

LEGISLATIVE COMMITTEE MINUTES

OF JULY 16, 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. Absent: 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 explained that Mayor Forthofer brought this issue to council a couple weeks ago as a lot of people have expressed interest in bringing food trucks to town.

Mayor Forthofer said the administration is asking for help from council in dealing with the increasing requests by food truck vendors. They need an ordinance that specifically addresses the location of food trucks and the time they are permitted to operate, or if they are permitted to operate at all. An ordinance proposed by the law director has been distributed to city council, as well as an ordinance used by the City of Sandusky with comments from their administrator.

J. Gabriel said he represents the downtown and he is concerned that in a summer season they have such a short amount of timeframe, and one of those weekends are given to the Fish Festival and rightfully so, as a lot of service organizations benefit from them and it's a long-standing festival in Vermilion. There are limited periods of time to make money in Vermilion and these businesses need to make enough money to sustain themselves throughout the winter months, so he would be concerned about having a chocolate truck park outside of Brummer's for instance, or having a burger truck parked down the street from the Soda Grill. He is okay if they would come up with an event based thing, but to invite them in for the summer for a long period of time concerns him. He said stormwater rates on existing businesses just went through the roof and they have backflow device inspections which are probably \$100 or more, so on the other side of things you can allow a food truck to come into town for a couple hundred dollars when these businesses are paying \$80 a month for stormwater and \$100 to have a backflow device inspected. If they allow food trucks they need to be specific with their timeframe so the existing businesses can make the money they need to stay, so when they come around next spring they are still there. The summer season in Vermilion is limited.

S. Herron said they should ban food trucks in the downtown area with the exception of the Fish Festival and the Whollybear Festival. He doesn't think they should permit merchandise to be sold on these stands. He doesn't think there should be merchandise at all during the Farm Market Day events. He said he isn't talking about a city-wide ban because they have a large area

east of town and if you're living on Highbridge Road and you're having a graduation party then he doesn't think it's wrong to have a food truck because you're away from the downtown area. The question would be whether it would be fair to the homeowner. Is it fair or unfair to have different standards for property owners? He said businesses in Vermilion do not need to be hampered. He said he didn't wake up this morning hating food trucks, but he doesn't think they are needed as he doesn't like them in the downtown area if they can take business away from the people who have invested in the community, so it's something they shouldn't permit.

B. Brady said if it's private property and there are no sales being done that's different. They have often had food trucks come to the VOL Clubhouse for private parties which is paid for ahead of time, but people are going to food trucks and buying something. It's really the caterer working out of the food truck, so she isn't sure if this falls under this ordinance. As far as food trucks, the problem is they will need to be inspected. They have no loyalty to the City; they are coming in town for two days and leaving. They are using city streets, city water, city sewer, and the city only receives \$250 for the summer from them. This is a problem for her.

S. Holovacs agreed with banning food trucks in the downtown. He does agree that if you're having a private party at German's or the VOL Clubhouse that's different. Even out in the country you see people supplementing their food services for a food truck. However, this is a total different issue and it's not affecting the businesses that pay taxes downtown and that the City supports because they are in the downtown year round. There is a short window in Vermilion and in the summer and fall it's really busy, and then after that winter is pretty tight. Regarding the festivals, they're no different than a different vendor that comes in. They are doing it in the function of the festival.

Tony Valerius said technically food trucks are currently permitted under the "Temporary Stores and Transient Dealers" legislation. In the ordinance it states that as long as they pay \$50 a day or a \$1,000 bond to the city they can operate as a transient business. The food truck ordinance is more specific to food trucks themselves. B. Brady said she looked at this a couple years ago when it came up and the former mayor at that time told her it had to be approved by the mayor and none would be approved by the mayor since it was in her control. T. Valerius confirmed under the current code the mayor does issue the license, so it would be up to the mayor.

M. Stark said a lot of council is opposed to food trucks, but she personally wouldn't mind seeing food trucks in the right locations during the right times. She said location is everything and she isn't saying they should park a chocolate food truck in front of a chocolate store. She thinks as a body and as the city government they would maintain control of where a food truck will go, and how many food trucks will be allowed in on any one given day. They are not going to have 50 food trucks lined down their streets; they are going to have certain areas in her mind and certain days that they can go there. It's not just a free for all and its council's job to control this. She has been told there are three families that live in Vermilion who own food trucks; they are tax paying citizens and they would like to have business here also. They need to look at the time limit because \$250 for a full year is too cheap. They want to see different parts of their community developed in different ways and she sees this as a vehicle to develop the different areas. She sees fishermen that come to the public docks and she would think a majority of them will not go to a restaurant, so maybe they could position a food truck at a public dock. She said they wouldn't have to worry about packing lunches. She thinks they need to change their thinking and say this could encourage more people to come to Vermilion, and to use some of these different areas. She said Rotary Park under the water tower is a wonderful park, but how

many times do you ever see people there. Maybe if they had a food truck there people would enjoy the park. When she takes her family out to dinner she is going to dinner with her family to sit down and enjoy a restaurant. She doesn't think she would ever say, "Hey let's just go to the food truck". She doesn't think this will take business from a restaurant. It might take some business from the drive-thru fast food restaurants, but they need to consider changing their thinking and to look at it from a different perspective of growing different parts of their community. Once again, council can control the times and days, so they need to take control and make this work for their community.

B. Brady said as an example she went to 'Walking on Wednesday' in Amherst the other day which is similar to 'Third Thursday' as they have bands spread around their downtown. She said there were only about seven bands and she wondered where all the people were as nobody was on the sidewalks and the restaurants were empty. She said in front of City Hall there was a group of food trucks and people selling Knick knacks and it was packed, so this congregated area had drawn all the energy out of downtown where the bands purposely were positioned to draw people to downtown. M. Stark said she was in Amherst last month and she didn't see any food trucks, but did see trinkets being sold by City Hall. She said the restaurants were even packed because she tried to get in them.

F. Loucka believed food trucks should be allowed for festivals only and catered events. If somebody has an existing business that wants to supplement with a food truck then he would be okay with that. However, he doesn't like food trucks that take away from people who are struggling to begin with and it should be severely restricted to festivals.

Charl Gabel of 5487 Liberty Avenue asked for clarification from S. Herron on what he said about the Farm Market. S. Herron said one of his concerns is that city businesses are paying taxes on what they sell and his understanding is that it's difficult tracking down the taxes from the merchandise that is being sold at the downtown Farm Market; other than food. He said when people come downtown and sell trinkets this takes away from the local businesses. C. Gabel said she likes his point and noted she will be back before council next month.

Mike Moore of 4986 Northview Court would like council and the mayor to get a different perspective as he is one of the 35 musicians who plays for free at 'Third Thursday'. They are in their 13th season and they enjoy it very much and they are not making any money, except hopefully the local businesses. He would be very upset to see somebody come from out of town to set up shop near where he sets up his music, and taking money out of Vermilion. They are doing this for the community.

M. Stark said in reading through the law director's version of the draft legislation there were a couple spots where it said food trucks can't be operated on city owned property and another section where it said it can be operated on city-owned property which was confusing to her. T. Valerius said he talked with the law firm today and they did discuss this and it was noted to strike this from the ordinance if council chooses not to allow them on public property. J. Gabriel said he was tempted to restrict it to public property and M. Stark agreed. J. Gabriel said they need to define catering and such. T. Valerius said as the ordinance is written currently, they are only allowed in B-2, B-3 and the Flood Plain districts, so it wouldn't be in a residential district. He said B-2 is the downtown area and if council wants to restrict it to the east side or away from the downtown area, then maybe they can define it in the B-3 or FP area where it would be permitted. J. Gabriel said he would be very careful about allowing any empty lot to

become food truck central. At least if you use public lands you can make it an event driven thing. They have public lands in pretty much every corner of the city, so it's not like they don't have places available for events.

Mayor Forthofer agrees it would be much easier to regulate food trucks if they are on public land. However, they don't want to deny the opportunity to German's Villa or the VOL Clubhouse to have their own private truck. The ordinance should be flexible enough to accommodate those circumstances.

M. Stark asked if the draft legislation would totally override what they have on the books already. T. Valerius said whatever it would cover in the definition. Mayor Forthofer said he would appreciate it if council doesn't leave it up to the mayor's discretion.

B. Brady asked about licensing and permits; will it be the building department or the health department's job to make sure the generator is in compliance and whether they contain their waste. She said there are a lot of health department requirements. If they don't have a vehicle to enforce a law then they shouldn't pass the law. M. Stark said the legislation states that food trucks have to supply a waste receptacle. B. Brady asked who is going to make sure they have it. J. Gabriel said the same thing about who will meter their utilities. B. Brady said they will have to plug in if they don't have a generator. M. Stark said they won't have 50 food trucks all around town that you will need somebody monitoring; you may have one or two in town and her thought would be to have the police department keep an eye on this as they are the most visible when driving around the town. S. Holovacs said most of the food trucks have a yearly health permit and most of the vendors at the festivals get a temporary three day permit. He said restaurants have a food permit and at any time the health department can come in and check them, but what are they going to do with a food truck when you don't when it's in town and when it's gone. Just because you have a health/food permit doesn't mean you're cooking food properly. M. Stark said if the health inspectors are in town checking on local restaurants and there is a food truck then she guarantees they will check that food truck. S. Holovacs said they only come once or twice a year and they come in during the Fish Festival because they are transient.

B. Brady asked about insurance and how they monitor it. M. Stark said when they fill out their application they would have to provide a certificate of insurance. B. Brady said these people don't have a piece of Vermilion. M. Stark said some of these people are her neighbors. B. Brady said when she brought their mobile trailer to VOL it was to cut a corner and that's what these food trucks are doing; they do not want to open a brick and mortar business, so they took a shortcut. They put wheels on a trailer and they're selling food from it. It's exactly what they did at the clubhouse because the health department allows you to do that. If there are wheels on it they don't need as many requirements as if it's stuck on the ground. She is guilty of it, but it's not a food truck, but it fits under the food truck parameters and they did it to cut corners and she has a problem with this.

S. Herron believed there was enough in place to enforce this issue if council was to pass this legislation. The separate issue is whether they want them downtown and any ordinance that keeps them from being downtown is probably okay. He would prefer a ban on all them, but if this is going in that direction they need to remember they need to protect their businesses that are invested. He said they just heard comments from State Rep. Steve Arndt about new businesses coming in and people have to invest and do a lot of things to have a brick and mortar

business. However, he thought they were legitimate businesses, but keeping them out of the downtown is best for the city in his opinion.

F. Loucka said they can start off slow and make it severely restricted to see how it works out. If it supplements and enhances their business then he doesn't see it hurting someone else because it's expanding their business. He used Valley Harbor and Riverview Marina as examples as he doesn't see it threatening the downtown restaurants. He doesn't agree with having a food truck at the public dock because they have enough to contend with. They can walk up town to Quaker Steak or Rudy's for a sandwich.

T. Valerius said the law office can tweak the legislation however council desires. M. Stark tabled this item to next month's legislative meeting and asked council to read the draft legislation and the City of Sandusky's ordinance and think about how they would like to see it tweaked. Mayor Forthofer asked that either the draft ordinance or the current ordinance on the book be considered in tandem; it's either one or the other. J. Gabriel said they should look at it in three phases; one is if they are going to do food trucks, the second one is the location, and the third is the time to operate.

TOPIC TWO: Golf Carts/Go Carts/Utility Vehicles

M. Stark explained that last month Paul Strama came before council to discuss how Vermilion currently has a golf cart ordinance in place and he asked council if they would consider allowing side by side type vehicles. She said a definition from the Ohio Revised Code defines it as utility vehicles.

F. Loucka said G. Fisher made a recommendation to council relative to the existing legislation that regulates golf carts and said they could merely add utility vehicles to the ordinance as this is the definition according to the Ohio Revised Code. The legislation requires they need to have turn signals, rear view mirrors, and seatbelts. They are very similar to a golf cart and in some ways better, so this is a recommendation he would support.

S. Holovacs agreed these vehicles are very similar and as long as they can pass inspection by the police department and have all the required equipment and follow the speed limits, then they should amend the existing ordinance.

S. Herron said he doesn't have a problem with the ordinance and thought it was fair, but at the risk of making a lot of people mad, some of these golf carts scare the heck out of him when he drives through town. He sees a lot of golf carts with a lot of kids in 35-40 mph zones. He said at Put in Bay this past weekend he almost witnessed a bad accident between a van and a golf cart. Maybe this doesn't happen here but the van wins in that accident. He wants people to enjoy the summer in Vermilion, but these golf carts scare him.

J. Gabriel asked Captain Graham if there have been any golf cart accidents and Captain Graham said he couldn't recall one single accident. J. Gabriel said he was very skeptical in the beginning when council adopted this legislation because of Liberty Avenue being a state route and having bigger vehicles traveling on it, but he has been won over. He kind of likes the idea now and he thinks the vehicles Mr. Strama has shown council are actually safer with the cages and the apparatus the people wear, so he is all for this as well because he thinks it will give businesses some opportunities to do the gator thing which will work better in Vermilion's small spaces.

Charl Gabel said the vehicle is a go cart and P. Strama clarified it is a side by side/go cart. C. Gabel said this vehicle terrifies her. P. Strama said this vehicle only does about 30 mph and it's faster than a golf cart. C. Gabel referred to the two kids in the picture which scares her. She sees a lot of near misses in front of her store and she personally doesn't like golf carts. She knows a lot of people ride them and love them, but she has had to slam on the breaks when they have pulled out in front of her. Unfortunately, there are people who respectfully drive them and then there are idiots! M. Stark said kids are not going to be driving these utility vehicles as they have to be licensed driver. P. Strama said he just provided a convenient picture that he had that he wanted to show council as an example of the vehicle. C. Gabel asked how far off the ground this vehicle sits and P. Strama said about 12 inches. C. Gabel said now they are looking at another hazard. P. Strama said there is more stability and it stands pretty tall.

Pete Spears, 886 Howard Drive said this topic has been blowing up a lot on social media and one of the issues is that these vehicles carry four people and they are fully harnessed, but they are a lot faster than the golf carts. They do have ATV tires so they're not going to be stopping quite as well as a car or a golf cart, but they are lot safer definitely than the golf carts. He is seeing more golf carts driven around with children in them that are unbuckled and it's become a major safety issue for him. He lives on Howard Drive off Vermilion Road and he has been seeing traffic traveling at 40 mph on Vermilion Road. Most of the town residents know where the cops sit on Vermilion Road and they will do 50 mph in certain areas. Some of these golf carts are coming out of the campgrounds along Vermilion Road to frequent the local businesses, which he has nothing against. However, the problem is that the golf carts can't do 35 mph, so now you have cars that are driving 35 mph or more around blind curves; at night in the dark at times and they are coming up on slow moving vehicles on the roadway. They are not like a bicycle that tries to stay off to the side of the road and the golf carts are taking up the middle of the road. He doesn't know what the ordinance states for them being in the roadway. He would assume they are just like a car and you can't pass them on a double-sided yellow line, and Vermilion Road is all double-sided yellow. To him it has become a hazard because there are people trying to pass the golf carts in areas where you can't see around, and it's a bad area with oncoming traffic. He personally would like to see something done about Vermilion Road with the golf carts because it does scare him. From his understanding the golf carts are not allowed in areas above the 35 mph zone, but in a lot of areas downtown it's not an issue because you have a side street or area where you can get around them. On social media somebody said the golf carts are not required to have a seatbelt if they were traveling less than 18 mph; is that currently an ordinance? J. Gabriel said absolutely not; they have to meet the requirements. S. Herron read Chapter 475.03 Usage and Restrictions of the Golf Cart ordinance as follows: (a) No golf carts shall be permitted to travel on any City street where the speed limit is greater than 35 mph. Golf carts will be permitted to cross intersections with higher speeds, so long as they remain on a street that has a speed limit of 35 mph or less. When exiting 5150 Liberty Avenue, golf carts shall only make a right onto Liberty Avenue. (b) The operator of a golf cart must be at least 16 years of age and have a valid driver's license. (c) Any child who falls under the child restrain criteria set by Ohio R.C. 4511.81 is prohibited from being a passenger in a Golf cart operated on any City street, right of way or public area in the City of Vermilion. (Children who are up to 4 years old and less than 40 pounds which are required to be in a child safety seat or any child who is 8 years old or less and under 4'9" in height who are required to be in a booster seat).

P. Spears asked if they are trying to stop some of these golf carts; he has yet to see one pulled over. Captain Graham wasn't sure on the offenses.

F. Loucka MOVED; S. Holovacs seconded to have legislation prepared amending Chapter 475 'Golf Carts' to include utility vehicles. Roll Call Vote 6 YEAS. MOTION CARRIED.

P. Spears asked if all golf carts riding on city roads are inspected by the police and do they know this is actually the case. He said some of these golf carts are allowed license plates in other areas, so what prevents an individual from one of the campgrounds on the road when they haven't been inspected. Captain Graham said the police department fills out a state form which an individual with a golf cart has to take to the Bureau of Motor Vehicles when obtaining their license plates. Without the inspection sheet signed by an officer or the Chief, they won't be issued plates. P. Spears said if they got a plate from another area in the State of Ohio is it not valid in Vermilion as well. Captain Graham said they still have to fill out an inspection form in any place through the State of Ohio and without that they can't get plates.

Dana Corogin said she is concerned with the sound decibel with the side by side vehicles. In her experience with off road vehicles they are much louder than what an electric or fuel generated golf cart would be. J. Gabriel said this was his first concern too but they have ordinances on the books for sound, so it would have to follow that specific ordinance as well. He said motorcycles roar through town that is pretty loud, so to meet the inspection requirement to get licensed this will be a requirement according to the sound ordinance. D. Corogin said she is worried that with all terrain vehicles people are tempted to be on the beaches, sidewalks, and parks. They already have a problem with golf carts driving on the sidewalks, so who will police this and if this becomes an ordinance can they revisit it if it becomes a problem. She thought it would turn Vermilion into a free for all and it will be very unsafe. There are a lot of small kids that are on bikes going back and forth from sail camp and to Dairy Dock. She said people are not seat belting their children and during 'Third Thursday's' it's really scary. She thinks the issue needs to be looked at very carefully as much as she loves them. P. Strama of 4550 Newbury Drive said he hates the noise of motorcycles that rev them up. He wouldn't own these vehicles if they made noise. He said it can be running and they can stand next to it and hold a conversation; it's not loud at all. As far as the responsibility aspect he thinks that goes with any motor vehicle that anyone drives. It doesn't have to be a bug or a golf cart; it can be a car. It doesn't matter what they're driving because if they're going to be irresponsible they're going to be irresponsible. He agrees it makes it easier to pull onto the grass, but it goes with the responsibility of following the rules. He said he would be more than happy to bring his vehicle up to the next council meeting so people can look at it and hear it run. D. Corogin understands he will be responsible but isn't sure everyone else is just as responsible.

M. Stark said any vehicle traveling on the city streets has to follow the law, so these vehicles are no different whether they are golf carts or utility vehicles.

TOPIC THREE: Review of Ordinance 2018-40 "Use of Public Sewers"

M. Stark explained this ordinance was previously discussed in council with the city engineer. C. Howard explained this legislation has to do with sanitary lateral issues they have had in the past as to where does the responsibility fall on the property owner and the city. The last time they met they talked anything from the right of way would be the city's responsibility and anything out of the right of way would be the private homeowner's responsibility.

City Council received an additional draft of the ordinance as prepared by the law director. M. Stark said in the draft they didn't define the number of days when the work would be required to be completed. T. Valerius said he spoke with the law director on this as initially they had 180 days but he thought that was a little too generous so they decided on 90 days if council agrees. J. Gabriel said he was in agreement with giving them 90 days as long as they had some exceptions for a hard case. T. Valerius agreed there would be room for latitude.

S. Holovacs said if they are looking for infiltration they have to stop it so they have to determine where the responsibility falls. He said this is the step they are taking in trying to clean up the infiltration. This is for the entire city and not just VOL.

B. Brady asked how the city will identify the people that have a problem. T. Valerius said once the ordinance passes they can enforce it, so they will pick up a street and will send a camera down the main; launch in two laterals to start checking laterals. Depending on the price it will determine how many streets they can do each year. They will start one section and will keep moving along. B. Brady would like the city to go to the homeowners to advise them to fix their lateral, but many will want explanation what this is. She would hope the building department would have some aid or options; a list of contractors that are capable of doing the job and what the city is requiring from them. If they are doing this as a new thing they need to make it easy as possible. T. Valerius said once it's discovered they could send a letter with a pamphlet stating exactly what it is, what's going on, and why it's illegal. They could add a list of registered contractors to the information as well.

S. Holovacs said they are trying to pass an ordinance for who is responsible and he could see more in the city's area than the homeowners, due to the fact of the road and traffic. C. Howard said there could be a lateral that's broken all the way from under the street to the home, which they will find out. He explained the city would fix the right of way portion and the homeowner has to fix his portion. T. Valerius said when a lateral is replaced or a new one installed; a cleanout is installed at the right of way, so the homeowner would get a quote for a cleanout at the right of way; from the cleanout to the home replaced, or the damaged area, and the city would do from the cleanout back to the main. J. Gabriel said the alternative could have been that the homeowner goes all the way into the street paying for street repairs and tap into the line, so this is why they drew the line the way they did; especially if the sewer is on the other side of the street, so he thinks the city has been pretty fair.

S. Herron MOVED; J. Gabriel seconded to amend the third reading of Ordinance 2018-40 to include the additional information submitted by the law director. Roll Call Vote 6 YEAS. **MOTION CARRIED.**

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

Next meeting: August 13, 2018 @ 7p.m. – Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH

Gwen Fisher, Certified Municipal Clerk (CMC)