

LEGISLATIVE COMMITTEE MINUTES
OF DECEMBER 10, 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; Gwen Fisher, Certified Municipal Clerk

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

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: **Review of Vacation Rental Draft Legislation**

S. Herron provided council with draft legislation pertaining to vacation rentals as many citizens over the last two years have contacted him about this situation. Upon research from different communities they look at it in terms of safety, bringing in income, and promoting local economy. His philosophy is that they look at legislation that makes sure if you own a house and you are renting it out by the internet, that this house is safe for everybody, and law enforcement knows who owns the house and who oversees the residents during certain times. He said the draft he provided came from Florida and it addresses certificates, notifications, applications, changes in property, etc. He said there are concerns with over-regulating and there may be a situation in Vermilion where they don't have the resources to enforce these laws. He said there are current problems and a potential for problems surrounding parties, drugs, etc. He said this legislation is a starting point and asked council to review it and offer their suggestions.

B. Brady said if she has a residential property and decides to sell widgets she would have to go to the Zoning Board of Appeals for permission to run a home business, and these people are running a home business, so she thinks they need to go to the BZA for permission to run a business out of their residential property. She said if it's in the business district then it's a whole different ball game. She said these businesses need to be registered with RITA and follow rules of commercial buildings as it's changing the use. S. Herron said the type of business is essentially lodging (motels/hotels) which is governed currently by city ordinance.

S. Holovacs said they also had talked about registering rentals. G. Fisher said the administration has the rental registration in place.

J. Gabriel said they allow people to rent their properties and they don't consider that necessarily a commercial entity. This is more along the lines that it's non-conforming to a residential neighborhood. It falls more under hotel/motel because of the length of stay. After 30 days it becomes a true rental. He said they are talking more about conditional use and being approved by the Planning Commission, with adding a small layer to come up with a certificate of some kind. He said they have heard about some disturbances and they need to come up with the

ability to revoke that person's ability to operate that business in a residential area. He said they will need to come up with a permit but thinks they should send them through the Planning Commission in a conditional use manner.

F. Loucka said a critical thing to consider is enforcement because this is rental property and if they are going to treat Airbnb types differently they need a specific timeframe. He questioned how many Airbnb's are registering as rentals in the City. He said they can look online to see which property owner is advertising and then check with the City to see if they are registered. If not, the City could follow up with a letter advising them that they are not registered.

B. Brady said she looks at a rental and an Airbnb differently because if she rents her house long-term to somebody they become a part of the neighborhood and she knows what to expect, but with Airbnb they can have a different person next door every day and they don't become a part of the community and they don't respect the neighbors. They function very differently as part of a neighborhood, so they need to separate them.

S. Herron said part of this is imposing a duty on the landowner to conform for safety. It puts pressure on the landowner because once you have a duty and you don't adhere and somebody is hurt or killed, that's a heck of a lawsuit as that person is criminally liable.

Patty of Edgewater Drive said this is a serious issue. It's a little more than parties as it becomes a noise factor. She has been getting woke up all summer from people dragging suitcases across the parking lot as she is 10' away from the noise and driveway. It's very interesting as it's not just about parties and the noise factor; its courtesy and people not trespassing on other people's property trying to find places to walk. There's a lot of issues involved, and this is a sticky wicket and there is a lot of things that need to be considered. She asked how they are going to declare someone's residency with something other than a utility bill – people buy these homes and don't live there or use them specifically for a rental. They can't compare one home with one room to four-multi dwellings. They have three times as much traffic. She said they may have people only on the weekends which is very different than having six different groups in four days. She said they need to consider drug traffic; it's a huge one. They have had drug traffic since the place next to her opened – they had an overdose; it's not just a suspicion – but validation. She asked why they want to open their community to more potential problems when people aren't even registering now – do they really think this will change them to register. She's not sure this is going to happen and its things they need to consider. M. Stark asked if this specific dwelling she is speaking of is an Airbnb rental or a monthly rental. Patty said for 10 years it was a part-time rental and they would have a bad seed here and there, but they also had good renters with little to no problems. However, over the last couple years it has been non-stop when it switched over to an Airbnb. She said one half is being run as an Airbnb and the other half is a 30-day rental and a unit the host supposedly lives in. She said they have definitions of what Airbnb is supposed to be and what a residential rental is and according to Ohio Revised Code if you're running both a 30-day rental and transient it's considered a transient hotel, which runs under a whole different legislation. There are licensures, inspections, and a whole bunch of different things. They have definitions in place and it's interesting how somebody has a piece of property that can rent it a different way as a hotel, rather than being a residential rental. She said people come in at all different times with keyless entry; it's just not a simple noise factor or parties.

B. Holmes encouraged her to call the police on any type of incident she has in her area as drug use is a big concern that needs to be addressed for all residents in the area. Patty said they

should consider proximities and they need to look at the property to see how close they are to surrounding homes and what noise factors will be affecting other people. She said there is other legislations that put into effect the fact you must be 500 feet away from the next neighbor, and you must have one-acre of land to have an Airbnb. There are a lot of different things other communities have in place. If you have a multi-dwelling unit you cannot rent out any other unit other than the one you're living in. Also, they need to look at the traffic because in her situation it changes the traffic in the neighborhood; it's a dead-end street and they have a running railroad track on one side and a 50' cliff that goes down into the lake, which are liabilities. She said Airbnb doesn't cover anything outside the units; they only cover the units being rented. She said when they have a tiny neighborhood this situation can be somewhat frightening.

M. Stark thanked Patty for sharing her concerns as it brings light to a lot of them on what's happening.

B. Brady said enforcement is obviously a problem, so she would like to see council establish some nasty penalties rather than a slap on the wrist. This will hurt their pocket and maybe the city needs to go as far as turning off their water to the unit, so they can't rent it at all for six months. Mayor Forthofer said he would have to run this by the law director for a legal determination before turning off water to a paying customer. M. Stark thought it would be great if the mayor checked with the law director on the range of penalties city council could implement.

Amy Hendricks stated that in reading some of the recent news coverage regarding Sandusky, Huron, and Erie County regulations there were some stiff penalties to those who fail to register their Airbnb's.

J. Gabriel said the city has an enforcement issue as the building department consists of a building inspector, part time building inspector and clerk, so this is the city's problem in a nutshell. Therefore, the city needs to make this issue relatively simple as this is a non-conforming use of a residential area. If you have a nuisance as described by Patty then the city not only needs to have the ability to penalize them, but they need to come up with a permit system that can be revoked to give homeowners the ability to use their land in a manner that infringes upon their neighbor's right to a peaceful existence. He didn't think the legislation needs to be big or wordy for the size of Vermilion. S. Herron said there are a lot of ways you can go with legislating this issue.

M. Stark referred this issue to the January 14 Legislative meeting for additional review.

TOPIC TWO: Food Trucks (Review of Ordinance 2018-63)

M. Stark explained that J. Gabriel forwarded some additional suggestions to the clerk, so City Council could review them.

J. Gabriel said where legislation starts and where it finishes is never the same place. He noted he has spoken to several business owners who don't see the problem or worry that he does, but they don't represent every business in Ward One. He said there is room for compromise and in the Historic District he would consider it a prohibited use because of space and they it can be a public land thing and then they can follow their public land rules, whether it's once a month, festivals, etc. In the B-2 / B-3 districts that encompasses the rest of Vermilion's business

districts, the compromise was suggested that they make it a conditional use. They could take the original ordinance and strike the once a month language, which would be strictly for public land. He said the festivals are grandfathered according to the language, so the once a month language will be changed to just public lands. He said residential would remain the same if they are associated to private parties. He said B-2 / B-3 districts could be a conditional use and if you're the food truck owner you would get a vendor's permit from the city and if you're the land owner you would go to the Planning Commission and Zoning Board for approval of the conditional use to have food trucks on your property.

He thanked Bill DiFucci, Bob Kurtz, T. Valerius and business owners for their input on this matter.

F. Loucka reviewed J. Gabriel's suggestions and thought it was a reasonable approach. He said they need to make a starting point to see how it works.

B. Brady asked what costs are involved and J. Gabriel said the fee is \$180 for a vendor's license and the property owner would have to obtain a conditional use permit, but he was uncertain of the application fee. He said the only sections in the proposed ordinance that could change is Section 872.04 (3) which addresses the \$180 fee, and Section 872.08, along with (n) that he would like to discuss with the law director about regarding the once a month issue being changed to public lands only.

B. Brady asked what the city does when a new business comes into town. J. Gabriel said the State of Ohio showed up at a business that was running cash only and they must have forgot some portion of the tax system, so those laws are enforced by the state. B. Brady wanted to make sure they are registered with RITA and J. Gabriel believed this was covered in the proposed language.

M. Stark liked the conditional use suggestions entertained by J. Gabriel but wanted to know who would be enforcing this as she was told one of the current vendors was parked in a fire lane and it wasn't being enforced. Chief Hartung said the police department would enforce parking in a fire lane and it depends if it's properly marked.

T. Valerius clarified that the downtown area is a B-2 zoning district and Liberty Avenue is B-3. There really is not much of anything that is zoned B-1; Drug Mart is B-1 but that's about it.

M. Stark said if a business has technically been vacant for a period, would they allow a food truck at that business.

S. Holovacs asked if the food trucks are responsible in contacting the county and state for food permits to sell to the public, and to be inspected.

Jeremy Crawford of Mason Road owns the food truck parked at Pence Bowling Alley and explained there are three inspections by the Health Department per year that is mandated at the bowling alley, so while they received their inspections, their food truck was also inspected. He said surrounding restaurants pushed the health inspector to make sure he inspected their food truck. He said their permit with the State of Ohio is good for a year, but every county they travel to they have to notify the health department to perform an inspection before they set up and can sell food. B. Brady asked if he was self-contained and what does he do about water and sewer. J.

Crawford conveyed that he has a 35-gallon clean water system with hot water on demand on the food truck, along with a 55-dirty water tank that is just grey water; not sewage. In his van he has a walk-in cooler on wheels pulling a 20' commercial kitchen and there is an additional 110 gallons of clean water and they do rent a couple rooms from the bowling alley for storage and sanitizing dishes. They have a three basin sink on their truck, but it's easier to do this inside the bowling alley. B. Brady asked what they do with their grey water and J. Crawford said the health department told them it can be disposed down a regular sewer drain. They dump theirs through the three-basin sink and then they empty their tank, so it goes through a grease trap system.

M. Stark asked J. Gabriel to work with the law director to incorporate his suggestions in the proposed legislation that will be discussed at the January 14 meeting. S. Herron thanked J. Gabriel for putting the extra time in this issue.

M. Stark MOVED; S. Herron seconded to change the fee in Section 872.04 (3) to \$225.00. Roll Call Vote 6 YEAS; 1 NAY (Brady). Roll Call Vote 6 YEAS. **MOTION CARRIED**.

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

Next meeting: January 14, 2019 - 7pm - Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH

Gwen Fisher, Certified Municipal Clerk (CMC)