

LEGISLATIVE COMMITTEE MINUTES
OF OCTOBER 19, 2020

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; Emily Skahen, Ward One; Frank Loucka, Ward Two; Steve Hologacs, Ward Three; Barb Brady, Ward Four; Brian Holmes, Ward Five. Absent: Monica Stark, Council at Large

Administration:
Jim Forthofer, Mayor; Chris Howard, City Engineer; Amy Hendricks, Finance Director; Tony Valerius, Service Director; Ken Stumphauzer, Law Director

Call to Order: Steve Hologacs, Vice Chair, RESOLVED THAT this Legislative Committee comprised of the committee of the whole does now come to order.

TOPIC ONE: **Review of Ordinance 2020-41, Resolutions 2020R-14 & 15**

Andy McDowell of the Western Reserve Land Conservancy was present to address Ordinance 2020-41 and Resolutions 2020R-14 and 2020R-15. He explained they pertain to the grant application/acquisition of property located by Main Street Beach (Stuchal property). The WRLC is in contract with the seller to purchase the property. Resolution 2020R-14 is to apply in the city's name to the Land and Water Conservation Fund and Resolution 2020R-15 is to apply to the Coastal Management Assistance Fund. The Land and Water Conservation grant is a federal grant, and the Coastal Management Assistance grant is through the ODNR office of Sandusky. The city has applied to both of these grants before for the other acquisitions they have done near the lakefront, so these would allow the city to apply and allow Mayor Forthofer to act as the signatory on the grant applications. He said with regards to Ordinance 2020-41 it's a purchase agreement with the seller of the property and they need to have a purchase agreement in place between the Land Conservancy and the city, so the property will transfer to the city when the time comes. The purchase agreement with the city does not require any funding for the city to put in. The Land Conservancy is doing all the fund raising for this project via funding grants or through private support and donations.

Homer Taft of 3972 Edgewater Drive said with the Wakefield purchase he heard there were limitations on impervious surfaces and commercial activity, so would these apply to this specific property, and if so, if for example there was a bathhouse/restroom facility would it prohibit on this land any kind of vending.

Andy McDowell said no because these two grants are conducive with any forms of infrastructure for a passive park, so for example the property the city now owns where the house is demolished this is permitted to put in a restroom facility and part of the master plan down there will allow for a restroom facility on that property. The property they have under contract now is slated for a small parking area adjacent to the restroom facility. Both grant sources are aware of this. H. Taft asked if a concession stand would be allowed and A. McDowell said they can do this too.

TOPIC TWO: Review of Ordinance 2020-30 (Dogs and other Animals Running at Large)

S. Holovacs asked the members of council if they had additional input on this legislation. S. Herron said this is about overall safety and he understands there are two sides of each story and it's not an indication that a vast majority of people don't take care of their dogs. He said it's just making sure they are a safer community.

G. Fisher believed the law department chimed in on the last change when council addressed a minor misdemeanor on the first offense and some language changes proposed by Councilwoman Brady. K. Stumphauzer said Attorney Anderson wrote a memo for language she thought would be appropriate to include in the ordinance. B. Brady said her memo stated that she didn't think council could eliminate the hunting because it is state law. She read the last paragraph of Attorney Anderson's email as follows: *As to adding the penalty of it being a minor misdemeanor, the existing Section 618.01 provides that the penalty for a violation of this section is a fine between \$25 and \$100 for a first offense, and \$75 and \$250 and possible imprisonment for up to 30 days for a second offense. I don't see this language as conflicting with the designation of an offense being a minor misdemeanor, but for clarity and consistency, I would suggest combining it all into one section if Council wants to keep the existing language and add the MM designation.*

F. Loucka supported the requested changes by the law department and suggested proceeding with the ordinance. G. Fisher asked if council wanted to put the ordinance back on the agenda next week for the third and final reading.

Homer Taft of Edgewater Drive said he supports the general idea of a dog leash law ordinance and thinks Council is trying to protect two different things and he feels council needs to distinguish between those. He said if a dog is on private property then it should be confined within the property. The other is that if they are in a public area, they be under control by leash so they cannot approach others

inappropriately. He thought council needs to distinguish between the two. As much as he thought Councilwoman Brady's suggestions were helpful, he didn't think they go far enough into precision. He also suggested distinguishing between a dog on one's property and one on someone else's property with permission, but they would still want to be confined. As much as he understands the hunting exception, he doesn't think it should be limited to hunting. It should be any recreation and if they are confined on that property it should not matter.

Brian Holmes asked if they discussed leashes six feet or less, and did they distinguish between electric leashes or leashes. Did they distinguish if it was to be tethered? B. Brady didn't think that came up. Emily Skahen thought this was in the first draft of the ordinance. G. Fisher said it was addressed in Section 1.

G. Fisher suggested preparing another draft since they have received a lot of input from the law department and council. S. Holovacs thought a rewrite of the legislation for council's review was necessary and then they can review it at the November 9 committee meeting.

TOPIC THREE: Transient Rentals (Review of Draft Legislation)

S. Holovacs said this legislation has been addressed many times. He said he would like to discuss the fees as he felt the proposed fee of \$400 was high and he would consider half of this amount and half to renew. E. Skahen agreed with this and suggested \$200 for the first permit/license and any consecutive after that for \$50 if they follow the requirements. She thought \$400 was too high and paying for the software should be a part of the city's responsibility and not the residents.

B. Brady said they had discussed there would be penalties if you violate or fail to obtain a license, so she said this should be higher if they don't register. Maybe they should make the penalty amount \$400. She also thinks they should have a penalty if they fail the inspection because there will be costs to the building department if they must go out a second or third time.

S. Holovacs understands if they are caught without a permit the penalty should be higher but would this fall in line with the renewal – is it \$50 or \$100. He asked B. Brady what she would suggest charging if there is a second or third stop required by the building department to do an inspection that failed. B. Brady said the ordinance suggests \$50. She asked the finance director if the city is covering their costs. She said this is a business so it shouldn't cost the residents money for somebody to make money. A. Hendricks said the city would not be covering their costs at this rate. It would have to come from some other revenue source or the general fund balance. B. Brady said if they raised it to \$300 from \$200 would that be sufficient.

Drew Werley said the city wouldn't be paying for anything. He had asked the city how much they spent for this software and found out the city paid the vendor \$4,044 on September 11. Based off the figures he received from the city on the taxes they have already collected for the bed tax for the county, the city already has more than enough to cover that money. He said with the dog ordinance there is multiple Ohio Revised Codes that cover already what the city wants to do. S. Holovacs said they are now on a different topic. D. Werley said council wanted to change this – you passed this last year to more happily mimic Huron's. He said he wasn't sure Council knew what was going on in Huron right now with their ordinance – they are already trying to amend theirs. He stated the first time Council brought this up to change it...Monica is not here but she said she happened to talk to the building inspector and he was happy with the initial \$100 that Council had passed prior, so if they are going through this, then he would ask Council to keep it at the \$100 – which they already said was fine enough. Again, the city is not going to foot the bill for the software – you paid \$4,044 for the whole entire annual year and the tax money you already received this year alone on a bad year alone because of COVID has already covered this significantly, so don't worry about that. Amy Hendricks said in response to his point, the point of the actual bed tax – again it's not paid by the operator but by the guests – similar to a hotel tax. It's to have some additional revenue to go towards the operation and maintenance of the city law enforcement; various things that are potentially given more demand because of the number of visitors in the city.

S. Herron agreed with what E. Skahen had said - those fees need to go down. He isn't sure about the point that was made that they don't have to worry about it, but they definitely need to make sure they are not losing money, but the people who are not complying need to be the ones to be paying anything above the \$200 or \$300, which is still a lot, but they need an enforcement mechanism.

F. Loucka said he would have to go by the information given by the building and finance departments to make sure they are subsidizing the costs of what they are trying to do with code enforcement, so he would like to fall back on their initial opinion as to what the fees should be. He said the administration may want to relook at this.

Homer Taft said he has a little enthusiasm for this ordinance, and he doesn't think the ordinance, inspections, or licensing system will solve any of the perceived problems they are having with Airbnb's. He also thought there were a lot of scare comments that have been made that haven't occurred locally. As far as he can tell the issue is one place and one complaint. This said, if you want to assure safety then you should be inspecting everyone the same – not just a few folks. He thinks there has been questions raised in the past on how they are going to find everyone.

Are they going to apply this to everyone in Linwood where there are a lot of rentals? How will everyone know about this to comply? He thinks this ordinance is largely about raising taxes. This is something that is pushed by Erie Shores and Islands because they want more bed tax revenue. Then the city gets bed tax too. Whatever the cost of enforcement and problems you have with visitors in the city, it's not like it is something new. It kind of pays for the inspection, but the inspection – if it doesn't cost over \$100 then he doesn't see anything more than that should be the charge. If it's a reinspection, then they can charge the additional fee of \$50 or whatever. He thinks this is unfairly treating some people, but if the city is going to do it and make people pay fees, then they should be reasonable so they don't discourage summer visitors which the city's economy depends on. He said the city gets income tax from these properties as well and if they don't, Rita will audit them. He said they are already paying taxes or breaking the law in a far worse way than what the city is setting forth, including federal felonies. He said if the city is going to do this, then he would suggest they do it very carefully and start inexpensively and go for compliance. He thinks it is totally wrong to start talking about charging for the software or the cost of city employee time to find the lawbreakers under this new law. He said to put this on the people who are registering legally is completely wrong. Frankly, he said if council is going to address parties, too much parking and things like this, they should be addressing it for all property. If council insists on dealing with transient, then they need to look at what they are talking about in transient. If somebody rents for 28 days versus 30 days, then they're going to need to register. If somebody does an Airbnb for their condo once for a week in 52 weeks, they need to register and they are treated the same as somebody that runs a cottage as a business that they rent out by the night or the week. He is curious – do they charge a \$100 or \$400 to inspect motels every year. He doesn't think they charge that much per room. There are some issues of fairness that he thinks council needs to investigate more than they have.

S. Holovacs asked council what their opinion is on the fees and what direction they want to go.

B. Brady respectively disagreed in some extent with Homer as these are home businesses. If you were running an IT Company out of your house, then you would have to go to the Zoning Board of Appeals and get a conditional use permit for your property. This is no different – people are running a business out of their home. They are renting their property short term. It's a motel/hotel type of situation in a residential area, so she thinks different rules apply with long-term rentals. If she has a neighbor that lives near her for a year, then she gets to know that person and get comfortable with that person. If the house is turning over every day or week, it feels like an unsafe situation because she doesn't know who that person is. She doesn't know their name or anything about them. She thinks they must be careful because this is a home business. She asked if they looked at Phil Laurien's

replacement to the ordinance where it states going to the Zoning Board of Appeals. G. Fisher said this was Phil's suggested ordinance as this latest version didn't come out of the subcommittee's discussion. B. Brady thought he did a great job adding to the ordinance and giving it a backbone. She said they can agree on the fees and if somebody doesn't get a permit they should pay more. She said if council wants to bring the fees down that is fine, but she also feels they need to treat this like a home business, which means going before the Zoning Board of Appeals to get permission to do this. She said the neighbors would have the opportunity to object.

S. Holovacs asked if council wanted to turn this ordinance back over to the administration to adjust the fees, or do they want to determine the fees themselves.

Mayor Forthofer said the administration was represented on the committee that came up with this ordinance and the recommendation of fees was put forth. If council feels the fees should be something else, then council may want to determine a fee.

S. Holovacs feels the fee is too high and it should come down. Is it \$200 and \$100 for renewal, and \$50 for repeated inspections? B. Brady asked what the cost is to go before the Zoning Board of Appeals for a home occupation. F. Loucka thought it was a \$100. (Clerk's Note: Upon checking with the building department after the meeting, the BZA fee is \$30 and the application fee (one time) is \$50, and annual renewal fee is \$25) B. Brady said if it was \$100 then this could be a starting point and this is without inspection. S. Herron suggested an initial fee of \$200 and \$100 after, and then it should remain \$200 if you're not following up. He said he doesn't want to lose money, but they are really at some extent hampering and affecting the people that follow the law the most. He said his main concern has to do with child protection and much of the information he has gotten from his professional career, which goes back about 28 years. He said it has to do with child protection and what is going on and how (inaudible) is being used in harming children. At the end of the day, law enforcement needs constitutional tools to do its job. He has practiced law and was a defense lawyer for a long time and the 4th, 5th, and 6th Amendments protect people, but at the end of the date he knows they need to do the right thing and to him this is nonnegotiable, but the money is. He doesn't want to harm the citizens that want to do the right thing and who care about their property, and the inspection would be quick because they have already done the work to make their home safe. He said if they cut the \$400 in half and see where they are financially - and if they have to come back next year and look at the income derived and see where they are as far as the cost of enforcement then they can relook at this. He agrees that \$400 is high, but this doesn't mean that he thinks the administration came in with a bad faith estimate, but at the end of the day he just thinks \$400 is high.

F. Loucka said maybe they should move ahead with S. Herron's suggestion and look at it financially in a year or so because none of this stuff is set in stone. They can modify ordinances as they proceed, so he would support S. Herron's comments at this point.

B. Holmes said he is constantly reading updates about this issue and it can be anywhere from \$25 to \$250 and this is even in big cities. It aligns with what Steve Herron said about safety. He said an article he read talks about being a good neighbor and it covers cities knowing who is in their city. He said Vermilion is a transient city where people come in and out and they pray and hope that 99% of these people are good and they typically are. There is that small population that come in transiently that may have a different take on what they are going to do while they are here, so he thinks they should take a look at the fees. He said that \$400 is steep and again they are a transient city and they want people to come to Vermilion, and they want the Airbnb's to continue to bring people here because they are bringing business to our small town. He doesn't want to tie a chain around their neck and have them leave town as far as Airbnb's. He would rather they stay here and work with the city. He would ask those involved to register with the city and follow the rules and be a good neighbor.

Emily Skahen said maybe they need to put something in the ordinance where people pay higher if they have not registered. She agreed that if the BZA charges a \$100 fee and they have an inspection on top of it, then she would say anywhere between \$100 - \$200, and then after that \$50 or \$100. However, they need to keep it as low as they can to keep people wanting to do the right thing each year.

B. Brady asked if they were looking at P. Laurien's rewrite as their final legislation. G. Fisher did not believe so as it didn't come from the subcommittee. She believed they were sticking with version 3. B. Brady thought it had some good points if anyone wanted to look at it. G. Fisher thought there were still a lot of unknowns and suggested council having a work session one night on this subject. S. Holovac asked council their thoughts about having another work session. F. Loucka said they should move forward because it can be modified. He said they should put a stake in the ground and pass the ordinance as is with the lower fees.

S. Herron MOVED, seconded to make the first initial permit fee \$200, with a \$100 annual fee after that. B. Brady said they need to make sure they have a penalty in the ordinance for people who don't register. She said \$200 for the first inspection and \$100 for proceeding years and \$50 for reinspection and \$400 or \$300 if you don't register. G. Fisher said there is a penalty clause already in the ordinance. B. Brady said it is \$100 per day and they can leave it at that. S. Herron said the penalty is always up to the court, so it doesn't mean necessarily they will fine somebody \$100 per day. Roll Call Vote 6 YEAS. **MOTION CARRIED.**

S. Holovacs adjourned the meeting upon no further discussion.

Next meeting: November 9, 2020 - 7pm – Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH

Gwen Fisher, Certified Municipal Clerk (CMC)