

LEGISLATIVE COMMITTEE MINUTES
OF SEPTEMBER 24, 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; 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: Food Trucks (Draft Legislation)

M. Stark noted that she along with J. Gabriel and G. Fisher met a couple weeks ago to put together some draft points to send to the law department for review.

J. Gabriel explained they discussed whether they would allow or not allow food trucks, and if they allowed them – how would they allow them. He said there are boiler plate concerns that need addressed and they had to start somewhere, and this is a rough draft that opens the door for food trucks, but it doesn't open it all the way. There are restrictions that require fire inspections, proper insurance, and they are only permitted to operate in the City once per month for a total of 12 times per year. They may only be located and operated on municipal property or in the public right-of-way. Some of the key points listed deal with an application for permit. They must require safety features that the city requires for brick and mortar business, so they are sure they aren't putting propane tanks in a fire lane and they're not blocking fire hydrants. There is an opportunity according to the draft legislation for food trucks to exist on a limited basis to start. Some language is grandfathered, where if you have operated a food truck at a public event, including Vermilion City School property or public lands, then it will continue to be allowed if it has been operating within three years. This will cover the long-standing festivals as well. Additionally, you can indeed have food trucks for parties and private lands if there are no sales to the public and the property owner having the party is the sole person paying for the food truck.

S. Holovacs addressed health department permits and said you can't get a certificate until it's inspected. He said you can apply for an annual state permit, but individual organizations get a permit for that individual activity, so he thinks if they allow food trucks or other vendors then they need to notify the health department. He talked with the health department about this and they don't have any idea when the city issues a permit. J. Gabriel said prior to obtaining a permit, Section 872.03 (7) addresses this by stating: Certification that the Mobile Food Unit has passed all necessary inspections required by the Erie County Board of Health or the State of Ohio. S. Holovacs said if it's an individual event they must apply for one; even though the city gives them a permit they should notify the Health Department that they are in town operating.

B. Brady said in the definition of Mobile Food Services they don't include the fact that there is sale to the public and that money is being exchanged, so she is concerned they are including catering trucks. A lot of events bring in caterers and really, they are just bringing food to an event which is purchased ahead of time, and she isn't sure this is their intent to include this. She wondered if they should include the statement – privately owned lots where food items are sold to the public. This was in the Columbus legislation the law director originally provided council with, but it's not included in the definition. J. Gabriel said there is a section that applies to food being delivered, so it is covered. B. Brady just wanted to make sure this was included.

B. Brady questioned the background checks because the City of Columbus indicates the background check is for the person applying for the permit. She had a feeling in this draft legislation that it was for the people that were working in the food truck. J. Gabriel didn't think they would hire additional building department personnel to accomplish all the language in the ordinance. He said Vermilion's draft just includes listing the employees, it doesn't say you're doing a background check on the employees. B. Brady pointed out in Section 872.04 (5) entitled 'Permit Refusal' states: The applicant or any employees of applicant have been convicted of a felony offense of any kind or a misdemeanor offense involving fraud, theft, or dishonesty. S. Herron addressed Section 872.03 (11) entitled 'Application' as it states: Affirmation that, upon issuance of a license, the applicant will conduct a criminal background check of all employees or operators of the Mobile Food Unit prior to allowing any person to operate the Mobile Food Unit. He said it's not the city doing the background check; it's more a disclosure type thing. B. Holmes said it's the responsibility of the employer, so if they have a criminal history then it's in the employer's favor not to hire that person.

J. Gabriel reminded council that some of the language in the ordinance was recommended by the law department. The clerk sent some discussion points to the legal department and they sent back what they thought was best practices and council can strike any of this language. It's up to the employer if they want to hire somebody with a criminal history and he doesn't have an issue with it unless they are bringing ax-murderers to town.

S. Herron thanked J. Gabriel for his help in working on legislation as it controls food trucks and protects local businesses. Also, as far as safety it makes sure everyone is following the rules and it does recognize this as a legitimate business; the food trucks are legitimate people who own and operate them, and who are investing in their future. Lastly, he pointed out that anytime they impose a duty on some company; even if they don't have the ability to always have the personnel to enforce it; it still imposes a duty on that company to follow the rules so if something were to happen, they are liable for an injury or so forth. He believes they enact legislation to protect people; even if they don't have the ability right now to enforce it at every single aspect all the time.

F. Loucka echoed S. Herron's comments regarding the team that worked on this legislation and was in favor of Section 872.03 (2) as a list of every employee that will work on the Mobile Food Unit is required as well as proof of obtaining a City income tax filing number or exemption from the City of Vermilion Tax Administrator, so they can keep track of income to the city.

Joe Jesko said he is a co-owner of The Pavilion Food Truck and thanked council for drawing up this legislation. He said they have put their heart and soul and life savings into this food truck. They are working 16 hours days; scrubbing the floors every night and putting out a good

product. They are really trying to do their best to make Vermilion proud and put out product and customer service they believe the City of Vermilion stands by. They are really looking to grow into Vermilion and they understand the concerns that could be addressed with potentially a food truck coming to Vermilion from a different city; taking local economy and local business and going outside and paying different city taxes. This is the opposite of what they are trying to do. His partner has lived and worked in Vermilion at different restaurants for 13+ years and he himself is a full-time district manager at Aldi's and anytime he isn't working there he is working at his food truck. He currently lives in Toledo and he made it a point to get an apartment in Vermilion this year and he is looking to buy a house. Ultimately, they are fully invested in this and are passionate about this; not only for the food truck but they want to promote local business and eventually do a restaurant to expand Vermilion. They are 100 percent pro Vermilion and they hope decisions will allow them to continue their business in Vermilion and hopefully make Vermilion proud.

J. Gabriel said he is okay with striking any portions of the ordinance if they feel the background portion has too much legal language. He does think they need to know who works on the food trucks for tax reasons.

B. Brady asked if they could put the proposed legislation on the web site, so the residents can give insight. J. Gabriel said right now it's going to go for readings and back and forth in committee. G. Fisher said she would provide the Photojournal with a copy of the legislation and they could put it in the paper.

M. Stark MOVED; S. Herron seconded to have the food truck legislation added to the October 1 City Council agenda for a first reading. B. Brady asked to refer it back to committee in October. Roll Call Vote 7 YEAS. **MOTION CARRIED**.

TOPIC TWO: Review of Ordinance 2018-49 (Golf Carts)

S. Herron explained this ordinance was on for two readings and it was tabled on the third reading as they received information and opinions on golf cart legislation from a resident.

Chief Hartung agreed after reading the minutes from the last meeting that there were some legitimate points addressed and some that were not correct, but in 2009 they had enacted golf cart legislation and in 2011 they wanted to increase the use of them in the permissible speed zones of 25 mph to 35 mph. He said golf carts are 'under speed vehicles' and not motor vehicles; they do not require seatbelts. They're not impact rated and you can't compare Vermilion to Kelley's Island or Put in Bay because they have State Route 60 and State Route 6 with high volumes of commercial traffic and oversized traffic that travels through. Taking into the specific characteristics of the community, his recommendation in 2011 was they could allow the use of golf carts in the 35 mph, but he had suggested that individuals should be in booster seats and council approved it. However, state laws made it up to municipalities to govern the law on golf carts. He said they are about 10 years ahead of the game on a lot of cities per se that are getting into this; maybe 30 percent of the golf cart inspections he has done are for the City of Vermilion and the other 70 percent for are other communities. He said the City of Huber Heights is another example of a community that has restrictions on not having kids in booster seats. He suggested to council that if they are going to permit this, they require seatbelt restraints in the vehicles.

S. Herron said prohibition of children that fall within the Ohio Revised Code 4511.81 is recognized in other cities and it sets forth the criteria of the children who must be in a car seat. Some cities don't prohibit that group of people not to be permitted in a golf cart. He said they have State Street and Liberty Avenue, and to him his heart sinks when he sees people flying around on them. They must deal with the lowest common denominator and that's the impaired driver, the texting driver, or the inexperienced driver. No matter how good they are, the safety of all of them is dependent on that one person. He didn't mean disrespect to anyone or anybody's opinion on how they raise their kids, but he believes this would be a safer community if they did this and he frankly doesn't believe golf carts should be on roads that are over 25 mph.

J. Gabriel addressed Julie Horn who spoke during the last council meeting on behalf of golf carts. He told her she is a mom that is all over her child which is great but noted that council doesn't make rules for parents like her because she doesn't need those rules. They must make rules because they must look out for the kids whose parents aren't like her and there are way more than she would know. It's just like everything else in the society; because of a small group of people, other people must carry an extra load. He told her he was sure her and her children would be perfectly safe under these conditions in a golf cart due to her attentiveness. He gave an instance this year where a family put their children on the hood of their car and drove from Dairy Dock to the Putt Putt golf area around the marina. He stopped them and asked what they were doing and they said they were just going to play some Putt Putt golf and he told them they couldn't do this and the family proceeded to chew him out about it, so this is why they need this rule because the minute they repeal it somebody is going to get hurt and that is his fear and he couldn't live with that.

S. Holovacs said he doesn't have a problem with the golf carts when they are in the neighborhoods because the speed is 25 mph, but he has a problem when he's driving down Liberty Avenue and he is getting to the point where the speed changes to 40 mph and the golf carts keep on going east to Giant Eagle; they don't get caught so they keep on doing it. It gets touchy when you're on a two-lane highway and you have a golf cart. It's not the golf cart driver but the other people around them.

M. Stark said she would be happy to see golf carts operate in the 25 mph zones because she saw one going down Route 60 the other day out into the township which is 45 mph; they give an inch and they take a mile.

B. Holmes said they all take an inherent risk as soon as they step outside the door; putting a seatbelt on is still an inherent risk, but as a legislative body they can help control that inherent risk.

Julie Horn of 5910 Fisher Street asked if it was possible for a child of a certain age to not go outside of the 25-mph speed zone, but an adult could travel through the 35 mph speed zones. M. Stark asked council if they would support this suggestion. F. Loucka asked the police chief how this would be a major issue for enforcement. Chief Hartung said they would need to include the restraint systems, but he doesn't even know if that would be better or worse depending on the nature of the impact. It's whatever decision council makes that he will support.

S. Herron read a portion of Ohio Revised Code 4511.81; children who are up to four years old and less than 40 pounds are required to be in a child safety seat or any child who is eight years old or

less and under 4'9" in height who are required to be in a booster seat. He said to him this is a straight forward decision the State of Ohio made and if they start making that exception; it is just more confusing than it needs to be, so he would not be proposing this change. M. Stark asked the rest of council if they were inclined to making an amendment to the ordinance pursuant to Julie Horn's request and no motion was entertained.

S. Herron MOVED; M. Stark seconded to authorize the clerk to put Ordinance 2018-48 back on the Council agenda for a third reading as it was tabled on September 10, 2018. Roll Call Vote 7 YEAS. **MOTION CARRIED**.

TOPIC THREE: Credit Card Policy – Draft Legislation

Amy Hendricks asked council to table this discussion until October as she has some last-minute details she needs to get from the Auditor of State's office.

TOPIC FOUR: Building Permit Applications (Draft Legislation)

S. Holovacs suggested additional language to be incorporated on the building permit application as this stems from the Mapleview and Rolling Meadows ditch as comments were expressed that the building department allowed buildings and fences on the right of way and easements. To be fair to the building department and the City of Vermilion, they follow the rules of setbacks and they don't do title searches when they do a building permit, so he would like to see a clause added to the bottom of the building permit applications as such: I certify that I am the property owner or authorized designee for the property owner. The above information is accurate, and all work will be performed only by the property owner or a contractor(s) properly registered with the City of Vermilion Building Department. Furthermore, the property owner is responsible for compliance with all deed restrictions and/or easements which may exist on their property. He said if you're purchasing a property you should know what you're buying; if there are easements that restrict you from building, then you should know. If you want to put up a fence, then you should know where you can put it. The building department is just going to allow you to stay within the limits of the codes. S. Herron agreed with this because when you purchase property you're supposed to have a title search and you need to be responsible. The city needs to make the property owner aware that they are responsible when making application for the nature of that property, and it really falls on them and nobody else.

Mayor Forthofer said when the Mapleview ditch issue came up people asked why the city didn't tell them they couldn't build there when applying for a building permit, and when he addressed this with the law director he had said the exact same thing – they are responsible. He feels this clause accomplishes making the property owner well-advised. F. Loucka thought it was a great idea and it tells the property owner that they need to know where their property limits are and the right of ways, and it will eliminate future incriminations coming back to the city years later. J. Gabriel thought the permits were crowded and thought this clause needed to be separated in a way they understand this. S. Holovacs asked T. Valerius if there was something they could do in the permit application process that highlights this clause or is it something the building department could go over with each applicant, so they understand it. T. Valerius said absolutely as this is a permit application and they could put it in bold by their signature and they can also make them aware they need to read this clause before signing the permit.

G. Fisher didn't think they needed legislation to make this change if they were just adding it to the permit application. This would merely be an administrative function, so council could make a motion to the administration suggesting having this language added to the building permit application. S. Herron understood where the clerk was coming from but if they made this into an ordinance this would eliminate anybody finger pointing if something goes wrong. G. Fisher said then council can choose to make this a law and they can also add it to the building permit application. She said they can figure out which section of the code to put this language in and T. Valerius said he can figure out which section of the code it belongs.

S. Holovacs MOVED; F. Loucka seconded to have legislation prepared to incorporate the language S. Holovacs proposed to City Council. Roll Call Vote 7 YEAS. **MOTION CARRIED**.

TOPIC FIVE: **Review of Ordinance 2018-60 (Temporary Storage Containers)**

S. Holovacs said he brought this issue back to committee to make sure there were no further questions or concerns. Council had no further questions, so it will continue as a second reading on the next City Council agenda.

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

Next meeting: October 15, 2018 @ 7p.m. – Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH

Gwen Fisher, Certified Municipal Clerk (CMC)