

LEGISLATIVE COMMITTEE MINUTES OF NOVEMBER 13, 2017

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

In Attendance: S. Herron, M. Stark, F. Loucka, J. Forthofer, B. Holmes, B. Brady, B. Keller, G. Fisher, Mayor Bulan, T. Valerius, Captain Graham. Absent: L. Miggins; F. Ostrander.

Call to Order: F. Loucka, Chairman, RESOLVED THAT this Legislative Committee comprised of the committee of the whole does come to order.

TOPIC ONE: Review of Ordinance 2017-41 (Peddlers, Canvassers and Solicitors)

F. Loucka noted that Clerk Fisher had brought up the fact that other communities have more detailed and up to date ordinances pertaining to this matter. He said council was provided with ordinances from Bay Village and Amherst and it appears Bay Village is the newer ordinance. Therefore, he thought they could combine language from both Vermilion's current legislation and the City of Bay Village. He said currently in Vermilion, it doesn't define Peddlers, Canvassers, and Solicitors. However, Bay Village does define it pretty clearly. He said presently if you want to file for a solicitors permit you have to obtain it through the Mayor's office and they conduct a background check, also there is a time restriction to solicit which is 9:00 am to sunset. In Bay Village, you file with the police department and if it's denied the person can appeal through the Service Director. Their time restrictions are 9:00 am to 7:00 pm and they also have a "Do Not Knock" registry. He said the City of Amherst also has solicitors obtain a permit from the police department and if they don't get a response in 15 days then it's considered rejected. If the permit is rejected then the individual has the right to appeal to City Council. Their solicitation times are 9:00 am to 9:00 pm. He was in favor of keeping the solicitation time in Vermilion as is. However, he asked council if they would be in favor of having the applicant go to the police department rather than the Mayor's office. Captain Graham said this would be something the Chief would need to decide but he didn't think it would be a problem because they do the background checks. F. Loucka said he would be happy to sit down with the clerk to draft an updated version of the code. B. Holmes was totally in agreement with not soliciting after 5:30 pm. J. Forthofer said in all fairness, if they cut it off at 5:00 pm, there may be a good chance they won't catch people at home. S. Herron said he liked the codes from Amherst and Bay Village, and was in favor of Frank and the clerk working on sample legislation. M. Stark asked if other communities don't allow door to door solicitation. G. Fisher said each community she researched allowed it.

TOPIC TWO: Internet Vacation Rentals

F. Loucka said the clerk researched other cities that regulate Internet Vacation Rentals and provided council with all the material. He said currently the city does have a lot of legislation on the books that covers Bed & Breakfasts which are only allowed in the Historic districts (RS zoning). He said there are no fees or bed tax presently. With regards to Hotel/Motels there is code that means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which five or more rooms are used for the accommodations of such guests, whether such rooms are in one or several structures. They are only allowed in the B-2 zoning district. However, the current motel in Vermilion is zoned B-3. There are zero fees and a three percent bed tax, and it's Chapter 886 (Lodging Tax). With respect to apartments, they are only allowed in the R-5 zoning district and there are no fees or bed tax. He said there are penalties in place for these three places regarding the need to register as a rental facility. In Chapter 882.24, it states that all property owners who

rent in any district need to comply with Chapter 882.24 and Chapter 1484 which was passed in 2015 pursuant to Ordinance 2015-26. Presently, there are no fees or bed taxes that apply.

He said with regards to Internet Rentals, presently the only legislation that would cover this is Chapter 882.24. He asked council what they wanted to do with short term rentals that are vacation rentals. He said there are 50 vacation rentals online that are in the Vermilion area. He said not all of them are in the City, but a lot are in the townships. He said they don't want to be overly restrictive as there can be legal challenges. In fact, the City of Sandusky paid \$50,000 in legal fees and lost against a highly restrictive ordinance to Air B&B's. In Atlantic City, New Jersey, they outlawed short term rentals and they lost a court battle. There are communities that have complex regulations. Also, Austin, Texas encourages short term rentals as an enhancement of tourism.

He expressed his appreciation to Aimee Lang of the law department and G. Fisher for their research. He asked Vermilion what they would like to do. There are items he found in the information packet that he likes. For instance, Minneapolis defines short term rentals as a short term rental property registration or rental license is not required for an owner that lives at the property who rents a room and stays at the property during the rental period. However, they had two other versions which states: a short term rental property registration is required for an owner that lives at the property and rents out an entire unit, and leaves the property during the rental period. The last type is a short term designation and a rental license is required for owner non-occupied rental property who rents out an entire unit. He said Vermilion could create one comprehensive ordinance to put all of this language into one place rather than all these separate ordinances.

S. Herron said he was impressed with the ordinance from Fort Lauderdale, Florida, because it is simple and narrowly tailored to achieve safety issues regarding pools, hot tubs, sleeping rooms, fire extinguishers, smoke detectors, etc. It doesn't appear they are doing anything but keeping track of these businesses and making sure they are in compliance with the safety standards. Some of the other ordinances seem to be prohibitive and this isn't what Vermilion's goals should be, but they should have an interest in the health and safety of the community and keeping track of who is in this business. F. Loucka said in south Florida they are working directly with Air B&B's and they are requiring them to collect the tax. There are 38 of 63 Florida counties that are assessing a bed tax for Air B&B's.

B. Brady said they have Air B&B's and VRBO's which are in direct competition with any small hotels Vermilion has. They have somebody renting a piece of property which means hotels and motels are not getting that business. It is income to whoever owns that property, so the bottom line; it's a business! Somehow, the city has to have control of the fact that's there is a business being run out of this facility and it's a taxable entity. She said the problem with the current ordinance is that they didn't notify people that the city had penalties, so there has to be a way to get the word out that anybody with rental property has a responsibility to the city to register, and to make sure they are paying taxes where they should be. The water bill is one access to this information, so if they can put notification in the water bill letting these properties know they have to register that would be a start. If they don't, then whatever fees that are charged are perfectly justified. People are making money and it's not fair to the businesses in the city to pay taxes when others are getting income and not paying taxes. J. Forthofer agreed that it's a matter of fairness to those people who have invested in the business of rental. However, as he recalls from their last discussion they addressed enforcement. They could get the word out to the people through the water bills and even track the ones that are advertising, but where are they going to pull the crews to go around and do what it necessary to enforce this. F. Loucka said in one community they were going to hire three more people to deal with rentals.

B. Keller said he contacted RITA in the process of trying to identify these rentals and unfortunately they don't have a reporting mechanism in place to identify these locations. G. Fisher said she obtained a list of rental properties that are on file with the Lorain County Auditor and now the Auditor's office has issued a public records request from the City of Vermilion asking for our list of registered properties, so they can go after them too.

J. Forthofer asked how they are going to enforce what is on the books right now.

S. Holovacs of 4643 Hollyview suggested obtaining rental information by using the court docket because they have evictions every week on rental properties.

B. Holmes said a lot of these are on the internet but now it comes down to enforcement by going to that individual house to make them aware of the ordinance that is on the books. So staffing becomes the issue and would it be advantageous to send somebody to the property, or even to possibly send an officer over to make them aware of the ordinance. They are responsible to pay taxes.

F. Loucka reiterated Chapter 882.24 as it states:

882.24 RENTAL AND LEASED PROPERTY.

(A) All property owners of real property located in the City, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on December 31 during such calendar year such apartment, room or other residential dwelling rental property.

F. Loucka said to him the life blood of Vermilion is tourism. Other cities do require rental properties to license it with the city according to their regulations. He didn't think rental properties in Vermilion are putting hotels and motels out of business. B. Holmes said they don't want to discourage vacationers coming to Vermilion. They just want the homeowners using their homes for vacation rentals to be registered. He said the first step is to notify these people making them aware of the rental registration process and to enforce it. Mayor Bulan said they can always find them online too.

B. Brady believes the Air B&B's and VRBO's encourage those owners to take care of their property because they are trying to rent to people by the day, so they can't be a mess which is the good side. The bad side in some cases is that there are places in the city where people show up at midnight and who are walking around yards because they don't know where they are. Plus, they may only have four parking spots and they end up with 10 cars. She said the good thing is the city is getting property maintenance out of it. However, the neighbors may be suffering due to the daily turnover of a rental home that don't know the neighborhood rules, so there is good and bad. Therefore, a registration at least gives the city a handle on where these places are and it makes them taxable entities, which isn't a bad thing for the city. If they put notice in the paper and the water bill, and make the penalty big enough, it will be worth them registering. F. Loucka said the city has ordinances pertaining to parking requirements and home maintenance. M. Stark said the city also has a noise ordinance in place to address the noise disturbance issues.

B. Brady said maybe they could charge \$20 has a registration fee so there is a little bit of money to play with.

F. Loucka said he would like to work with the law department to create one comprehensive ordinance that covers all the rentals. S. Herron agreed and thought they need to look at the definition, procedure, and enforcement and make it part of the Air B&B issues as well. This issue was tabled to next month.

TOPIC THREE: Review of Ordinance 2017-43 (Flood Damage Fees – 5 Year Cost Study)

B. Keller provided council with a worksheet showing the floodplain application fee receipts from 2011 through 2016. He also provided the engineering floodplain management charges over these five years. F. Loucka asked if year 2014 was a typo because it shows \$39,070.71 and he wondered if it was supposed to be \$3,900. B. Keller said it was not a typo. T. Valerius explained in 2014, FEMA came to the city to recognize several residential homes that were not in compliance as far as things that were below the base flood elevation. Therefore, FEMA gave the city a list of around 20 – 25 homes and both himself and a representative from the engineer's office went to each home and did an inspection listing everything that was below base flood elevation, and what the base elevation was. They also took pictures of the homes. This is why this amount was so much in 2014.

F. Loucka said in 2013 the fees were \$1,500, so that's basically three applications, and the total engineering bill was \$3,967.50. The fees in 2015 were \$3,000 and the actual management charges were \$7,459.89, and in 2016 the fees were \$4,000 and the actual management charges were \$4,606.83. He said an excellent suggestion from J. Gabriel that was entertained to council was to put a cap in the present ordinance.

John Gabriel said there were three house in 2013 and one house in 2014, and six houses in 2015. He felt the numbers the city was being charged with were a bit high. He said in comparison to other municipalities around Vermilion that are in the exact same boat; how come some of them don't even charge the city. He said even by putting a \$600 cap on this, it still makes Vermilion the highest around. He isn't opposed to raising this rate, but he feels there is a lot more to it than these numbers. He said three to five houses a year doesn't seem like a massive workload from his perspective.

B. Brady said she would like to see a set fee and they should pay whoever does this that set fee. Sometimes they make out and sometimes they don't. It's a contracted service and if they went out to bid they could find somebody to do it for \$500 - \$600 and it's their responsibility.

F. Loucka said presently the ordinance establishes a \$500 fee. The proposed ordinance is \$500, plus any additional costs would apply. G. Fisher said council can merely choose to not adopt the proposed legislation if they don't want to change the \$500 fee.

TOPIC FOUR: Review of Updated Zoning Map

T. Valerius explained that earlier this year when reviewing the zoning map he realized the city should update it because there were corrections to be made. He along with the city engineer reviewed the entire map and corrected items that were rezoned incorrectly or needed updated since it hadn't been done since 2009.

G. Fisher reported that Planning Commission already reviewed this and recommended to city council to review it. Once city council is finished with their review, then Planning will ask city council to move forward with adopting the revised zoning map accordingly. She noted that council would need to pass legislation to adopt the newly revised map. F. Loucka asked if the correction was made in the Historic District. G. Fisher said he advised the city engineer who said she would make the change.

J. Forthofer thought the city should have this map in digital form. Mayor Bulan said they will put it on the website.

TOPIC FIVE: Medical Marijuana (Review of Sample Legislation)

G. Fisher noted the law director provided council with sample legislation. S. Herron said council has passed a temporary moratorium on three occasions on medical marijuana. The State of Ohio just released a list of places where you can purchase medical marijuana. He doesn't see the need for Vermilion to continue revisiting a temporary moratorium and suggested making it permanent. This doesn't mean that the City of Vermilion could not at a later time change its mind and take this off the books.

M. Stark MOVED; J. Forthofer seconded to have legislation prepared following the sample legislation as presented. Roll Call Vote 7 YEAS. **MOTION CARRIED**.

F. Loucka adjourned the meeting after no further discussion came before the committee.

Next meeting:

December 11, 2017 @ 7 p.m. – Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH

Gwen Fisher, Certified Municipal Clerk (CMC)