

LEGISLATIVE COMMITTEE MINUTES

OF AUGUST 13, 2018

Municipal Council of the City of Vermilion
Municipal Complex, 685 Decatur Street, Vermilion, Ohio 44089

In Attendance: **Vermilion City Council:**
Steve Herron, President of Council; Monica Stark, Council at Large; John Gabriel, Ward One; Frank Loucka, Ward Two; Steve Holovacs, Ward Three; Barb Brady, Ward Four; Brian Holmes, Ward Five.

Administration:
Jim Forthofer, Mayor; Chris Howard, City Engineer; Amy Hendricks, Finance Director; Tony Valerius, Service Director

Call to Order: Monica Stark, Chairwoman, RESOLVED THAT this Legislative Committee comprised of the committee of the whole does now come to order.

TOPIC ONE: Food Trucks (Draft Legislation)

M. Stark refreshed council's thoughts on the previous discussion they had at last month's meeting when they said they would review and think about things. She asked council if they had any thoughts or comments they would like to address.

J. Gabriel said the law director sent an ordinance from Columbus on Food Trucks which addressed the safety section of what they require of food trucks; bottles of propane has to be properly contained, etc. before they let these trucks in their community. There is a whole section on where to park and he likes a lot of the ordinance and some of those things can be considered, but if Vermilion is allowing food trucks they need to seriously consider a time limit. He noted his ward extends from Highbridge to the downtown, which is about every restaurant in town. He stressed the downtown merchants have strong opinions and he doesn't blame them because it's difficult to run a business. They spend \$100 to have their backflow devices checked and at a minimum they spend \$80 a month in stormwater, and tonight they are talking about increasing their fee to \$125 to change a sign; try running a business. He said to let a guy come in for \$200 for the summer, how can they compete? However, if council is going to allow food trucks then they need to restrict them to public lands, restrict them to public events, and no more than once a month. He thought this was too generous as he would allow once a summer, but he understands people may want to have different events and invite the same truck twice. He thought the Columbus ordinance had time restrictions as well.

B. Brady asked what do they consider a public event and who decides if they are going to have food trucks. J. Gabriel said an event that has reserved public land; like the Fish Festival/Whollybear Festival; an event sponsored by a 501C3. It would be defined by people who get park permits and it would be up to the organizer if they wanted to bring in a food truck. If you allow them on private land if somebody was having a wedding or graduation, but make it so they fall under the same rules, and as long as they aren't selling to the public that would be okay. They would also need to be approved by the Health Department and register with the Finance Department so they properly pay the income tax they will generate off whatever function they are serving.

B. Holmes asked what stops food trucks now from setting up on private property. Council asked how the food truck is allowed at the Farm Market and T. Valerius said it's the building inspector's job to make sure he has a transient business; right now it's covered under temporary storage/transient dealer permit. S. Holovacs said the fire inspector should also inspect the food trucks.

B. Brady said by definition of Chapter 872 it defines a food truck as a private motorized vehicle which is temporarily stored on a private lot where food items are sold to the general public. So if you brought a truck to the VOL Clubhouse they are not going to be selling out of that truck. It's a catering truck, so it really doesn't fall under this ordinance. Also, a food truck can't be at the location overnight, but they keep the food truck at the Vermilion Farm Market all the time. It's on private property and they are selling funnel cakes.

T. Valerius said the ordinance is just a proposal and right now there is nothing in the ordinance about requiring a fire inspection, so this is something that was included in the proposed ordinance. B. Brady asked how much it will cost the city to inspect these trucks. S. Herron said they would be adding a ton of work to do an inspection. Mayor Forthofer said he is looking at the costs for the festivals and among them is the cost to the fire department performing inspections which runs up to hundreds of dollars per event, so if you break that down by individual vehicle, you will need to add another \$50-\$75 just for inspection.

S. Herron thinks the people running these trucks are legitimate business people and they have every right to make money, which he respects. However, he doesn't think we need them in Vermilion other than perhaps the Whollybear Festival and Fish Festival. If they go to a private event and they aren't selling to the public that is fine too, but he doesn't think they need them downtown at all. He understands this may be unfair to good people who work hard and he means this with all due respect, but the City of Vermilion doesn't need food trucks in the downtown area. It's an enormous burden on an administration that has a lot of work to do in other areas according to the City Charter and laws.

J. Gabriel said if this was up to him then they should take a vote now whether they are for or against allowing food trucks whatsoever, and if they are going to allow them then they need to decide on the restrictions. B. Brady said if they don't allow them then they are saying they are gone from the festivals. J. Gabriel said that would be the danger of getting rid of food trucks, so if they are going to allow them then they need to come up with public lands and festival driven requirements. B. Brady asked if it was true that the city doesn't receive any revenue from the Chamber when they run these events. Mayor Forthofer said they receive an amount from the Chamber for the Fish Festival because they have a lot of inspections that go along with the fireworks, etc. However, the city receives nothing for Whollybear or Third Thursday and they all cost; especially Third Thursday.

M. Stark said as it stands with the current ordinance the food trucks are allowed per the approval of the Mayor. So if she started a food truck business she would need to go to city hall and request permission, and then the administration would have the choice on what date, duration, and fee. T. Valerius said the mayor can issue a license. M. Stark said moving forward if they want to keep the ordinance as is, this would allow them to have food trucks at special events and other events at the administration's discretion. The mayor would like council to put something in place. S. Herron said they can make a decision on whether they want to leave it up

to the mayor's discretion or to propose new legislation to allow them with restrictions attached. Council seemed to be good with the idea of allowing them for private events if it was more of a catering service and as long as they are not conducting cash sales. A. Hendricks said the Beach Market at Sherod Park recently had food trucks. J. Gabriel said if they were to do the five point list then this would be okay because it's on public land for a planned event which was recognized by the Parks Board. He said this week they had a food truck set up in the old Pizza Hut, which was part of a used car lot that sat across from two restaurants.

M. Stark said this falls under council's discretion if they put something in place. Council can limit food trucks so they don't have 100 food trucks to inspect. B. Brady asked if they should be charging the festival food trucks \$250 each too and S. Holoavacs said all of this goes through the Chamber and they pay based on how many feet they use. The fire department and health department does the inspections and usually the fee exceeds \$250 according to the space they use.

F. Loucka asked if they are spending more in city funds and not getting enough back in permits. He said food trucks should be restricted to special events and not just anywhere in town.

S. Holoavacs said the Chamber may need to sit down with the city to discuss the costs of the Whollybear Festival, especially if the fire department is coming in and performing inspections. You should pay for what you use.

David Volak asked how they are defining a food truck. What they are seeing out at the Farm Market is not a food truck; it's a portable food stand and the vendor's license is probably attached to the address that it resides on. Are they saying that nobody that owns property in the right zoning district can have a food truck by this ordinance. He said they have private property that's in the appropriate zone that gets a vendor's license to put a food truck on their property, and then it's totally different than bringing in food trucks for the night or weekend. They need to determine what that definition of food truck is going to be because they could be infringing on a lot of people's business rights to operate licensed businesses at permanent locations. B. Brady asked why this is different if she puts a food truck in her driveway. D. Volak said because she resides in a residence that is zoned for residential living. Whereas, if you own the building that is zoned for commercial/retail/restaurant and you have outside property that can accommodate an appropriate licensed and maintained food cart, then why can't you do that?

S. Herron said the proposed definition states that a licensed, motorized vehicle or mobile food unit which is temporarily stored on a privately owned lot where food items are sold to the general public.

Scott Dommin said he isn't for or against food trucks but he wanted to make a point as they mentioned they are concerned about the restaurants being affected, but here they are on a Monday night in Vermilion and it's a tourist town at the height of tourist season, and none of the restaurants are open.

M. Stark said she could work with the clerk on incorporating some of these points into sample legislation for review at next month's meeting. S. Herron said the Columbus ordinance really addresses safety more so than the others.

TOPIC TWO: Wireless Telecommunications Tower

S. Herron said he supplied council with a model ordinance which combines the best of several ordinances with Scenic America. It addresses many things from people that have written in about this issue. It addresses FFC regulations relative to height and location. He would like to have this ordinance sent to the law director to review in a step in the right direction to address many of the citizen's issues regarding this. The clerk advised that she already forwarded this to the law director.

Mayor Forthofer said the nearest property to the current proposal is 175 feet and the height of the tower is proposed to be 155 feet. However, it was explained that monopoles are meant to break when stressed but they don't fall in whole.

Rennie Rak asked where the city is proposing to put this tower; is it going to be on the west end by the welcome sign. M. Stark said no decision has been made as to exactly where a tower will go at this point. R. Rak said the main issue for them is location. S. Herron said this ordinance is up to date and there are a lot more options that cities have now, so they don't know. R. Rak asked if the city would be pursuing other locations than the one at the west end and S. Herron said absolutely. B. Holmes said they are trying to preserve the scenic view of Vermilion and everybody's town. R. Rak said Route 6 is considered a historic route, so it would be shame to have something like this along Route 6 when they are proud of the city. She asked council to consider this.

B. Brady asked the mayor how the location was proposed and Mayor Forthofer said it was requested by the site location manager for Verizon. B. Brady asked if it was written in stone and Mayor Forthofer said it was what they requested.

TOPIC THREE: Building Permit Fees – Draft Legislation

T. Valerius explained that he and the Building Official sat down and looked at their building permit fees and most of them haven't been changed since before B. Kurtz was here. They compared Vermilion's permit fees with several other communities in the area and found that Vermilion's fees were very low compared to other communities. Therefore, they bumped up all the fees to make them comparable to the surrounding communities.

B. Brady said it's always difficult to charge for replacements especially if they are of like-kind. If she is replacing a window does it make sense that the city tells her who has to do it and she has to get a permit? T. Valerius said a registered contractor is a must when it comes to replacing windows and the permit fees have been a part of their fee structure for years, just like roof and door replacements. B. Brady said it seems they make their resident's criminals because they know how much work is done on weekends. She wonders if some of these fees are necessary and she understands if they have to perform inspections there is time involved, but on things that don't need inspection she isn't sure why the city should be involved.

S. Holovacs said if he is going to replace a door or window himself then he doesn't need to hire a contractor, but if he does then they have rules and they must be licensed, bonded, and insured.

If there is a problem later than the city can do what they can to protect the residents. T. Valerius said the building department has incurred situations where homeowners have work done with unregistered contractors, but the city can't help them in these situations. If they are licensed then they can file a complaint with the Contractors Registration Board.

F. Loucka said there is nothing new in the Vermilion ordinance; they are basically updating the current fees since they haven't been updated in some time. He had no problem with these building permit increases. M. Stark agreed as long as it's in line with other communities. She said this legislation will be on the September 10, City Council agenda for a first reading.

TOPIC FOUR: Permit Applications (Draft Legislation)

T. Valerius said this legislation is for a dock permit which currently is \$15 and they want to raise it to \$35. This is also in line with what other communities charge.

M. Stark noted this ordinance will be on the September 10, City Council agenda for a first reading.

TOPIC FIVE: Permit Fees (Draft Legislation)

T. Valerius explained this is a cleanup of the current commercial sign ordinance. He said there will now be a permit fee of \$125 for the replacement of panels to an existing sign with no change in the sign size, or \$250 for a new sign, plus a State fee of 3%.

M. Stark noted this ordinance will be on the September 10, City Council agenda for a first reading.

TOPIC SIX: Retaining Walls (Draft Legislation)

T. Valerius stated the Ohio Building Code requires that retaining walls over three feet need engineer drawings. The fee is not only for a permit fee but it's also for the engineer to review the plans. M. Stark asked what the current fee is and T. Valerius said \$50 for a retaining wall and then whatever amount the engineer would charge for his review.

M. Stark noted this ordinance will be on the September 10, City Council agenda for a first reading.

TOPIC SEVEN: Texting and Driving

B. Holmes asked to table this issue, but reminded all the residents that texting can wait and they should take their time and text or answer their phone call when they get home. He said Avon updated their ordinance and he is waiting to review it once it's finalized.

TOPIC EIGHT: Pedestrian Accessibility Program

F. Loucka reported that work is in progress on this matter. He along with G. Fisher, T. Valerius, and C. Howard met on August 1 and C. Howard is working on a few details and is checking with other communities to make sure Vermilion has an ordinance that is correct.

TOPIC NINE: Temporary Storage Containers (Draft Legislation)

S. Holovacs said he had a resident call him regarding a storage unit in a front yard that had been sitting there for a while. Upon looking into this matter, he found there are no ordinances on the books to govern the temporary storage containers. Therefore, he met with G. Fisher to draft legislation and they modeled legislation from Huber Heights and Moreland Hills. He said the manufactured name is PODS and they drop them off and people fill them, and some return them when they are done. He said the definition in the proposed ordinance states that a Temporary Storage Container means any container, enclosure, structure, portable on-demand storage device (POD), metal shipping container, mobile storage unit, and any other device which is designed to be portable and transportable, commonly used to store home furnishings and other personal items on a temporary basis during a time of home repair, construction, renovation or relocation. Temporary storage containers do not include self-propelled motor vehicles or moving vans. He said they are trying to avoid a storage shed in the front yard. He said in the proposal temporary storage containers are permitted to remain on a property for a period not to exceed (30) days within a calendar year. The Building Inspector has the authority to grant one thirty (30) day extension. Temporary storage containers placed on a property for a construction project are permitted to remain for the duration of the project, but shall be removed from the property within seven (7) days of completion of the project and issuance of a Certificate of Occupancy/Completion or upon expiration of the building permit. City Council discussed the timeframe on how long they should be allowed. However, in the end they were in agreement to the terms as defined in the proposed ordinance.

M. Stark noted this ordinance will be on the September 10, City Council agenda for a first reading.

M. Stark adjourned the meeting after no further business was discussed.

Next meeting: September 24, 2018 @ 7p.m. – Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH

Gwen Fisher, Certified Municipal Clerk (CMC)