

Minutes of the Vermilion City Council Meeting

Monday, September 11, 2017

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Vermilion City Council: Steve Herron, Council President; Monica Stark, Council at Large; Fred Ostrander, Ward One; Frank Loucka, Ward Two; Jim Forthofer, Ward Three; Barb Brady, Ward Four; Brian Holmes, Ward Five; G. Fisher, Certified Municipal Clerk.

Administrative Staff: Mayor Eileen Bulan; Brian Keller, Finance Director; Tony Valerius, Service Director; Kenneth Stumphauzer, Law Director; Lynn Miggins, City Engineer.

CALL TO ORDER:

Steve Herron, Council President called the Monday, September 11, 2017, Vermilion City Council Meeting to order.

PLEDGE OF ALLEGIANCE:

The members of Council, administrative staff, and audience participants in the Pledge of Allegiance followed with a moment of silence.

APPROVAL OF MINUTES:

F. Loucka MOVED: M. Stark seconded to approve the meeting minutes of August 14, 2017. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

COMMITTEE REPORTS:

Streets, Buildings and Grounds Committee:

J. Forthofer reported the next meeting has been scheduled for September 18, 2017 at 7:00 p.m.

Historic Design & Review Board:

J. Forthofer reported on the meeting held September 6. The next meeting has been scheduled for October 4, 2017 at 6:30 p.m.

Planning Commission:

J. Forthofer reported on the meeting held September 6. The next meeting has been scheduled for October 4, 2017 at 7:00 p.m.

Board of Zoning Appeals:

B. Brady reported on the meeting held August 22. The next meeting is scheduled for September 26, 2017 at 7:00 p.m.

Contractors Registration Board of Examiners:

F. Ostrander reported on the meeting held August 22. The next meeting is scheduled for September 26, 2017 at 6:00 p.m.

Stormwater Advisory Committee:

S. Herron reported the next meeting is scheduled November 20, 2017 at 6:00 p.m.

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MAYOR'S REPORT:

Mayor Bulan reminded everyone that the last stakeholders meeting for the Lakefront Connectivity Plan which will be held at the building at Lakeview Park on September 12 from 3:00 – 4:30 pm and everyone is invited to attend.

Secondly, Republic Services has notified the city they are going to discontinue offering the recycling bank to their customers. This is a service that provided gift coupons to residents to encourage them to recycle. However, a very low percentage (1-3%) used this service, so now they will be mailing yearly calendars out to customers that will explain what you can recycle and what day regular and bulk pickup is.

She congratulated the Port Authority for another successful Duck Dash. They had a great turnout and hopefully they raised lots of funds for the navigational aid.

She reminded everyone that the 45th Annual Whollybear Festival will be held on Sunday, September 24 and the town will be very busy and roads will be closed for the parade.

She announced that Trick or Treat will be held on October 31st from 6 - 7:30 pm. Also, the Firelands Symphony Orchestra is hosting a Vermilion Pop's Concert on Sunday, September 17 at Paper Moon Winery which is a free concert.

She received notification that Vermilion, Ohio has been chosen as the best town in the September 2017 issue of Lake Erie Living magazine.

She offered condolences to the Earl Tischer family on his recent passing. Earl served in the 90s as President of Council and he served on the Board of Education.

Lastly, she requested an executive session to discuss property acquisition.

SERVICE DIRECTOR'S REPORT:

T. Valerius referred to the first reading of Ordinance 2017-36 on the agenda which is a change order to extend the new Main Street water main all the way down to the beach. This project will provide reliable service and fire protection to the existing homes at the end of the street and a proper size main to accommodate any possible future development on the museum property. There is no better time to do this project as the equipment is on site and the beach has limited use this time of year, and the street will only need to be torn up one time. He asked council to consider suspending the rules and passing this ordinance by emergency this evening.

B. Brady said it was mentioned before about paving Main Street and it looks as though they had to take up more of the road from what her initial understanding was. Therefore, she wondered if there was any chance they could handle paving the street as a change order and getting the work done this year. L. Miggins said there is simply no time to get the paving done this year. They had hoped to be done with the entire project prior to the Whollybear Festival but there were many delays which were not caused by the contractor on the water main work. In addition, they would like to add the rest of the water main work to the project. Therefore, the Green Infrastructure work cannot begin until after Whollybear and won't be complete until pretty much the end of October. There is no time to do a good paving job and she will not be an advocate for paving in November. They will get the patches down which are part of the contract. She said they could do it as a change order, but there is no time to do it.

F. Loucka advised the service director that the T-street at Sunnyside Road and Jerusalem (exit by Route 2) seems to have a change in the drainage on the eastern section during heavy rains. The area is flooding and the pavement is starting to fall apart. T. Valerius said he would look into this.

F. Ostrander asked the service director if the skate board park could be cleaned up. He said the area around the clerk's office is pretty junky. Also, he was looking at the pads on the ramps which seems replaceable and wondered if the administration could look into the company they purchased the equipment from and see if they can change the pads. Mayor Bulan said the equipment was purchased by

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a recycling grant many years ago and they will need to look it up. S. Herron said there appears to be some cinder blocks with curb stops on them and wondered if they belong in the park and on the sidewalk next to the building. G. Fisher said these are materials the kids are bringing in to make their own ramps. She said it was brought up at Parks Board last month to address this as it could be a liability issue since it's not a part of the parks equipment.

J. Forthofer commented on the Main Street Project and paving project as they had noted it would cost \$118,000 to pave from Liberty to Huron; minus the \$18,000 that is already in the contract for patching. He suggested they look at this street as a top priority for next year's streets program. He imagined the project would be quoted high but felt they need to put it on the list.

B. Holmes said he observed the skate park too and there are issues with the users bringing their own equipment in which is a big concern. They have existing ramps and rails and as a Parks Board they are looking into other avenues. There is damage to the pads which can be replaced. He said they talked about looking at this from a safety standpoint that if they are going into the winter season then they should look at changes. For example, versus the big gate they should look at a man gate and use the large gate for emergency only. He said the administration needs to look at ways to improve and maintain the park to be safe for the residents to use. F. Ostrander said years ago the kids did some fundraisers to contribute to the city to get the park started. B. Holmes said he ran into a parent at the park who used the park as a kid and they did come to meetings and push the issue for many years. He feels it is a usable space and they should continue to provide this for the users and make it safe for everybody.

F. Ostrander asked the service director why the city had so many water breaks over the last few weeks. T. Valerius reported that Perram Electric hit a water line when they were installing the foundations for the light poles. On Main Street, the contractors hit a water service they weren't aware was there. Also, water main breaks breed other water mains especially when you're shutting down big 12" lines and rerouting the water which sometimes causes another break. F. Ostrander asked if the contractor went to the wrong place or was he told the wrong place to go to. T. Valerius said Perram Electric hit the water main twice. The first time it was a misunderstanding between the city and the contractor, but the second time they drilled right in the same spot and the city isn't sure why they did this.

FINANCE DIRECTOR'S REPORT:

B. Keller reported they are in process of departmental policies and formalizing month end procedures. The bank reconciliations have been put on hold while the 2016 Financial Statements are being prepared and finalized. He will schedule onsite visits with the GAP preparation team. He said with regards to public records they received another general salary request. He said they received the \$25,000 Abandoned Gas Station grant reimbursement. He said with regards to Auto Insurance Auctions he put in another follow up call to them and they will be following up to make sure the withholdings have been implemented.

He said pursuant to ohiocheckbook.com they had to go back into the Legacy System and run reports for 2012 – 2016 so it included the vendor column. These reports were sent to the Ohio Treasurer's Office and receipt was confirmed. He is waiting to hear back that they have been processed and uploaded to the website.

He said the 2016 Annual Information Filing (AIF) is due at the end of September due to the fact that the city has issued bonds in the past.

Lastly, he addressed Resolution 2017R-13 which is a resolution to approve the rates as determined by the County Budget Commission. He asked council to consider suspending the rules and passing this resolution by emergency as it's due to the County Auditor by September 14.

CITY ENGINEER'S REPORT:

L. Miggins reported the Fire Station #2 Improvement Project will be complete by the end of this week as they are finishing up a few minor items. The Kensington Storm Sewer Project has been completed and the final pay estimate has been submitted. Erie County is paying \$11,000 towards this project from the

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CDBG Neighborhood Revitalization Grant. Finally, the Sailorway Resurfacing Project is complete. They had final walk-through on all three projects last week and they are happy with the results.

On Friday, September 8, they submitted three OPWC grants to Erie County. They asked for grant money for all of these projects and a zero interest loan for part of the Hollyview Project. The projects are Vermilion Road Phase I, Hollyview from Sanford to Forestview, and the Adams Street Water Main Replacement on the whole length of the street. There are different pots of money for transportation projects versus the water main project and everything is competitive within Erie County and then within the whole District 5 counties. To her, it looked as though the most likely project to be funded might turn out to be the Adams Street Water Main Project as it seemed to score the highest in her informal look at this point. Typically, they hear something about these grants in November. The grants are issued July 1, 2018.

Finally, she addressed the first reading of Ordinance 2017-37 which is the re-subdivision plat for Bacon Allotment. This is the land that was rezoned by city council on August 14. This will create two lots out of the four lots the property owner has and she asked council to only give it a first reading as the rezoning doesn't take effect until September 14.

S. Herron asked about the status of the Safe Routes to School. L. Miggins reported they are in the process of having ODOT authorize the redesign of this project which includes a number of streets, such as Sanford, Pineview, West River Road, State Route 60, etc. The person handling this is on a two month leave of absence so she is trying to work with another person she was redirected to in order to move this project along. J. Forthofer said people on Sanford have steeper driveway aprons as a result of previous work done on Sanford Street, and there is a belief that the eventual installation of the sidewalks will mitigate this difficult situation. He said it was proposed to be done in 2018 and wondered if the project was on track. L. Miggins said it would be very unlikely to build next year, but possibly in 2019 due to the recent delay. She said every time they go up into somebody's driveway to flatten it out that's outside of the right of way, they have to acquire a temporary right to work on their property by easement, and acquisition of easements seem to take some time. J. Forthofer asked how many difficult acquisitions of easements are there. L. Miggins said they are not difficult and it's a \$300 check to the property owner and most of them are happy to have it done. This is just a time consuming process.

B. Brady said the improvements at Fire Station #2 look great but the retention basin holds water all the time and she wondered if it should be empty. L. Miggins said they will clean some of the ditch along Overlook to lower it down and then they will install an auxiliary drain to get it as dry as possible because they don't have a lot of fall along there. There is about 13" of water in there and they will try to drop it so it's like a muddy bottom.

LAW DIRECTOR'S REPORT:

K. Stumphauzer reported the mayor wisely chose to terminate the employment of former Captain Reinheimer which was appealed by Reinheimer to the Civil Service Commission in the City of Vermilion. The Civil Service Commission upheld the mayor's decision to terminate. Therefore, Reinheimer appealed the decision of the Civil Service Commission to the Court of Common Pleas in Erie County, Ohio. The court, Judge Bennett, issued a very strong decision in favor of the City of Vermilion. He noted that Reinheimer's argument was that he was fired because he wore a Marijuana pin while in uniform. The city's argument was that there were a number of reasons why he was fired. He read a portion of the following opinion by the court: This Court finds that Reinheimer was neither suspended, or ultimately terminated, just for wearing the pro-marijuana advocacy pin. This Court finds that the evidence overwhelmingly shows Reinheimer performed unsatisfactorily, was dishonest, insubordinate, discourteous treatment of public (co-worker), neglect of duty, violation of Vermilion Police Department rules & regulations, acts of misfeasance, malfeasance in office, and engaging in conduct which otherwise put those under his command, the Department and City of Vermilion, at risk. Finally, this Court finds that Reinheimer's termination was not excessive; but warranted. This Court notes that Reinheimer was second in command. Therefore, he is held to a higher standard of expected conduct. There are multiple violations, at least one of which involves insubordination/failing to follow a direct order and dishonesty. The Sixth District Court of Appeals in City of Sandusky v. Nuesse 2011-Ohio-6497 affirmed the termination of a police chief for the single act of dishonesty. (Discretionary Appeal not accepted 131 Ohio St. 3d 1539, 2012-Ohio-2025). Here, Plaintiff's conduct is far more troubling and egregious.

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K. Stumphauzer said Reinheimer has an opportunity to file an appeal with the Court of Appeals, but he felt confident based on this kind of a decision that he will not fare well in the Court of Appeals or anything other court he attempts to go to.

He said over a year ago, they had a gentleman named Johnson who was involved in an altercation with former Sgt. Bolton at Rudy's Bar and Grill. Johnson is currently a guest of the State Ohio in the Mansfield Penitentiary. However, he filed suit against the City of Vermilion alleging that Bolton and the City of Vermilion engaged in excessive force and the attempt to arrest him for those altercations that occurred. He said this gets more complicated because Sgt. Bolton was also terminated and he was found guilty of assault. There are number of incidents that occurred along the path which made the city's position defensible and they will defend.

S. Herron said in the event that former Captain Reinheimer appeals to the Court of Appeals, would the law director agree that basically it's that the Court of Appeals looks at errors in procedure at that point, and doesn't substitute its judgment for the factual findings that were made with the Civil Service Commission and Judge Bennett's review of this case. K. Stumphauzer agreed with his statement.

OPEN TO THE AUDIENCE: No participation.

NEW BUSINESS:

S. Herron MOVED; F. Loucka seconded to recess into executive session to discuss property acquisition. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

READING OF ORDINANCES:

Third Reading- Ordinance 2017-35: AN ORDINANCE AMENDING ORDINANCE 2017-4 ADOPTED MARCH 6, 2017 TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF VERMILION, OHIO AND DECLARING AN EMERGENCY.

B. Holmes MOVED; F. Ostrander seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

First Reading – Ordinance 2017-36: AN ORDINANCE AMENDING ORDINANCE NO. 2017-34 ADOPTED JULY 17, 2017, BY ADOPTING CHANGE ORDER NUMBER ONE WHICH IS AMENDATORY TO THE ORIGINAL CONTRACT WITH ABRAHAM/MILLER EXCAVATING, LLC OF VERMILION, OHIO, FOR THE MAIN STREET GREEN INFRASTRUCTURE ENHANCEMENTS AND WATER MAIN IMPROVEMENTS AUTHORIZING THE FINANCE DIRECTOR TO MAKE PAYMENT TO SAID AWARDEE IN THE ADDITIONAL AMOUNT NOT TO EXCEED SEVENTY FIVE THOUSAND FIVE HUNDRED FIVE DOLLARS (\$75,505.00); AND DECLARING AN EMERGENCY.

J. Forthofer MOVED; F. Loucka seconded to suspend the rules. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

M. Stark MOVED; F. Loucka seconded to adopt this ordinance by emergency. Discussion: F. Ostrander said they never heard where this money was coming from. Mayor Bulan said from the water fund. Roll Call Vote 7 YEAS. **MOTION CARRIED**

First Reading – Ordinance 2017-37: AN ORDINANCE ACCEPTING AND APPROVING THE PLAT OF BACON ALLOTMENT RE-SUBDIVISION #1 FOR RECORDING PURPOSES AND DECLARING AN EMERGENCY.

First Reading – Resolution 2017R-13: A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.

M. Stark MOVED; F. Ostrander seconded to suspend the rules. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

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J. Forthofer MOVED; F. Loucka seconded to adopt this resolution by emergency. Roll Call Vote 7 YEAS. **MOTION CARRIED**

ANNOUNCEMENT OF MEETING DATES:

- September 18, 2017 – Vermilion City Council Committee Meetings (All) – 7pm
- September 25, 2017 – Vermilion City Council Meeting – 7pm

ADJOURNMENT:

Upon no further business after the conclusion of executive session, Council President, Steve Herron adjourned the Vermilion City Council meeting.

Gwen Fisher
Certified Municipal Clerk