. Introduction of Resolution 2019-EE 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 staff has tried to take a more proactive approach to outstanding assessments for weed mowing, utility bills, and trash cleanup so when a property exchanges hands, the new property owner does not get stuck with a bill that was incurred by the previous property owner. He recognized they would probably never completely eliminate this issue, but if they provide for these assessments on a more routine basis, then it is less likely that the above-mentioned situation would occur. One certification of assessments was already done earlier this year, and the County Auditor will allow up to three (3) assessments per year. Resolution 2019-EE includes assessments in the amounts as follows:

Weeds/Trees/Shrubs.....	\$80,562.54
Demolition.....	\$325.00
Trash Cleanup .....	\$4,500.00
Utilities .....	\$565.00

Councilman Urschel asked if the assessments are collected by Greene County on property tax bills. Mr. Duke said yes. The assessments will be added to the property owners’ tax bills. As the County receives those property tax payments, the City will receive those payments as part of the tax settlement each year either in March or August.

Councilman Urschel introduced RESOLUTION 2019-EE 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.

**F. Introduction of Resolution 2019-FF Accepting the Amounts and Rates as certified by the Greene County Budget Commission for 2020, Authorizing the Necessary Tax Levies, and Certifying the Tax Levies to the Greene County Auditor.** Mr. Duke said earlier this year, Council approved the submittal of a Tax Budget to the Greene County Auditor, who reviewed that tax budget and has waived the requirement for a hearing. The County Auditor has certified the total of estimated revenue from general property taxes as \$1,626,000, which is an increase of \$98,000 compared to last year's amount, and the local government allocation amount for 2020 is \$759,750.16, which is an increase of \$19,301.61 from last year's amount. Council must accept the rates prior to October 1, 2019.

Vice President Wallace entertained introduction of Resolution 2019-FF as presented.

Mayor Mays introduced RESOLUTION 2019-FF ACCEPTING THE AMOUNTS AND RATES AS CERTIFIED BY THE GREENE COUNTY BUDGET COMMISSION FOR 2020, AUTHORIZING THE NECESSARY TAX LEVIES, AND CERTIFYING THE TAX LEVIES TO THE GREENE COUNTY AUDITOR, and it was read for the first time.

**G. Administrative Motion Authorizing the City Manager to Execute a Contract with Transmap Corporation for the Citywide Roadway Pavement Condition Index Project.** Mr. Merriman said as City Council has deliberated on how to advance the conversation on street rehabilitation, staff was directed to move forward with lining up services to update the City's Pavement Condition Index (PCI ratings). A PCI study is an objective, comprehensive condition assessment methodology that reviews the overall health of all City streets and rates them on a condition scale. The last PCI study done for Xenia was completed in 2014. Council agreed with staff that in order to have an informed conversation on long-term strategies to provide for street rehabilitation, they must first have updated data on the overall condition of the City's transportation infrastructure. Staff solicited proposals from qualified firms, and received three responses, ultimately interviewing two firms. He, with members of the City's engineering staff, participated in the review process, and they collectively determined that Transmap Corporation presented the best proposal. Transmap completed the last PCI study in Xenia, and their familiarity with this community should be of benefit in the update process. Authorizing this project with Transmap will allow the firm to commence work in September. Transmap needs about one week of dry pavement conditions to collect field measurements citywide. Once complete, staff will work with the firm to synthesize the raw data and develop various rehab scenarios with models that will look at different rehab approaches and different investment price points. The process will take some time, but the outcome will present staff with options for a more advanced pavement management system that Council can then seek to implement. He anticipates having a robust discussion with City Council in Q1 of 2020 on the data collected and possible approaches for street rehab moving forward. He respectfully recommended authorization to execute a contract with Transmap Corporation to complete the Citywide Roadway Pavement Condition Index Project at a cost not-to-exceed \$63,173.96 pending the review and approval of a professional services agreement by the City Law Director.

Vice President Wallace entertained a motion.



this administrative motion will continue the 6 p.m. time. This or any future Council can change the time as they so desire.

Vice President Wallace entertained a motion.

Motion by Mayor Mays, seconded by Councilman Smith, to continue and set the time for Regular Meetings of City Council at 6:00 p.m. beginning October 1, 2019. Brief discussion followed. Councilman Louderback said he was contacted by a citizen who advised that the City's government channel shows the meetings at 7 p.m. Mr. Merriman said the permanent 6 p.m. meeting time will be shared on all the City's outreach platforms. The Roll on this was the following:

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

**I. Administrative Motion Approving the Schedule of Bills in the amount of \$245,421.74.** Mr. Duke requested the payment of bills in an amended amount of \$245,378.95. He explained that an invoice for ML Johnson Company was reduced by \$42.79.

Vice President Wallace entertained a motion.

Motion by Councilman Louderback, seconded by Councilman Smith, to approve the schedule of bills in the amount of \$245,378.95. No discussion followed. The Roll on this was the following:

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

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

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

Mr. Merriman said there is a lot going on in Xenia this week including the Community Festival on Friday and Saturday that includes the parade on Saturday morning and the first Chocolate 5K Walk/Run. There is also a community event on Saturday at Kennedy Korner's off of Second Street. He encouraged everyone to support local businesses and attend one or more of the upcoming community events. He cautioned there would be some downtown traffic inconveniences on Saturday morning for the parade. He announced the City's policy in regard to Beggars Night/Trick or Treat, which is to hold the event on the same night as other communities per the recommendation of the communities that participate in the Miami Valley Mayors and Managers group. A number of years ago, they agreed to hold Beggars Night on October 31 from 6 – 8 p.m. A few communities may deviate from that schedule, but the City has chosen to be very consistent and predictable. He has learned that Xenia High School football will play a game on October 31; however, regardless of any date and time that is chosen, there will always be conflicts with many people and for many reasons. Therefore, the date will not be changed.

Councilman Smith said a citizen who is disabled went to the Xenia Post Office, and as instructed, she went around the back and into the rear access to drop off her mail. She was approached by a postal employee who stopped and confronted her. The Postmaster eventually came out and took care of the situation. However, he asked if there was anything they could do to address the building's ADA compliance needs. Mr. Merriman agreed that accessibility is very limited at that site, and a few

years ago, the City did an engineering study to determine what could be done to make that building more ADA compliant. The problem is that is a federal government building so they cannot address the building itself. Instead, they looked at how to provide handicap parking spaces, which are larger than normal parking spaces. Without removing a lot of infrastructure (DP&L, sidewalk, etc.) that would cost in excess of \$10,000, those handicap spaces could not be placed on the street in front of the building. He said if Council wants staff to engage the Postmaster in a conversation, they can certainly do so. Councilman Smith said other communities have had new post offices built and/or modified for ADA compliance and wondered if they push for a change. Mr. Merriman said he would talk with the Postmaster to determine his position and what options are available.

Mr. Duke and Ms. Fisher had nothing further to share.

**B. Mayor and City Council:**

Mayor Mays congratulated Carson's Treasures on the opening of their store at 75 W. Main Street. She planned to attend the U.S. Air Force Band of Flight's show tomorrow night at Shawnee Park at 6:15 p.m. She encouraged community members to attend the Community Festival and the show noting the Band of Flight has not been to Xenia in a long time. She was very excited to have them back in this community.

Councilman Louderback said he attended the hearing at the Greene County Court of Common Pleas with regard to Councilman Urschel's and President Engle's petitions for the upcoming November ballot. He has been a defender of the City Charter for many years. When he took his Oath of Office, he swore to "bear true allegiance to the United States of America, to the State of Ohio, and to the City of Xenia, and support the Constitution of the United States, the Constitution and laws of the State of Ohio, and the Charter and Ordinances of the City of Xenia." He said Charter Section 11.02 Petition for Place on Ballot, Item (2) states, "Such petitions shall be signed by seventy-five (75) electors of the Municipality." He said he was disappointed that Councilman Urschel and President Engle did not know the Charter requirements and Councilman Smith wanted a "redo." He noted others have petitioned to be on the ballot, and others have made mistakes who were not given an opportunity for a "redo." Further, Vice President Wallace made a statement at the hearing that Council changed the Charter; he said Vice President Wallace must be confused because only the voters can change the City Charter. He felt the Board of Elections made the right decision to decertify their petitions.

Councilman Smith encouraged community members to participate in the Community Festival, attend the parade, etc. He planned to volunteer and work at the City's tent, and he welcomed anyone who wished to come talk to him and ask questions. Regarding the Board of Elections, whether or not Councilman Urschel and President Engle were permitted a "redo," as a public entity, the Greene County Board of Elections and its employees have a responsibility to provide the correct information to petitioners, which they did not do. [At the hearing] It was never contested that Councilman Urschel received a piece of paper that said fifty (50) signatures were required. He felt it would be fair to allow Councilman Urschel additional time to obtain the necessary signatures. The result of the ruling is Council is now losing a veteran with years of experience, and the electors lose the opportunity to make a choice. Many hold a lot of faith in "the system," and many times, the system fails.



Councilman Urschel said he had an opportunity to sit with a number of local organizations who are working hard to help citizens recover from drug additions. He said Delonge, a drug addiction help center located on N. Detroit Street, is doing a great job working The Community Network (TCN) and faith-based and non-profit organizations to lay out a good strategy for a successful recovery. The perception, and possibly the reality, of the availability of drugs in this community creates a huge struggle for those coming out of treatment. He believes that Greene County, the City, and the Municipal Court bear some responsibility to put some constraints on the availability of drugs. Many know what they can and cannot get away with in the City of Xenia, and there are so many subsequent effects and costs. He reiterated his desire for a special session with the Police Chief and Municipal Court representatives to start a conversation. Mr. Merriman said he has discussed Councilman Urschel's request with Chief Person, and they are in the process of developing an outline for a study session. He noted he has also met with Delonge and was very encouraged by their desire to be more communicative and collaborative. Staff is working to line up conversations with them, TCN, Kettering Health Network, and the Greene County Public Health. Councilman Urschel asked Ms. Fisher if the City's law was clear and allows the City to remove abandoned vehicles. Ms. Fisher said yes; several chapters of the Code, including the section for abandoned vehicles, were recently updated when the parking regulations were updated. Councilman Urschel asked how residents could report abandoned vehicles. Ms. Fisher said if on private property, they should contact the Planning Department/Code Enforcement, and if on public property and/or the street, they should contact the Xenia Police Division.

Councilman Urschel said in terms of the election situation, he wished to step back and make some general observations. In the United States, ballot access and ballot access limitations are critical. One of the very precious rights citizens have is the right of petition. He acknowledged the challenge of making constraints too difficult versus too loose for those wanting to put their names on the ballot. If too difficult, they may possibly not have the benefit of choice for a qualified candidate for governing positions. If too loose, there may be a multitude of possible frivolous candidates. He said an Ohio Supreme Court Justice said they should be encouraging the presentation of a slate of qualified persons to allow the free exchange of ideas during election campaigns and the choice by the electorate. When there is no choice in an election or only a single candidate for a position, candidates have no pressure to present themselves and the voters tend to disengage from the process. He said Ohio Boards of Elections are set up to be inherently partisan in nature, and the membership of all Boards are from the two principal parties in the previous gubernatorial election, nominated by the Central Committees of the parties of the County, and accepted by the Ohio Secretary of State's office. Partisan elections help them shepherd their candidates through the ballot access process and allows them the ability to be adversarial against other parties or independent/third party candidates. He said Xenia City Council is, by Charter, nonpartisan. They should be encouraging the maximum participation of Xenians in all components of municipal government especially to achieve a slate of qualified candidates for Mayor and Council so voters can hear from them and vote accordingly. The free flow of ideas that occurs in a campaign where candidates are accountable to present their positions to the electorate and allow the electorate to choose is very healthy. He finds it odd that partisan organizations per statute determine ballot access for non-partisan elections. Most political parties have a structure set up to work well with local Boards of Elections to help them understand the petition process. However, if petitioners are not part of those organizations, they do not have access to that information and makes the process more difficult for non-partisan persons. He recommended that the City's Charter Review Commission consider having the City take more control of the ballot access limitations and ballot access certifications, which they can do with

approval of a Charter amendment, or consider taking over distribution of the City's petition for Mayor and Council. Two years ago the City voted to discontinue use of its own petition form and adopted a generic form. He assumed the Board of Elections would provide the same information that the previous form included. He believes the Board of Elections works very hard; they have many elections and try to keep up with all jurisdictions in Greene County. He shared a story when he was an Air Force Captain and was present when the Berlin Wall came down. He had a conversation with the East Germans, the Bulgarians, and the Czechs, and when asked what they hoped for as they gained their freedom, one of the things they mentioned was elections with multiple candidates "like in America." He was chagrined that the electors of Xenia will be presented with a ballot in November that lists three people for four positions.

Councilman Dean had nothing further to share.

Vice President Wallace said in May 2017, Council heard the request from John Caupp as Chair of the Greene County Board of Elections to adopt the standard Secretary of State petition form. Ms. Fisher said she was not employed by the City at that time and asked the City Clerk for confirmation. Ms. Johnson concurred. Ms. Fisher said prior to that time, the City used its own petition form, which included the requirement for seventy-five (75) signatures. Ms. Johnson concurred. Ms. Fisher said the Board of Elections requested that the City stop using its own form and start using the generic Secretary of State's form that did not include any specific information with regard to the number of signatures required. In 2017, Council voted to begin using the Secretary of State's form. Vice President Wallace said when he pulled his petition, he was given instructions that stated he needed fifty (50) signatures. Thankfully, he doubled that number to ensure he'd have enough certified signatures. He clarified a statement he made at the hearing—the Council did not change the Charter; rather, they did what the Board of Elections asked them to do. As a result, two great candidates are not on the November ballot. He believed the Council should consider going back to using their own form so candidates don't run into this situation in the future and asked what needed to be done to make that happen. Ms. Fisher said she could prepare a recommendation for Council's consideration, or they could also work with the Board of Elections to ensure that correct information is provided when petitions are pulled. Further, all four petitions were certified at 50 signatures, which makes her further question whether or not they are aware of the City's Charter requirements. Councilman Louderback said it is the candidate's responsibility to know the City's Charter requirements—not the Board of Elections. It did not matter if the Board of Elections made an error. Ms. Fisher suggested that they prepare a document to provide to the Board of Elections for their staff to distribute to those pulling a City petition. Vice President Wallace asked Ms. Fisher to prepare that document and bring it back to Council for consideration.

**12. ADJOURNMENT:** Motion by Vice President Wallace, seconded by Councilman Smith, to adjourn the meeting at 7:04 p.m. No discussion followed. The Roll on this was the following:

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

Michelle D. Johnson  
City Clerk

Dr. Edgar Wallace  
Vice President, Xenia City Council