

LEGISLATIVE COMMITTEE MINUTES

of May 11, 2020

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

In Attendance: **Vermilion City Council:**

Monica Stark, Council at Large; Emily Skahen, Ward One; Frank Loucka, Ward Two; Steve Hlovacs, Ward Three; Brian Holmes, Ward Five; Gwen Fisher, Certified Municipal Clerk; Barb Brady, Ward Four. Not Present: Steve Herron, President of Council

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: Fence Regulations – Swimming Pools

S. Hlovacs said at the Zoning Board meeting an applicant was requesting to waive the fence requirement around his aboveground pool, and it was approved. However, it was a pool that was 50" high and they discussed the requirement of putting up a fence that is only required to be 36". Therefore, they decided to rewrite this legislation since it was written in the 1960's. He thanked Bill DiFucci and Tony Valerius for preparing draft legislation. He said if an aboveground pool exceeds the fence requirements then the building department can waive the fence requirements from what he understands. B. DiFucci said if the side of the pool from grade to the top of the pool is higher than 36" and the ladder to the pool is lockable or has been removed, then they will say they have met the fencing requirements of this code section. He said it seems redundant to put a 36" fence around a pool that is in fact taller than the fence.

B. Brady said in the ordinance it says the gate must be locked when the pool isn't in use, so would they treat the ladder as the same, so when the pool isn't it use it would need to be up or locked. B. DiFucci said absolutely. B. Brady said when they have a fence around it, they can close that access to the pool, and it provides still a level of protection. Therefore, could they ask for a fence at least around the entrance of the pool, so people could come up and down the ladder and kids can't climb in. B. DiFucci said he wasn't following her but said if the pool isn't in use the ladder should be locked as the requirement. If somebody is in the pool, then you would have to be under the assumption that there is some supervision for those utilizing the pool at that time. If there is nobody in the pool, then the ladder should

be up or locked. It should be no different from a fence being open or locked as an example.

T. Valerius said they wanted to touch on the fence itself, so they did add the sentence at the end of the ordinance stating that all fences should be constructed of solid and rigid material and secured in a safe manner. In the past, they came across where people thought a plastic snow fence was considered acceptable, and they're stating this won't meet the definition of a fence that they want to see around a pool. It will be up to the building inspector's discretion on what is solid and rigid.

B. DiFucci said he has another applicant going to the Zoning Board of Appeals meeting this month to request a variance for no fence around his pool, so he told him however the meeting goes and which way council's decision goes on this issue, he could withdraw his application, but at this point he is going for the same variance as the one that was just approved by the BZA.

F. Loucka said if the administration is comfortable with this he is too. He feels it is logical.

G. Fisher said a motion is required to amend the current legislation and if everyone is good with the way the legislation was rewritten, then Council may want to consider adopting this legislation by emergency, since it's pool season and it can avoid further applications going before the BZA.

Homer Taft of 3972 Edgewater asked if a pool is less than 48" high is it easier for a kid to get in it and is the lack of any fence becoming a safety hazard the closer you get to 36". T. Valerius said the original code called for a 36" fence, so therefore they're leaving it at 36" so anything below 36" would still require a fence. H. Taft understands this was the ordinance, but is this safe? He knows other cities have ordinances that require a 4' or 6' fence around a pool. If you had a 36" aboveground pool and you had no fence, is it as safe. He thinks council should consider it.

B. Brady asked if they could review other communities to see if they're within a reasonable height. T. Valerius said they would do this. B. DiFucci said he talked with other pool suppliers on what they encounter as they go city to city and a handful of cities look at the pool sides in meeting the requirements of the fence.

F. Loucka MOVED; S. Holovacs seconded to have legislation prepared to amend the fencing requirements as submitted by the administration. Roll Call Vote 6 YEAS. **MOTION CARRIED.**

TOPIC TWO: Transient Rentals

Amy Hendricks said the city received a request from the Erie County Health Department as they were trying to contact people who were returning from being

out of the area and coming back into the state about self-quarantine, and they also were looking for addresses for short-term rental properties so they could contact owners/visitors on guidelines during traveling and visiting. They used the addresses that had seasonal shutoffs from the utilities system for those people that had been out of town. However, since the registration process was discontinued for transient housing, they were referred to the county auditor. This brought up discussion and she checked with B. DiFucci to ask the status of this ordinance that was removed last year and if it had been through any committee for further discussions.

B. DiFucci said last year they talked about maintaining their safety inspection in these units and as of now this is all they're doing. When they get called, they will do the inspection, but they're not under any obligation to do this because there is no penalty in place or ordinance in place. He has been doing some homework on this and he found another group that is handling this short-term rental and found that short-term rentals since 2011 have grown by 1,530%, so they're flooding the market with the ability to rent these short-term. He said 1/10 voluntarily register on their full merit. The others just sit back in the shadows renting to people. The company they're dealing with has the ability for the city to track them, find them, and force their hand into registering. However, they need an ordinance they can stand behind to make sure these short-term rentals are paying their taxes and scheduling inspections, so the city can made sure they're safe.

M. Stark said there was a committee that had been reviewing the short-term rentals. B. Brady said former councilman John Gabriel was chairing this subcommittee, so she thinks it fizzled out. However, Philip Laurien of the BZA also sat on this committee, which was great. He has a little bit of conflict because he owns a Bed and Breakfast, but he also is a wealth of knowledge on this subject, so she would suggest that he participate if they form another committee. M. Stark asked the administration if the group they're working with has sample legislation from other communities. A. Hendricks said they did mention they have sample policies and ordinances from various communities across the country. The data is interesting, and the Vermilion population has grown 68% over a 12-month time period as far as the number of short-term rental units. They will provide the information to the city for a small fee per unit, so the city can get these things in order.

S. Holovacs said he attended one of the committee meetings and Vermilion has a zoning area in the downtown and they wanted to control it, so it wasn't happening all over the city. He said they did try to keep this downtown. B. Brady said this was kind of the sticking point at the time of where they left it. Mayor Forthofer said another concern brought up by P. Laurien was that the legislation is not enough to what it should be as far as how they define Bed & Breakfast, short-term lodging, etc., which was being addressed in these committee meetings.

DiFucci agreed that it was targeted downtown because at the time they were only Bed & Breakfast. This was the term they used to describe the services provided. However, they're now Airbnb's or transient rentals. There are so many different terms that they need a definition that groups them all together so there are no loopholes. They need to decide where they want to allow these. Do they want to give them free reign from zoning district to zoning district, or do they want to limit them to certain areas of the city? This may get into some interesting legal discussions.

B. Holmes said he heard that Airbnb's are popping up in residential neighborhoods where it's not zoned for commercial use and it's something they need to look at for sure.

Homer Taft of 3972 Edgewater believed that when this was on the Council agenda before he spoke about property rights, and if you restrict for example to one week or less rentals only in certain small areas of the city, you might get into a constitutional issue on equal protection. But in addition, he questioned, why should they? Why should somebody that has a condominium or apartment downtown should be treated differently that has an apartment or lakefront house, or condo in another area. Vermilion is a tourist town and some of the things that was proposed before tended to discourage rentals except to certain favored areas/businesses. He thinks by policy and legally it would be a terrible mistake.

B. DiFucci said they need some type of legislation because they are a tourist town. They need the ability to know where they're at, so they're safe. If it's city-wide it needs to be addressed. He said the group they have talked with will monitor the tax collection and will locate the properties and will help with compliance. They also have a hotline where people call in if the place is getting too rowdy or something isn't being maintained, then the city will be called to make sure they are following code.

M. Stark asked who all on the committee at that time. B. Brady said that she was at the meeting along with S. Holovacs, J. Gabriel and P. Laurien and they only met a couple times. G. Fisher suggested including B. DiFucci in these meetings since he has a lot of knowledge with codes.

S. Holovacs said there was a house on Edgewater who had parties all night long that was brought to the city's attention and this is when they got into all of this. This is where issues in a residential neighborhood become a little sticky as the partying becomes a problem in a residential area. B. Brady said it was six units with six different groups coming in constantly, so even limiting the number in a building should be discussed.

F. Loucka suggested having Bill and Tony work with this group to get some sample legislation from other cities as its apparent things have really changed within the

last year, so maybe there is additional current legislation they can review or use as a model. M. Stark agreed as they don't need to reinvent the wheel. They could tweak current legislation that works for the City of Vermilion. She asked Bill if he would get a committee together with other Council members to see what they can bring to the council. She asked if they could bring it before the next Legislative meeting for discussion. She offered to sit on the committee as well. B. Brady said she wouldn't mind continuing on the committee as it will affect ward four. M. Stark asked B. DiFucci to let them know when a time works best for him and they can contact P. Laurien to see if he would like to join the committee, so they can move forward on this issue.

After no further discussion came before the committee, M. Stark adjourned the meeting.

Next meeting: June 8, 2020 – meeting time and location to be determined.

Gwen Fisher, Certified Municipal Clerk (CMC)