

RECORD OF PROCEEDINGS

Minutes of

Minutes of the Vermillion City Council Meeting

Meeting

BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Held

Monday, December 2, 2019

Videos and minutes of council meetings are available to the public to view online at www.cityofvermilion.com under 'meetings' tab (City Meeting Minutes or Videos).

Vermillion City Council: Steve Herron, Council President; 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; G. Fisher, Certified Municipal Clerk

Administrative Staff: Mayor Jim Forthofer; Attorney Susan Anderson; Amy Hendricks, Finance Director; Tony Valerius, Service Director

CALL TO ORDER:

Steve Herron, President of Council called the Monday, December 2, 2019 Vermillion City Council Meeting to order.

PLEDGE OF ALLEGIANCE:

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

APPROVAL OF MINUTES:

S. Holovacs MOVED; F. Loucka seconded to approve the minutes of the November 4, 2019 meeting. Roll Call Vote 7 YEAS. MOTION CARRIED.

CORRESPONDENCE: None.

PRESIDENT OF COUNCIL'S REPORT:

S. Herron thanked Councilman John Gabriel for his service over the last two years. Councilman Gabriel has served on Council in the past and has always been dependable and an advocate for small business. He's never been afraid to speak his mind and provide new ideas, and he's always very innovative with respect to solving problems, and he has always been generous with his time and resources to the City of Vermillion. J. Gabriel conveyed that he has enjoyed his time on City Council as this has been a great Council. He's been on council's that were in battle and it wasn't fun, and they didn't get much done. He said this group doesn't have an axe to grind and everybody presents their ideas in a respectful manner of which he has appreciated. He also stated that he appreciates the administration as it has been an absolute joy in working with an administration where you're not butting heads. They're very professional in every aspect and the directors are terrific and the Mayor is open-minded. In closing, he said this has been a great term and he appreciates it. He has no fear of walking away because he feels Council does a good job.

COMMITTEE REPORTS:

Historic Design & Review Board:

The next meeting has been scheduled for January 8, 2020 at 6:00 pm.

Planning Commission:

The next meeting has been scheduled for December 4, 2019 at 7:00 pm.

Streets, Buildings and Grounds Committee:

F. Loucka reported the next meeting has been scheduled for December 9, 2019 at 7:00 pm. (Clerk's Note of December 3: Due to a lack of agenda items, the Committee meetings for December 9 have been cancelled. However, a Special Council meeting will be held on this date and time.

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Port Authority:

F. Loucka reported the next meeting has yet to be determined.

Utilities Committee:

The next meeting has been scheduled for January 13, 2020 at 7:00 pm.

Contractors Registration Board of Examiners:

S. Holovacs reported the next meeting has been scheduled for December 3, 2019 at 6:00 pm.

Finance Committee:

The next meeting has been scheduled for January 13, 2020 at 7:00 pm.

Parks & Recreation:

B. Holmes reported on the meeting held November 19. The next meeting is scheduled for January 21, 2020 at 7:00 pm.

Stormwater Advisory Meeting:

S. Herron reported the next meeting is yet to be determined.

Tree Commission:

S. Herron reported the next meeting has been scheduled for December 11, 2019 at 7:00 pm at the Ritter Public Library.

Legislative Committee:

The next meeting has been scheduled for January 13, 2020 at 7:00 pm.

Vermilion Community Services Board:

M. Stark reported the next meeting will be held on January 15, 2020 at 6:30 p.m. at the Ritter Library Endowment Room.

Health & Safety Committee:

The next meeting has been scheduled for January 13, 2020 at 7:00 pm.

Board of Zoning Appeals:

B. Brady reported the next meeting has been scheduled for December 3, 2019 at 7:00 pm.

MAYOR/SAFETY DIRECTOR'S REPORT:

Mayor Forthofer provided his submitted reports as read into the record:

Safety Director's Report:

Parking Ban

A reminder that the winter street parking ban has taken effect to facilitate safe and effective snow plowing. The ban runs from December 1 to March 31 and includes all public streets and thoroughfares. There is no street parking from 2:30 am – 6:00 am every day. If you would like to request an exception, call the Vermilion Police Department's non-emergency line 440/967-6116.

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Mayor's Report:

Road to Hope

At the east end of Liberty Avenue Jeff Kamms, Executive Director of Road to Hope said they have received the state grants they were hoping for. He expects a January or February groundbreaking of their new recovery complex in the old McKenzie Woods cottages. This will be the 9th facility operated by Road to Hope who has an excellent reputation. Kamms said they have found records indicating old McKenzie Woods structures were owned by Holiday Inn at one point. He expects to be operating by next November. Mr. Kamms is exploring acquisition of additional property for the housing of staff.

Lyman Life

At the west end of Liberty Avenue, Mike Moes of Moes Marine had a grand opening of Lyman Life in the structure previously owned by Buyers Fair. While I was there the opening was well attended. The store has all things Lyman, Lyman sales, Lyman restoration, Lyman apparel and accessories. This store is a perfect fit for our lakefront downtown area. It also supports the opinion that vacancies in downtown Vermillion don't stay vacant long. We are again at 100% capacity except for the old Vermillion Hardware. Holiday activities in Vermillion are well underway.

December Events

- The Christmas Tree Ship will arrive at the docks at McGarvey's Landing this Saturday the 7th at 10:30 am.
- Pearl Harbor Day is being commemorated by the Vermillion Veteran's Council this Saturday December 7th at noon at the South Street Landings off West River Rd.

Sweepstakes Internet Café Comparison

I have handed out to Council a table comparing Sweepstakes Internet Café licensing fees in neighboring communities for your discussion pertaining to Ordinance 2019-67 up for third reading tonight.

Executive Session

I request an executive session tonight to inform Council of matters related to property acquisition.

SERVICE DIRECTOR'S REPORT:

T. Valerius reported the contractors relocated the flow meters to their new locations, which included manholes on the streets in the Elberta Beach area as well as the northern most manholes on Ferndale, Woodside and Hazelwood. Additionally, he alerted the citizens in the Valleyview area that the street department will not be spreading salt on the newly paved section of Hollyview Drive. The street will be plowed as normal, but because salt can damage newly poured concrete, they will not be salting this section of the roadway. He asked citizens to please use caution while traveling this area throughout the winter months.

FINANCE DIRECTOR'S REPORT:

Amy Hendricks asked council to delay the adoption of the final appropriation Ordinance (2019-76) until the Special Council meeting on December 9 as it will give her time to combine everything into one adjustment. She noted she has been working with Sudsina & Associates and Squires on the proposed financing for the water meter project. Also, with regards to the technology services from LifeCare, they have been hearing only good things from them and she hopes to be meeting with them tomorrow to go over some of their long-term planning lists for things the city may need with regards to equipment/software to upgrade the city's network. She said they have been knowledgeable, cooperative and receptive.

CITY ENGINEER'S REPORT: No report.

LAW DIRECTOR'S REPORT:

Attorney Susan Anderson reported they are hoping to wrap up labor negotiations by year end.

RESPONSE TO THE AUDIENCE: No response.

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OPEN TO THE AUDIENCE:

Brian Winningham of 548 Hazelwood Drive read a letter into the record which is attached hereto and incorporated herein as part of the official record of proceedings.

NEW BUSINESS:

S. Herron MOVED; F. Loucka seconded to adjourn into executive session to discuss property acquisition after the 'Reading of the Ordinances. Roll Call Vote 7 YEAS. MOTION CARRIED.

Reading of the Ordinances:

Third Reading – Ordinance 2019-60: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO RECEIVE A SUBSIDY FROM BROWNHelm TOWNSHIP, LORAIN COUNTY, OHIO FOR EMERGENCY MEDICAL SERVICES THROUGH THE CITY OF VERMILION'S CONTRACT WITH LIFECARE AMBULANCE, INC. OF ELYRIA, OHIO FOR THE PERIOD OF JANUARY 1, 2020 THROUGH DECEMBER 31, 2020 AND DECLARING AN EMERGENCY.

S. Holovacs MOVED; F. Loucka seconded to adopt this ordinance by emergency. Discussion: Barb Brady asked if the subsidy to be paid by the township has increased from last year. A. Hendricks said it the contract is the same rate as the prior year. She said it was a little less last year due to the proration of the delayed start. B. Brady asked if the city was receiving rent from LifeCare and Mayor Forthofer said yes. Roll Call Vote 7 YEAS. MOTION CARRIED.

Third Reading – Ordinance 2019-61: AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF VERMILION, OHIO, TO ENTER INTO A RENEWAL CONTRACT WITH ALLEN-THORLEY-DELLOYD INSURANCE COMPANY OF VERMILION, OHIO, PER ORDINANCE 2014-86 FOR THE PURPOSE OF INSURANCE COVERAGE COMMENCING JANUARY 1, 2020 AND EXPIRING DECEMBER 31, 2020 AND DECLARING AN EMERGENCY.

M. Stark MOVED; B. Holmes seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Third Reading – Ordinance 2019-62: AN ORDINANCE CONFIRMING THE APPOINTMENT BY THE MAYOR AND THE VERMILION PARKS AND RECREATION BOARD OF CHAD KUHN AS RECREATION DIRECTOR TO THE CITY OF VERMILION FOR THE 2020 RECREATIONAL PROGRAMS; ESTABLISHING A SALARY FOR SUCH APPOINTEE; ESTABLISHING COMPENSATION OF CERTAIN AUTHORIZED POSITIONS WITHIN THE VERMILION DEPARTMENT OF PARKS AND RECREATION AS HAVE BEEN FAVORABLY RECOMMENDED BY THE CITY'S PARKS AND RECREATION BOARD AND DECLARING AN EMERGENCY.

B. Holmes MOVED; S. Holovacs seconded to adopt this ordinance by emergency. Discussion: M. Stark asked if the Recreation Director's salary for 2020 had increased and G. Fisher said there were no changes on the rates and fees from 2019. Roll Call Vote 7 YEAS. MOTION CARRIED.

Third Reading – Ordinance 2019-63: AN ORDINANCE TO MAKE TEMPORARY APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF VERMILION, STATE OF OHIO, DURING THE THREE-MONTH PERIOD BEGINNING JANUARY 1, 2020 AND ENDING MARCH 31, 2020 AND DECLARING AN EMERGENCY.

S. Holovacs MOVED; F. Loucka seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Third Reading – Ordinance 2019-67: AN ORDINANCE AMENDING SECTION 878.04 (a) & (c) ENTITLED "LICENSE FEES" OF CHAPTER 878 ENTITLED "SWEEPSTAKES TERMINAL CAFES" OF THE CODIFIED ORDINANCES OF VERMILION, OHIO AND DECLARING AN EMERGENCY.

S. Herron MOVED; F. Loucka seconded to table the third reading of Ordinance 2019-67 and refer it back to the January 13, 2020 Legislative Committee for further discussion on comments addressed by Councilman Gabriel two

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weeks ago, and on the comments expressed by Brian Winningham. Roll Call Vote 6 YEAS; 1 NAY (Gabriel). **MOTION CARRIED.**

First Reading – Ordinance 2019-75: AN ORDINANCE ADOPTING A MORATORIUM ON APPLICATIONS FOR, AND THE GRANTING OF, ZONING CERTIFICATES FOR ANY BUILDING, STRUCTURE, USE OR CHANGE OF USE THAT WOULD ENABLE THE CULTIVATION, PROCESSING, DISTRIBUTION OR SALE OF MEDICAL MARIJUANA FOR A PERIOD NOT TO EXCEED SIX MONTHS IN ORDER TO ALLOW THE CITY TO REVIEW APPLICABLE STATE AND LOCAL LAWS, TO PLAN FOR REGULATIONS RELATING TO SUCH USES, AND DECLARING AN EMERGENCY.

S. Holovacs MOVED; F. Loucka seconded to suspend the rules. Roll Call Vote 6 YEAS; 1 NAY (Brady). **MOTION CARRIED.**

S. Holovacs MOVED; F. Loucka seconded to adopt this ordinance by emergency. Discussion: S. Herron noted that on January 7, 2020 the current moratorium will expire. He said the moratorium can always be rescinded by another ordinance. Roll Call Vote 5 YEAS; 2 NAYS (Brady, Gabriel). **MOTION CARRIED.**

First Reading – Ordinance 2019-76: AN ORDINANCE AMENDING ORDINANCE 2019-6 ADOPTED FEBRUARY 25, 2019 TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF VERMILION, OHIO FOR THE FISCAL YEAR ENDING DECEMBER 31, 2019 AND DECLARING AN EMERGENCY.

Announcement of Meeting Dates:

- December 9, 2019 - Special Vermilion City Council Meeting @ 7pm
- January 2, 2020 - Vermilion City Council Swearing in Ceremony – 7pm (Judge Dolyk) followed by Vermilion City Council Organizational Meeting – 8pm
- January 6, 2020 - Vermilion City Council Meeting – 7pm
- January 13, 2020 -Vermilion City Council Committee Meetings (All) – 7pm

Adjournment:

Upon no further business coming before the body at the conclusion of executive session, Steve Herron, President of Council adjourned the Vermilion City Council meeting.

Transcribed by: Gwen Fisher, Certified Municipal Clerk

Good evening. I would like to start by thanking the council for giving us the opportunity to speak regarding the proposed tax increase for Lucky Duck. The statement I am about to read is the view my wife and I have regarding this matter, it may not be exactly what you were expecting to hear this evening, but it is our truth and what needs to be said, so please bear with me.

We would like to officially go on record by stating that Lucky Duck does not have any major objections to our taxes being raised, *in the traditional sense*. We do however have questions for this council and city officials. What protections or provisions will be made regarding Lucky Duck? What changes will be made regarding existing sweepstake café owners or any *legitimate* cafes that may open in the future within the City of Vermilion?

I will return to these questions, but first I feel it is relatable and important to provide some background into Lucky Duck, why we chose Vermilion as our business location, and the integrity of my wife and I. More than three years ago now, we chose to open an adult game room, or sweepstake café, as the city refers to us. We knew very little about this industry; being the people we are, we did our research and homework, we visited other cafes and *attempted* to speak with other café owners. What we found was both surprising and disappointing. We deliberated for some time about whether this type of business would be right for us but after much thought, we decided to forge ahead.

We are more than aware of the negative image that sweepstake cafes receive, and a large majority of the time, sadly its true. We saw a unique opportunity in front of us to reshape the way sweepstake cafes are operated and ultimately the way this industry is viewed. To say that the past three years have been a struggle is an understatement. But we followed our moral compass, did what we believe to be honest and ethical and created a very successful business model; we not only followed guidelines put forth to us by the city but we also created our own policies and procedures to help protect Lucky Duck, our location, and ultimately the city. Obviously, our hard work and determination has paid off; we were one of very few cafes in the state of Ohio who were permitted to remain open after the August 2018 investigations and raids on sweepstake cafés. Although we are not here this evening to point fingers, we can tell you that other current café "owners" in the City of Vermilion can not boast the same accomplishments, they were forced to close *twice* at their previous location in Lorain County. They also cannot boast the accomplishment of helping to bring additional business, which of course means extra tax dollars for Vermilion, as Lucky Duck has done. I am referring to the new Dollar Tree opening in the South Shore Plaza, we played in integral part in the company choosing that specific location. If the council or city officials were to inquire, they may find that quite the opposite is the case at the other "owners" location. As we have found to be the case, not all sweepstake café "owners" share our same morals and business ethics and do not appear to be outwardly concerned with how their business is run, any illegal activity being conducted, or the type of customers they permit to play at their establishment. I'm sure this council can understand how that has the potential of putting much needed tax dollars generated by sweepstake cafes

in Vermilion in grave risk. You've probably all heard the saying it only takes one bad apple to ruin it for the bunch.

Let me follow up on my previous statement by saying, Lucky Duck has no traditional objections to a tax increase for our business. I think we have proven that we have the city's best interests at heart and that Lucky Duck's successful business model speaks for itself. We chose Vermilion for our business because we believed it was a supporter of small business. We represent the honest little guy trying to make a noticeable difference in their community. We not only chose Vermilion to plant roots for Lucky Duck but also our future business. We chose to make Vermilion our home, as did our family.

Just as Lucky Duck has done in the past and will continue to do, we support our city and are happy to do what we can to help. As stated, Lucky Duck has proven itself to be successful. By our hard work, honestly, and due diligence, we have generated and secured a rather handsome tax revenue for the city. We hope to have the opportunity to continue to do so in the future, we would be disappointed and saddened if we were forced to relocate Lucky Duck due to issues that could be so easily remedied. Even though we do not outwardly object to the tax increase, we do have issues with it related to what I've outlined in this statement. We are not without our financial hardships, even though it is not within our current budget, we have required additional staff and manpower as security for Lucky Duck due to the increased number of questionable and potentially harmful type of clientele that we have noticed an increase of over the past six months. Since our initial opening three years ago, Lucky Duck has done its due diligence by having policies and procedures in place and have vetted out potentially harmful individuals. This has been proven to be very successful for us and we are dismayed that *other* sweepstakes café "owners" are not concerned with adopting the same policies or even share these same concerns, as it does directly affect surrounding businesses and the city.

So our questions still remain, in return for the this tax increase, what protections, provisions or changes will the City of Vermilion make on our part to rid the city of already existing or potentially future harmful sweepstake café "owners"? Those who willfully choose not to follow guidelines put forth by the city. We are not here this evening to advise this council on how this matter should be handled but we do have insightful suggestions as to how the city could help to secure the tax dollars contributed by sweepstake cafes. One example could be to conduct background and criminal checks on not just the person named as the actual owner of the business, but also any managers, representatives, or points of contact for that business. We would be more than happy to discuss this and other suggestions with those interested upon request, at your discretion.

In closing, we would like to thank you for giving us the opportunity to speak our truth this evening. We have confidence and faith that the city we have so openly supported over the past three years will do what's right. Thank you.