

# RECORD OF PROCEEDINGS

Minutes of Minutes of the Public Hearing and Vermilion City Council Meeting

Meeting

BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Held

Monday, April 1, 2019

*Videos and minutes of council meetings are available to the public to view online at [www.vermilion.net](http://www.vermilion.net) under meeting videos/minutes.*

**Vermilion City Council:** Steve Herron, Council President; John Gabriel, Ward One; Frank Loucka, Ward Two; Barb Brady, Ward Four; Brian Holmes, Ward Five; G. Fisher, Certified Municipal Clerk. Absent: Monica Stark, Council at Large; Steve Holovacs, Ward Three

**Administrative Staff:** Jim Forthofer, Mayor; Amy Hendricks, Finance Director; Kenneth Stumphauzer, Law Director; Chris Howard, City Engineer

## CALL TO ORDER:

Steve Herron, President of Council called the Monday, April 1, 2019, Vermilion City Council Public Hearing to order.

Renewal applications for placement of farmland in an agricultural district in the City of Vermilion were received from Lorain County for the following applicants and no discussion ensued.

Leonard Brill, Brownhelm Station Rd. - 36 acres; Firelands Farm Inc., Jerusalem Road - 109.6298 acres; Lois McQueen, Cooper Foster Park Road - 12.92 acres; Gary & Marsha Krieg, N. Ridge Rd. - 14.49 acres; Donel Sprenger, Liberty Avenue - 86.06 acres; Ray & Dorothy Aufdenkampe, Trustee - N. Ridge Road - 46.910000 acres; Arlene Sahr, Jerusalem Rd & Cooper Foster Park Rd. - 50.90 acres; and, Anne Palmer, 2010 Cooper Foster Park Rd. - 19.37 acres.

## CALL TO ORDER:

Steve Herron, President of Council called the Monday, April 1, 2019, Vermilion City Council Meeting to order.

## PLEDGE OF ALLEGIANCE:

The members of Council, administrative staff, and audience participants recited the Pledge of Allegiance; a moment of silence followed.

## APPROVAL OF MINUTES:

**F. Loucka MOVED;** J. Gabriel seconded to approve the minutes of the March 18, 2019 meeting. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

## CORRESPONDENCE:

S. Herron reported City Council is in receipt of an appeal submitted by Shawn Perry in conjunction with a denial of a sign request he took before the Historic Design & Review Board. This appeal will be referred to the April 8, 2019 Streets, Buildings, and Grounds Committee, with a formal motion that will be entertained at the regular Council Meeting of April 15.

S. Herron reported that Council received an email from Homer Taft dated March 18, 2019. He read the letter exactly as written into the record as follows:

Dear Members of Council,

I had hoped to write or to come tonight to comment on the proposed dumpster corral ordinance, which I oppose in any form and consider way beyond reasonable lawmaking. First and foremost, I don't think there is a real problem, and passing laws every time someone complains, making conduct literally criminal conduct, is inappropriate.

Second, the proposed ordinance was explicitly based on aesthetic concerns -- that is appearance. That is an inappropriate consideration for a city ordinance by law, having zero to do with health, safety and welfare. If we are going down this road, I think you are obliged to outlaw everything anybody thinks unsightly. How about dumpsters behind your building. How about propane tank dispensers and ice

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dispensers in front of businesses. How about landscape supplies? How about fluttering sales signs, shopping cart corrals and storage, etc.? Some might even consider new or used cars or trucks for sale "unsightly". Should we run the car dealers and the repair shops out of town?

Third, as Mr. Gabriel accurately cited, unless you require a movable roof over every such corral (since trucks must lift the dumpsters), you will need to build them all 20 or 30 feet high. Otherwise they will not only be seen at lower elevations all over town, but from 2nd floor residences etc.

If you want to pass an ordinance that all dumpsters (not just besides buildings) and all garbage containers (including residential) are maintained in a sanitary condition and kept closed so garbage is contained and critters have trouble getting in, fine. That may already be the law and are you really even uniformly enforcing EXISTING laws? We certainly haven't done so in many other areas, including storm and sanitary sewers. Frankly, from what I've seen and heard regarding the Elberta Beach Association, the City has failed to enforce laws that prohibit folks from building or dumping materials on other folks' property. Until we uniformly and fairly enforce existing laws, Council ought think carefully about adding unneeded and unlawful ones.

And finally, the ordinance is probably framed as an "emergency". To the best of my knowledge, the problem is one person's complaint about one business for a condition that has continued for some years. What is the "emergency"? So called emergency legislation is intended for just that and cuts off the right of the people to have a referendum on an issue. The proposed ordinance, along with several others that have been passed, seem to be exactly the sort that folks should have a right to mount a referendum campaign.

I urge you to kill this proposed ordinance entirely.

Respectfully,

Homer S. Taft  
3972 Edgewater Drive

**PRESIDENT OF COUNCIL'S REPORT:** No report.

**COMMITTEE REPORTS:**

**Historic Design & Review Board:**

The next meeting has been scheduled for April 3, 2019 at 6:00 pm.

**Planning Commission:**

The next meeting has been scheduled for April 10, 2019 at 7:00 pm.

**Streets, Buildings and Grounds Committee:**

F. Loucka reported the next meeting has been scheduled for April 8, 2019 at 7:00 pm.

**Port Authority:**

F. Loucka reported the next meeting has been scheduled for April 11, 2019 at 6:30 pm at the South Street Ramp.

**Utilities Committee:**

The next meeting has been scheduled for April 8, 2019 at 7:00 pm.

**Contractors Registration Board of Examiners:**

The next meeting has been scheduled for April 23, 2019 at 6:00 pm.

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**Finance Committee:**

B. Holmes reported the next meeting has been scheduled for April 8, 2019 at 7:00 pm.

**Parks & Recreation:**

B. Holmes reported on the meeting held March 19. The next meeting scheduled for April 16, 2019 at 7:00 pm.

**Stormwater Advisory Meeting:**

S. Herron reported the next meeting has been scheduled for April 8, 2019 at 6:00 pm.

**Tree Commission:**

S. Herron reported the next meeting has been scheduled for April 10, 2019 at 7:00 pm at Ritter Public Library.

**Legislative Committee:**

The next meeting has been scheduled for April 8, 2019 at 7:00 pm.

**Vermillion Community Services Board:**

The next meeting has been scheduled for April 17, 2019 at 6:30 pm at the Ritter Public Library.

**Health & Safety Committee:**

B. Brady reported the next meeting has been scheduled for April 8, 2019 at 7:00 pm.

**Board of Zoning Appeals:**

B. Brady reported on the meeting held March 26. The next meeting has been scheduled for April 23, 2019 at 7:00 pm.

**MAYOR/SAFETY DIRECTOR'S REPORT:**

Mayor Forthofer said according to Chief Hartung of the VPD, the department has identified a suspect in the three recent commercial breaking and entering incidents. The suspect has been interviewed by the VPD and charges are forthcoming. Chief Hartung will make notice when they are filed. He applauded the VPD for their prompt response to this recent rash of crimes.

He reported the Firehouse Committee reviewed presentations of the three design-build finalists on March 19, 20, and 21. The committee consisted of himself, Fire Chief Stempowski, Councilman Steve Holovacs, City Engineer Chris Howard, Service Director Tony Valerius, Architect Mark Wagner, and Finance Director Amy Hendricks. The committee's recommendation will be presented to Council at the April 8 Streets, Buildings, and Grounds Committee meeting.

He conveyed the city's internet service went down on March 21 due to a cut cable in Cleveland, which caused utility billing delays and building permits couldn't be processed, and the VPD couldn't look up background checks. They are currently looking into alternative internet providers for future situations and there will be a price tag associated with it, but he feels the VPD and VFD need backup.

He reported that WOW Cable is entering Vermillion and the Law Director is preparing a proposed contract. He said WOW is meeting with the Tree Commission as they will be trimming trees for their lines. He noted that underground work has already begun in Edison Estates.

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He said Service Director Valerius has had street department crews working on improving the entrances to the City's largest parking facility known as the Grand Division Parking Lot. The concrete island at the Main Street entrance has been removed, which makes entering and exiting much easier. Other improvements and signage are planned.

He thanked the Lorain County Commissioners, Tom Kelley of Lorain County Emergency Management, and Michael Challender from the Lorain County Office of Sustainability for providing dumpsters to help Riverside Drive residents clean up after this past January's exceptional flooding. The cleanup is being done by Riverside Drive residents, including Councilman Loucka and the Boy Scouts. This is a good example of government helping citizens who want to help themselves. He understands this was covered by Channel 8, which sends a good message about the county's support of Vermilion residents.

He reported the owners of Pavilion Foods have completed a deal to open a restaurant in the old Simple Pleasures building on Liberty Avenue. They will be called the Pavilion Grill. This makes the downtown 100% occupied. He said Jeremy Crawford and Joe Jesco will also operate the popular Pavilion Food Truck at Pence Lanes. He personally met with Tim Pence, Owner of Pence Bowling Alley to fill out the Planning Commission application to apply for a food truck on his property. He said Tim Pence, or his representative will attend the April 10 Planning Commission meeting to seek conditional use approval.

He reported that Defense Soap has begun clearing its site on Liberty Avenue next to German's Villa and conveyed that Defense Soap is a green aware organization. Their product is green, and their actual campaign is heavily green oriented. The trees that were cleared were either scrub trees or would have been damaged in the process of construction due to grading. They took down no more trees than necessary to accommodate the footprint of their building. S. Herron asked if Defense Soap submitted a plan to replant any trees once construction is completed. Mayor Forthofer said they will provide help for people that want to plant trees.

S. Herron explained there is nothing the city or a township can do to stop the digging by WOW Cable pursuant to deregulation. K. Stumphauzer concurred there is very little the city can do to regulate them. S. Herron said their effort to contact the Tree Commission was very laudable.

F. Loucka applauded Jim & Janet Pyke for taking neighborhood leadership on Riverside Drive for initiating the contact with the benefactors of the dumpsters.

**SERVICE DIRECTOR'S REPORT:**

T. Valerius reported the city hired a new Water Plant Operator, Jill Boden who filled the position two weeks ago. She also works part time for the Oberlin Fire Department where she is a Lieutenant and EMT. She was instrumental in developing an Asset Management Program for their Fire Station and is involved in reviewing their Standard Operating Procedures. Her experience in these two areas will be useful at the water plant as these items have become high on the list of priorities for the EPA.

He conveyed that last week the distribution department replaced a hydrant on Vermillion Road and this week they will replace a faulty valve and manhole on Vermillion Road in preparation for the resurfacing project which will extend from Liberty Avenue to Brownhelm Station Road. Weather permitting, crews are scheduled to begin work the week of April 15. Through most of the project, the roadway will be down to one lane in areas, so he would like to ask the public to slow their speeds and use caution in the work zones.

Lastly, he asked council to consider the purchase of a new salt truck. The city has a chance to purchase a new heavy-duty international truck. This truck is one of only two demonstration trucks left in the State, the other truck has just recently sold. The city has placed a hold on it through tomorrow to ensure it's not sold to anyone else. By purchasing this truck, the city will have it available for the 2019/2020 winter season. Normally, these trucks are built to order and would not be delivered until January of 2020, and they then it would need to be sent out for the bed and the salt spreader installation, which means they wouldn't get the full truck until after the season is over. The city's oldest truck is a 1989 model and it has holes in the floor and bed, and a rusty frame which makes it unsafe for next season. He asked council to consider suspending the rules and adopting Ordinance 2019-26 by emergency. S. Herron said the truck costs \$86,000 but questioned how much it will cost for the bed and salt spreader. T. Valerius said they

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are still looking at prices, but it's going to be around \$85,000. S. Herron asked the finance director if the city has the money for this purchase. A. Hendricks said the city has the money as they had talked about equipment purchases over the course of the planning process for the budget with the street department and with the Service Director. With the changes in the income tax forgiveness the city has had some additional income to the street maintenance fund that makes funds available. Also, the pricing the city received with savings on the Vermilion Road project covers about half of this cost.

B. Brady asked if this is a single-use truck. T. Valerius said with the bed they would put on it, yes. B. Brady asked if they have investigated a Brine spreader as opposed to using salt. She said it appears a lot of communities are leaning that way. T. Valerius said he hasn't investigated Brine. B. Brady wondered if it would be less costly than putting a salt spreader on the truck. T. Valerius said they would still need the truck and tank, and a storage tank at the streets department. B. Brady said it may be worthwhile looking into options.

FINANCE DIRECTOR'S REPORT:

Amy Hendricks reminded citizens they are approaching the income tax filing deadline, which does include the local income tax that is filed through the Regional Income Tax Authority (RITA). If you live in the city and have earned income, pensions are exempt. You do need to file if you're 18 years of age or over, and as well if you work outside the city because there is still a resident obligation up to the forgiveness amounts. RITA has been proactive in their mailings over the course of the last few months.

She said with regards to the transient lodging tax, Erie County now has the links for transient rentals (less than 30 days) within the City of Vermilion to register for filing the 3% local tax portion that begins today. She has been monitoring the list of properties that have registered with the county in comparison with locally operating vacation rentals and have sent reminders with more to go out soon. The County's lodging tax went into effect January 1, 2019, so those not currently registered are already in violation with Erie County. This transient lodging tax is payable by guests renting any cottage, apartment, house or single room unit for a period less than 30 days. The property owner is required to collect this tax from the guest.

She reported on a recent problem with utility billings that went out last week. Just before the billings went out she was made aware there were a few problems with people who had meters either replaced or new meters installed, or significant repairs on their meters which caused the readings not to come in properly to the billing software. As a result, it caused customers to be on an estimated or no usage billing for a period. So, there were large adjustments that were made on billings that went out last week. She immediately contacted the employees in the Utilities department to get a complete list. They sent letters to each one of these individuals, and when people call they have offered them payment terms with no penalties, so it would allow them to extend that payment time if it was a hardship to pay the bill. Also, it dawned on her that if someone had usage prior to the rate increase at the end of 2018, then it was billed at the higher rate. They are recalculating those usages to give those customers credit at the rate they would have been billed. Some customers had an over-estimation issue based on the history on their meter and those people have received some credits. They have a list of people who will have a similar type of situation on their bills next month and she has the employees working on getting those adjustments calculated, so they can send more detailed letters to those individuals in advance of their bills to let them know what the amounts will be, as well as payment terms.

Her biggest concern is how they can avoid this situation from happening again. She spent time last week talking with the billing software vendor about how to prevent this type of situation in the future. They suggested several types of validation reports the city can run in advance of billings, and she talked to the billing department to make sure this is done monthly. They will run a report for everyone who is estimated to identify potential issues, so they can be corrected in a timely manner.

B. Brady asked if it was true that pensions are exempt, which include IRA's, Social Security, 401K's and defined benefit plans. A. Hendricks said yes. B. Brady asked if they don't have to file at all and A. Hendricks explained they must file one time for an exemption with RITA, and then once the exemption is approved with RITA and if nothing changes in their income status, they're good. B. Brady asked if this information is something the city could include on a water bill as a FYI. A. Hendricks said they won't have a water bill going out before this year's filing deadline. She suggested putting the information on the city's

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Facebook page. B. Brady said they read water meters, but there's still a big delay before they bill customers, but the city is still expecting the residents to pay within a tight timeframe, and if somebody is gone for a week then they can't pay their water bill on time and then get assessed a penalty. She didn't feel the city was giving the residents enough time to get those bills paid before they're penalizing them. She said the city keeps running into problems and it has been one nightmare after another with the software, and now they're back billing people for nothing they did, and on top of that – people are getting the bills too tight! They need to either bill timely after the meter is read, or the city needs to extend the amount of time people have to pay their bills. A. Hendricks said she wants to spend some more time internally to see if there's ways they can shorten up the time in processing before the bills are sent. She said the last bills ran into problems with no internet service, but she will begin evaluating if there are ways the city can step this process up internally. She wants to bring a trainer in for a total re-train in the Utilities department and she plans to attend as well, so she can help pick up tips and know what the city's capabilities are or aren't. B. Brady said the residents need more time to pay their bill – it's not fair! J. Gabriel appreciated all the finance director's work as she irons these issues out, because water and sewer bills are the biggest interaction with the public and they get drilled on those. The city must do a better job especially when that many people are upset about it. He would appreciate the city sorting this out because this is the third time in two years they have had issues.

**CITY ENGINEER'S REPORT:**

C. Howard referred to the Vermillion Road Phase 1 Resurfacing Project by stating the contractor is tentatively starting on April 15. Traffic will be southbound only and northbound traffic will be detoured, and signs will be going up next week. They're tentatively starting on the west side of the road first and will move over to the east side. The contract documents allow 90 days for the detour route, but the contractor is hoping to have it done sooner. B. Holmes assumed they would be sending the traffic down Highbridge and C. Howard said no they will be redirecting them on Jerusalem to Sunnyside.

**LAW DIRECTOR'S REPORT:** No report.

**RESPONSE TO THE AUDIENCE:**

T. Valerius conveyed that at the March 18, 2019 Council meeting an audience member (Thomas Chufar) had questions pertaining to inspections of Mobile Food Units. He explained that once a Mobile Food Unit has been approved by the Planning Commission, the owner will schedule inspections at the Building Department. City inspections will be performed at the approved location – first by the Fire Marshall and then by the Building Inspector to make sure all requirements are being met. After approval from the Building Inspector, the owner will be issued a permit to operate and will be given a Certificate of Approval, which must be made visible to the public.

**OPEN TO THE AUDIENCE:**

Shawn Perry of 546 Highbridge Road said before Council is an appeal on behalf of the sign at his business "Rock City". The sign was denied by the Historic Design & Review Board and it wasn't really made clear as to why, other than it wasn't personally to the taste of particularly one person on that committee last month. The sign has been downtown for almost six (6) years and it meets all city codes and regulations for signs. Therefore, he would like to appeal this before City Council. S. Herron said they will discuss this at the April 8 meeting.

Thomas Chufar of 4373 Edgewater Drive questioned if the Food Truck would get their inspection on the site where they're going to be doing their business at. T. Valerius said yes on their approved site. T. Chufar said once they get approved on the approved site, then the Building Department and Fire Marshall will be there as well. T. Valerius said yes. T. Chufar said the governing person over this would be able to give the full authority of the approval. T. Valerius said final approval will be by the Building Inspector. T. Chufar said just so they understand what can happen under the rules for food trucks under the State of Ohio Administrative Code, 3717-101, it has a space in there for variance in clause 125. It can mean anything that is listed in there can be given a variance. If a variance is given, he would ask for this to be notated on their approval, so the variance is clearly recognized and posted with it. This way people know a variance was given to that Food Truck. It's for health and safety, and it's very important because it can deal with all the things that have to do with the operation on that truck. If there is something not up to

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snuff and they applied for and were given approval, the public should be notified that the truck was given a variance for whatever the specified thing is. He said this is "Food for Thought".

### New Business:

**S. Herron MOVED:** F. Loucka seconded to approve the renewal applications for Placement of Farmland in an Agricultural District. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

### Reading of the Ordinances:

**Tabled - Second Reading – Ordinance 2019-18:** AN ORDINANCE AMENDING SECTION 252.01 ENTITLED "VACATIONS" OF THE CODIFIED ORDINANCES OF THE CITY OF VERMILION AND DECLARING AN EMERGENCY. (Referred to the April 8 Legislative Committee Meeting)

**Second Reading – Ordinance 2019-24:** AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE VERMILION CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

**Second Reading – Ordinance 2019-25:** AN ORDINANCE ENACTING NEW CHAPTER 1480 ENTITLED "DUMPSTERS" OF PART FOURTEEN – BUILDING AND HOUSING CODE – TITLE SIX (MISCELLANEOUS BUILDING REGULATIONS) OF THE CODIFIED ORDINANCES OF THE CITY OF VERMILION AND DECLARING AN EMERGENCY.

**First Reading – Ordinance 2019-26:** AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH TRUCK SALES AND SERVICE OF MANSFIELD, OHIO FOR THE PURCHASE OF ONE (1) PLOW TRUCK CHASSIS TO BE USED IN THE VERMILION STREET DEPARTMENT, AND AUTHORIZING THE FINANCE DIRECTOR TO MAKE PAYMENT TO SAID AWARDEE IN AN AMOUNT NOT TO EXCEED EIGHTY-SIX THOUSAND SIXTY SIX DOLLARS (\$86,066) AND DECLARING AN EMERGENCY.

**J. Gabriel MOVED:** F. Loucka seconded to suspend the rules. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

**F. Loucka MOVED:** J. Gabriel seconded to adopt this ordinance by emergency. Discussion: B. Brady requested the administration to research the Brine option along with all costs associated as opposed to salt. T. Valerius said he would. B. Holmes said they should also look at making the bed a multi-use bed, so the truck can be used year-round. T. Valerius said they do have other trucks they use year-round. J. Gabriel was happy they could use savings from other projects to purchase this truck because when they all toured the Service Center last year they saw the equipment was in awful shape and they do have to guide some resources this way. He said employees running around on half-baked equipment just doesn't get it done. He appreciates the fact the city has enough money to pay cash for this truck without incurring additional debt. S. Herron said he was enlightened on the tour as a lot of the trucks are beat up and it becomes a safety issue for the workers, so they need to move in the right direction. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

### Announcement of Meeting Dates

Steve Herron

*April 8, 2019 – Stormwater Advisory – 6pm - Vermilion City Council Committee Meetings (All) – 7pm  
April 15, 2019 – Vermilion City Council Meeting – 7pm  
April 22 & April 29 – No Meetings*

### Adjournment:

Upon no further business coming before the body, Steve Herron, President of Council adjourned the Vermilion City Council meeting.

~ Gwen Fisher, Certified Municipal Clerk