

LEGISLATIVE COMMITTEE MINUTES

OF MAY 14, 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: Do Not Knock Registry (Draft Legislation)

M. Stark explained council received a draft copy from the law department with included a ‘Do Not Knock Registry’ in the proposed legislation. S. Herron said the information included in the legislation by the lawyer is based upon case law. Therefore, he would suggest they use the draft as proposed. F. Loucka concurred with S. Herron and felt it was time to move forward with this amendment. J. Gabriel liked the approach of the ‘Do Not Knock Registry’ and said he will be one of the first people on the list.

B. Brady asked if the residents will be provided with a sign to put on their door if they sign up for the ‘Do Not Knock Registry’. M. Stark said they can purchase a ‘No Soliciting’ sign at the store to put on their doors. She said it’s defined in Chapter 860.06 (h), which reads: Notwithstanding any other provision of this Section, no peddler, solicitor, or canvasser, while peddling, soliciting or canvassing, shall call upon, knock at the door or ring the doorbell of any residence, house, apartment or other dwelling in the City upon which there is posted at the entrance a notice or sign that reads “NO PEDDLERS,” “NO SOLICITORS,” or “NO CANVASSERS,” unless such peddler, solicitor or canvasser is or has previously been invited upon the premises by the owner, lessee, or an adult occupant thereof.

F. Loucka MOVED; B. Holmes seconded to have legislation prepared in final form for a first reading on May 21. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

TOPIC TWO: Review of Ordinances 2018-16 & 2018-17 (Boards/Council)

M. Stark said these ordinances have been reviewed many times as they pertain to combining the position of Boards and Commissions and Clerk of Council.

J. Gabriel said whether the ordinances will be voted favorably or not that’s a separate issue, but if the ordinances go to a vote, then qualifications should be included to the Clerk of Council. He said there are people, who go town to town with public records requests which many communities have a difficult time producing, and when you can’t produce them they take you to

court and they receive a monetary reward. So people handling the city's records should at very minimum be qualified under the three year certification program. He suggested adding a section that within 12 months of assuming the role of Clerk of Council that they need to start the educational process to obtain the Certified Municipal Clerk designation. Also, it should be on the existing ordinance no matter how things fall. Council was in agreement to adding this to the ordinance.

S. Holovacs said council received an opinion from the law director on this matter, but he was in favor of moving forward with the ordinance the clerk drafted and adding qualifications to the ordinance. He noted that G. Fisher has all the qualifications, but there will be a day when she retires.

B. Brady keeps going around and around on this issue because years ago they used to pay \$50 per meeting, but then the position of Boards and Commissions went full time with benefits. During the last administration the clerk was given the duties of Boards and Commissions assuming she had time within her 40 hour week to do both positions. Now they are talking about another 20 hours for an assistant, so they are putting back a half person. G. Fisher explained the assistant is merely for protection if she is absent from the position for any reason. However, council has to approve the assistant at that time along with the hours. The ordinance reads up to no more than 20 hours per week with the approval of council, along with approval of salary. She said currently it's in the ordinance now that there is an Acting Clerk of Council, but the hours were never defined. This is just cleaning up the ordinance in case she would become ill or need to be absent from her duties then council has the ability to hire an assistant, but they can only work up to 20 hours. She understands the budget doesn't allow for hiring an assistant at this time, but it's only on an emergency need basis to cover council. M. Stark said they are only including it in the ordinance as a possibility, but they are not acting on it or do they have any plans at this time to adding another person, unless something happens with Gwen that she needs to have some time off. But council will have the option per ordinance to cover this position if need be. B. Brady said council could remove the salary of the boards and commissions and give it to the assistant who would be there to fill in for the clerk. G. Fisher reminded council that she saved the city \$53,000 by assuming the boards and commissions duties. J. Gabriel said council can do what they want because they set the salary for the clerk and assistant. He didn't feel this assistant position would be filled during his term because they can't even open the pool without help. He said this is just an insurance policy at this point. G. Fisher said it's basically for protection of the position if something would happen to her. F. Loucka said the assistant is only for up to 20 hours and it's not that it's a constant 20 hours for 52 weeks.

Mayor Forthofer said G. Fisher does a fine job and what council chooses to do with the Clerk of Council is up to them. His concern is removing the reporting of the Boards and Commission going to the mayor on the administration side. He said the attorney said it is compromising the charter. He said council will do what they want to do and he could veto it which would then go back to council. He feels they have more important things to deal with and they just need to get past this as it has been lingering a long time. He totally disagrees with that aspect of this effort, but it's in council's hands.

S. Holovacs MOVED; S. Herron seconded to put Ordinances 2018-16 and 2018-17 back on the agenda for a third reading and to add the qualifications as suggested by J. Gabriel. Roll Call Vote 7 YEAS. **MOTION CARRIED**.

TOPIC THREE: Chapter 1042.05 – Stormwater Infiltration

C. Howard said at the last committee meeting council had asked him to look into what other municipalities have regarding where the sanitary lateral responsibility lies. A lot of communities don't actually list it in their ordinances; some do and some are very discreet on how they word it. He made phone calls to city officials and the City of Lorain said the city is responsible from the main line to the lateral or the edge of pavement; the City of Elyria said that all maintenance of sewers shall be at the expense of the private property owner; pretty much from the main line to the house, so they deflect it to the property owner. In the City of Avon the city is responsible from the main line to the cleanout which is usually at the right of way. In the City of North Ridgeville the property owner is responsible from the lateral from the main line to the house or the business. In the Village of Sheffield the property owner is responsible from the main line to the house or business. Every community is different and every council and administration decides on how they want to take responsibility. Some are clear cut in their ordinances and some are not.

M. Stark said when the resident is responsible all the way to the main line and say for instance something is wrong with her line going out to the main line, does the city come in and fix it and bill her, or does she have to call somebody to take care of it. C. Howard said in some cities the city can do that and charge the property owner for the services. If you have a contractor come in you will still need to get a permit because the city doesn't want you open cutting the road or disturbing the road or right of way, and you need inspection done by the city crews. There are variables because the city doesn't want somebody open cutting the roads and destroying the right of ways. S. Holovacs agreed they don't need people cutting the street and he thinks there needs to be something at the right of way that council needs to look at from the house to the right of way, and to stay away from the curb. There needs to be a permit before they start tearing it up because it should be inspected.

J. Gabriel felt the City of Lorain has it right; it should be right at the property line and after that the city needs to take on some responsibility. Otherwise, all the sewer lines from way back in the day should have been run right down the middle of the street to make it fair. He said new construction would be fair, but now there is so many under the ground variables. F. Loucka agreed with the property line. S. Herron agreed with J. Gabriel because they are responsible for where their parcel is and beyond that would be unfair.

B. Brady asked if something needs to be put in writing. T. Valerius said it seems from council's comments that they would like him to compose something in Chapter 1042.05 that states this, so it's clearly defined pursuant to ordinance. He said to clarify it would be the homeowner's responsibility from their property line to the house. He said if they ever dig it up or if any new homes are built, then they should also state that they must install a cleanout at that location, so if there is something under the road they can try to clean it out from that location. C. Howard agreed, but said they should say right of way; don't say property line because some properties go to the center line of the road because they haven't been dedicated or that's where their deed reads to. They don't want to get into a situation where somebody has a parcel of land that says property line, so he would say dedicated right of way.

B. Brady said if a homeowner has to replace their lateral from the home to the right of way, is there a way the city could line that additional section so they don't have to dig up the street. C.

Howard said it depends on the condition of the pipe. If you have an old clay tile and its separated then relining won't help.

M. Stark asked T. Valerius to prepare draft legislation for the next meeting so council can review it.

TOPIC FOUR: Review of Ordinance 2017-53 – Medical Marijuana Moratorium

G. Fisher said she put this item on the agenda as the current ordinance expired on May 6 and she wanted to know if council wanted to extend it for another six months.

S. Herron said he would like to see legislation drafted for another six months. He said to him this is not a desire to have a permanent moratorium on medical marijuana, but the State of Ohio is in such chaotic turmoil with this and there are a number of other issues that come into play when you talk about the medical marijuana. Right now the City of Vermilion doesn't need to get into it at this point. However, sooner or later it will become a reality and they will need to deal with it.

S. Holovacs said they did talk about this a couple months ago and they did discuss the City of Huron and now there is a growing facility going up in Oberlin. J. Gabriel asked if this moratorium prohibits a doctor from prescribing medical marijuana. B. Holmes said it's the growing and distributing.

Mayor Forthofer said there are communities on both sides of Vermilion that are taking an attempt at this and Vermilion has the benefit of learning from their early adoption of this. He said for some it's not going well. The longer they have a moratorium then the longer they can allow the State of Ohio to untangle themselves, and they will probably end up with a better solution than some of those communities around Vermilion.

S. Herron MOVED; B. Holmes seconded to authorize legislation to be prepared to put another six month moratorium on medical marijuana. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

TOPIC FIVE: Review of Ordinance 2015-7 (Draft Amendment – Engineering)

F. Loucka said this item was discussed last month as the question was imposed by Councilman Gabriel about possibly putting a safety valve in the legislation that required all engineering firms to perform engineering and bidding services related to project within the City. The simple suggestion is to amend Section 2, second sentence, by adding: *[Whereby the engineering firm cannot be the same firm who performs the engineering and bidding services related to such projects within the City of Vermilion, Ohio.] City Council reserves the right to waive the bracketed requirements at its discretion.*

B. Brady MOVED; S. Herron seconded to authorize legislation to be prepared to amend Ordinance 2015-7 as described by Councilman Loucka. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

TOPIC SIX: Review of Chapter 1060.01 (Prices for Cemetery Lots and Services)

Amy Hendricks explained that council received a new brochure that was proposed by the Cemetery Manager for new rates for cemetery lots and services. One of the things discussed with Mark Riddle was that lot purchases would increase \$50 over current prices. They will take \$25 of the \$50 and will put it into the professional maintenance fund as part of the intention. In addition, they will have the new management agreement to bring forward which is expiring. She has had some extended conversations with Mark Riddle as the pricing in the agreement has not been amended since the conception 25 years ago. Initially it has been \$1,500 per month and there was a 40% incentive paid if there was a net profit on that operation. She went back and looked at history over ten years on how much those bonuses were paid and she found three instances over the last two years and in 2011, and there was nothing paid. The average of those incentive payments was about \$3,000 a year over the ten year period. The most recent one was \$9,600 and there was one that was \$3,500, and another was about \$2,700. She checked with Riddle Funeral Home to make sure those numbers matched their numbers and it did. There were years when there was a profit, but they needed to have streets paved in the cemetery and some mowing equipment, so they actually waived their bonus to be able to get these things done. One of the things they discussed and agreed upon to increase was the monthly amount from \$1,500 to \$1,750 and to maintain the 40% incentive. However, to deduct the annual contributions that go into that perpetual maintenance fund from the net proceeds before that calculation is done, so it's set aside as prepaid maintenance. This will be drafted within the agreement.

Mayor Forthofer said currently the maintenance is being done from the revenue of sold lots and services. They are very close to being sold out in the cemeteries. In fact, Maple Grove is the last one to have available space. Once it's sold out they have no more income, so funding this perpetual maintenance fund is essential.

B. Brady asked if the \$50 increase will increase their stipend. A. Hendricks said the only contribution to perpetual that is impacted on those rates, are the lot sales. B. Brady said she is talking about the extra \$250 per month they are giving Riddle Funeral Home. A. Hendricks said it should be self-supporting.

M. Stark asked if there has been discussion about adding or purchasing more land to have another cemetery. Mayor Forthofer said Mr. Riddle has explained that the City at one time had looked into selling the cemeteries because they are a park and there is no activity, but there was no interest as nobody wants a cemetery. He didn't know if the idea of growing something that nobody wants is really beneficial. M. Stark said constituents would need to go out of Vermilion to be buried eventually.

S. Herron MOVED; F. Loucka seconded to have legislation prepared to amend the prices for cemetery lots and services. Roll Call Vote 7 YEAS. **MOTION CARRIED**.

TOPIC SEVEN: Cell Tower Proposal

Mayor Forthofer reported there has been a preliminary inquiry by a site acquisition company regarding the placement of a cell tower on city property. The site they are considering is at the far west end of town on a wedge of property between Route 6 and the Norfolk Southern railroad tracks, and it's bordered on the east by Adams Street and then it becomes a point right by the

sign that says “Welcome to Vermilion”. He wanted to bring this matter before city council prior to entertaining any further discussions to see if they had any feelings as to placing a cell tower at this location.

F. Loucka asked if they are talking about negotiating a lease or annual payment; what’s in it for Vermilion. Mayor Forthofer said it’s an initial lease of about \$850 per month. J. Gabriel said the state of technology is becoming more wireless by the minute; your cars, your televisions, your refrigerators, and if you stop putting towers up and Vermilion starts lagging behind, then they will have a tough time attracting new people with businesses. He is glad the Mayor brought this forward to council because he would like to see Vermilion’s coverage get better and better.

S. Holovacs said even the cell tower off Route 2 was in his back yard and when he sat on his back deck the tower was right there, but the next year the trees grew up and it was gone. People will go crazy when it first happens but after a while it blends in and it’s not a big issue that everyone thinks it is. He feels it is something they should look at.

S. Herron said it will increase the service and it can’t hurt. It will serve that particular utility better.

M. Stark asked the Mayor if he could talk to the site acquisition company to see if they would be interested in helping the east end of town. Mayor Forthofer said he did and received no answer. M. Stark said she lives on the east end of town and it’s considered the dead zone and they can’t get rid of their house phone because their cell phones don’t work at home. B. Holmes said he has to stand at his front door to talk on his cell phone. M. Stark said she has even heard conversations from the police that radios don’t work so well in this area, so there has to be something they can do.

F. Loucka asked if it would be made a part of the lease to maintain that section of property regarding mowing the grass and putting up some ground screening. Mayor Forthofer will look into this.

TOPIC EIGHT: Miscellaneous

Tom Schuffer of 4373 Edgewater Drive said he has lived in Vermilion for one year and loves what they have here in Vermilion. He wanted people to know what is in Vermilion is really special and they need to focus on how special Vermilion is. Don’t get away from how special it currently is and historically has been. He has seen and heard a lot of things that are somewhat disturbing, frightful, and upsetting. They traveled literally from Maine to Texas to find a place to call home. Further comments were expressed which can be viewed online under meeting videos at www.vermilion.net.

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

Next meeting: June 11, 2018 @ 7p.m. – Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH

Gwen Fisher, Certified Municipal Clerk (CMC)