

# RECORD OF PROCEEDINGS

Minutes of

Minutes of the Vermilion City Council Meeting

Meeting

BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Held

Monday, August 3, 2020

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

**Vermilion City Council:** Steve Herron, Council President; Monica Stark, Council at Large; Emily Skahen, 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; Amy Hendricks, Finance Director; Chris Howard, City Engineer; Tony Valerius, Service Director; Attorney Susan Anderson

## CALL TO ORDER:

Steve Herron, President of Council called the Monday, August 3, 2020 Vermilion 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 July 13 & 20, 2020 meetings. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

## PRESIDENT OF COUNCIL'S REPORT:

Marilou Suszko, Executive Director of Main Street Vermilion presented the 2019 Annual Report and pointed out they are a big volunteer organization and their volunteers contribute over 7,000 hours of volunteer service to the programs that benefit Vermilion. Their support comes from their events and donations, as well as direct community support. They bring in at least 10,000 people in their events every year throughout the year. They are host to five different programs under the Main Street umbrella. She said Public Art Vermilion was added in 2019, which attributes to the Post Cards going up around town. The Vermilion Arts Guild help promote arts in the community, and they host art shows that are open to the public and they collaborate with the library on doing this, and they host events in town. The Lighthouse Preservation this year wrote for over \$15,000 in grants in support and kept the lighthouse looking like it does and in good condition. Prior to that, there was a fundraiser for \$40,000 to add the Fresnel lens that made the lighthouse a coastguard approved national aid. She spoke highly on Vermilion in Bloom and said if you take all the flowers out of town it would be sad. She said Vermilion in Bloom are responsible for adding so much to the community such as the flowers and trees planted on both sides of town, the hanging baskets, Christmas lights, and historic light poles. She said typically when people come to Vermilion, the first place they stop at is the Shore Thing. These are the ambassadors to the community; not only do they warmly welcome people and make them feel at home, but they help guide them where they need to go as far as restaurant and shopping establishments. She said their relationship with the city is one she hopes continues, as they really appreciate the support from the city in so many ways to help them move some of these projects forward. The city lends a hand in collaborating with Main Street to make all these things happen. Main Street Vermilion is about Downtown Revitalization and they think they are seeing a lot of good things happening downtown. It's also about tourism as they have invested a lot of money to getting people to come to town, and it's also about volunteerism and making their town look and feel like a place that people can be proud of.

M. Stark thanked Marilou and all the volunteers as they really do appreciate everything they do as they make a huge difference in the community, and it is such a blessing for the city. M. Suszko agreed as nothing happens without the volunteers on all levels.

S. Herron echoed those sentiments and said at this time there is less people coming out due to concern of their health, but everybody keeps doing a great job.

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M. Suszko said she watches what the businesses are doing and what the people on the street are doing, and she looks at the restaurants and retailers, and the places that have to welcome these visitors, and they are really doing a great job whether they agree with all the mandates or not as they are following them. They are wearing masks and providing comfortable and safe experiences for the customers. She said she would hear the complaints, but she is not hearing any negatives, so this makes her feel good about what people are doing and the effort they are making.

B. Holmes said during this time it is welcoming to come into a town and see this. They have not missed a beat as the town is welcoming in this point of time.

## COMMITTEE REPORTS:

### Legislative:

The next meeting is scheduled for August 17, 2020 at 6:00 p.m.

### Utilities:

The next meeting is scheduled for August 17, 2020 at 6:00 p.m.

### Port Authority:

F. Loucka reported the next meeting is scheduled for August 13, 2020 at 6:30 p.m. He announced the Port Authority has been working on a proposed project since 2012 and this year it has finally come to fruition. The project is the ADA Addition and Improvement of the restroom at the South Street Launch Ramp. He said it will cost around \$32,000, and monies will come from Duck Dash donations, two grants and a special \$10,000 donation from the Lake Erie Electric Foundation and it should be completed around November. S. Herron thanked all entities that were mentioned for their work, donation, and sacrifice as it is much appreciated.

### Finance:

The next meeting has been scheduled for August 17, 2020 at 6:00 p.m. B. Brady said last week the finance director mentioned the Utility Office is offering penalty-free payments on overdue water bills and they will extend this to 2021. Also, the finance director had encouraged everyone to fill out their census forms as it makes a difference on what monies the city gets.

### Planning Commission:

The next meeting is scheduled for August 5, 2020 at 7:00 p.m. at the Vermilion Municipal Complex.

### Health & Safety:

The next meeting is scheduled for August 17, 2020 at 6:00 p.m.

### Parks and Recreation:

The next meeting is scheduled for August 18, 2020 at 6:00 p.m.

### Historic Design & Review:

The next meeting is scheduled for August 5, 2020 at 6:00 p.m. at the Vermilion Municipal Complex.

### Streets, Buildings & Grounds:

The next meeting has been scheduled for August 17, 2020 at 6:00 p.m.

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## Contractor Registration:

The next meeting has been scheduled for August 25, 2020 at 6:00 p.m.

## Zoning Board of Appeals:

The next meeting is scheduled for August 25, 2020 at 7:00 p.m.

## MAYOR/SAFETY DIRECTOR'S REPORT:

Mayor Forthofer provided his submitted report as read into the record.

### **Public Safety**

I renew my request that all Vermilion residents and visitors wear a mask when in public. It is not about the Governor's order or the color of a county's COVID status. It does not matter if you think COVID-19 is real or part of some conspiracy. Wear a mask! It is an act of respect for your community.

### **Class Action Motion**

I ask Council to pass a motion in support of the City Administration's intent to file as part of a class action lawsuit. The Administration asks for damages against Purdue Pharma. I believe that the residents in City of Vermilion have suffered a heartbreaking cost, both directly and indirectly, resulting from opioids manufactured and marketed improperly by Purdue Pharma. Supporting documents have been sent to Council. I recommend that questions related to this proposed action can be directed to the Law Director in the Law Director's report to Council.

### **Erie County Road Funds**

I want to congratulate Service Director Valerius and City Engineer Howard on their good work securing Erie Count MPO funds for future road work. This is not just a process where Erie County cities throw their names in a hat. There is a lot of data submitted followed by tough fight with other cities to get Vermilion a piece of the ODOT pie. Thank you both.

### **Vermilion Road**

I also want to bring Council's attention to the delay in completion of Vermilion Road. The road was scheduled to be done last Friday, July 31. However, Service Director Valerius and City Engineer Howard were informed that a last amount of asphalt did not meet specifications. A supplier suggested let it go as it was already installed and see how the surface worked out. The completion date would have been met. To their credit, Mr. Valerius and Howard chose to miss the completion date to grind off the problematic asphalt and get the project right. I think those who lived through the Edgewater problems resulting from letting problem surfaces go will agree with me that this was the right supervisory choice. My congratulation to Valerius and Howard for watching out for the taxpayers' interests. The Service Director will give further details on Vermilion Rd in his report.

### **Mapleview ditch is done.**

Lorain County is responsible for future maintenance of the storm waterway. The City of Vermilion is responsible for the Mapleview Drive culvert.

### **Tradesmen Park**

A new development on Liberty East is planned. Most of Vermilion's business growth will be home grown. Our seasonal demographics are just not attractive to the big retail chains. Tradesman Park is something I believe our community needs badly. A business incubator for tradesmen. Tradesmen Park can help keep entrepreneur's here in Vermilion as they grow. Mike Lazusky, owner of Vermilion Mill works and Cleveland Cutting Board, as well as a City employee has purchased 5 acres on East Liberty with his four partners. Tradesman Park will help small businesspeople who have a toe hold in business but want to grow into the next step. Modest size space will be available from 1,500 square feet and up. It is for a tradesman who has outgrown their garage but are not ready for the 10,000 sq. ft. building. The site is at the east end of town on the north side of Liberty, a little east of the Citgo Station. It is zoned Highway Commercial I am happy to see another development on Liberty's east end. The City will be doing whatever we can to help the developers launch this business incubator.

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## **Railway Barber Shop**

Plans are still working their way through the review process for Railway Barbershop in the old Bailey Hardware Building on Grand Street. Judging by their shop in Avon, they will be a real asset for downtown. Lots of atmosphere. Many thanks to Kevin Smith, Vermilion native and resident, for this addition to Vermilion's downtown.

S. Herron asked if the city was responsible for the ditch itself on Mapleview. Mayor Forthofer said the city is responsible for the Mapleview Drive culvert.

## **SERVICE DIRECTOR'S REPORT:**

T. Valerius said there was an issue with some of the asphalt on Vermilion Road. He explained when they started to pave the surface coat last Monday, they were informed the batch didn't meet ODOT specifications, so they stopped immediately and they determined it would be best for the city to grind it down and replace it. This delay put the schedule back a little bit and the plan is to have the street open Wednesday afternoon. The berm is laid, and they are finishing up minor details with the ditches, and the pavement markings will be done Wednesday morning and they should be able to remove the barricades and open the road by Wednesday afternoon.

He mentioned the city has been receiving a few calls regarding high water bills associated with the meter replacement program. He explained this depends on when the meter has been changed at a residence. A final reading is done on the old meter and if the new meter is installed between the time the meters are read and the time the bills go out, the bill may show a six to seven week usage. With the following bill, the readings will catch up to get the readings back to normal and the usage will only show one to two weeks of usage, so it should all come out as a wash.

He announced the City of Vermilion has been awarded two paving projects through the Erie County Regional Planning Metropolitan Planning Organization. He said the Vermilion Road Phase 4A has been awarded for construction in 2024 and it will consist of a full-depth replacement of the roadway and the addition of safety features, including the widening of the roadway to provide 11' lanes, extend 2' paved shoulders and additional guardrail. The project will begin at the southern corporation limit and will continue north for approximately 1,900'. The estimated cost of the project is \$1,191,772.00, with \$881,445.00 being funded through the MPO.

He said the next project is the Sunnyside Road Phase II Resurfacing Project that is scheduled for construction in 2025 and consists of the completion of pavement repairs and resurfacing, as well as minor widening to provide 11' lanes. The most exciting aspect of the project will be the addition of 4' paved shoulders that will accompany bicyclists. This feature will allow bike enthusiasts access to the Lorain County Metro Parks future facility known as Cassell Reservation. This project will start 800' north of the railroad tracks and will continue 2,000' - approximately 200' north of Shady Lake Drive. This project has an estimated cost of \$932,525.00 with \$689,367.00 being awarded through MPO funding.

Lastly, he thanked the Distribution department employees for their hard work and dedication to the city over the past couple of weeks after a rash of main breaks. They have been working some long hours through the night and during weekends to make these repairs. He noted the city appreciates their efforts.

## **FINANCE DIRECTOR'S REPORT:**

Amy Hendricks addressed the monthly revisions to the appropriations. Those changes and allocations are of a routine nature. There is an additional transfer into Fund 703, which is the health insurance fund. This represents the final closeout from the self-funded insurance plan. The city was waiting for a disbursement of funds from a joint account that had been held with BAC. She asked council to approve this appropriation ordinance by August 17, so it allows them to pick up changes that may come in over the course of the month.

She said to follow up on information she previously had presented about the extension on the 2019 Financial Statements, she learned on July 29 within hours of when these reports were to be filed that Lennon & Associates (Audit firm that prepares) would not be filing them by the deadline. She said it was too late to file an extension and both she and a neighboring community who uses them, received word at

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the same time and they both tried to file extension and they were denied. She hasn't received a good explanation for this, so in communication with the Auditor of State's office when the extension was not approved, she wanted to advise Council that fines have not been assessed in the past for entities that had missed the deadline, but it would be up to the city's individual auditors on whether we would receive a citation or not on the audit report. She said her disappointment is that the city had all information submitted in record time during the first week of March. She has followed up with Lennon every couple of weeks through this time and they were aware that she didn't want to file for an extension because she felt they had things done very timely, but this still happened. She said it's unfortunate with all of the growth the city has made and if a list is published on the Auditor of State's website, it will show the City of Vermilion filed late and it really is not represented by the city's performance in this area, so they are working towards getting this filed now. She said the city had to move back their auditors who were coming next week to begin the audit review because the report was not ready. She said this situation has been very unsettling to her as she has never filed an extension before because she has always filed by the deadline. She was sorry it happened but unfortunately it is not anything in the city's control.

S. Herron confirmed that Lennon & Associates received everything they needed to file properly, and A. Hendricks concurred. S. Herron said Lennon & Associates did not give the city a reason why they did not file, so really the city does not have any answers. He asked if Lennon & Associates has a history of failing to file properly. A. Hendricks believed from her observation they did not ultimately file by the deadline, but it seemed to always be very close to the deadline. She said they are great people, but this is something she is not going to take a risk of happening another year. Mayor Forthofer said this consultant is a legacy before this administration; one of the few. He asked the finance director to investigate the relationship with this firm and determine if they need to review this relationship. S. Herron asked Attorney Anderson if it was feasible for the city to go after Lennon & Associates if there is a fine associated with this late filing. Attorney Anderson said this is something she would not take off the table at this point. They need to get a better understanding from Lennon & Associates as to what happened and why it occurred, and certainly there would be no harm in asking for reimbursement if the city has to pay something as a result of their actions. She feels it would be fair game to ask them to reimburse the city and if they refuse, depending on the facts and amounts, then the city could consider taking additional action. She was not sure if they had a written contract for services as they would have to look at this to see if there is a limitation of liability and that sort of thing. S. Herron said the reason Lennon & Associate may have could lead to a positive auditor's decision to not impose a fine.

M. Stark asked if this was an annual or extended contract. A. Hendricks said it is an annual contract. M. Stark said the city could review different avenues then.

B. Brady asked if there was anything out of the ordinary as it relates to the transfers. A. Hendricks said the only new transfer relates to the insurance and the other ones are relatively routine – transfers into the police pension with additional retirements, so they beefed up the retirement severance fund. Others are mandated – like the safety boat and the recreation fund, but they are listed individually and brought to council. B. Brady asked if the city's accounts are stable. A. Hendricks said so far so good; the ones they might look at that have a negative balance at this point are a couple of grants as they have expended the money and are waiting for reimbursement. There is one of the street funds that pays for the highway maintenance, as the state bills the city for services of our section of the state highway. The bill was higher than it had been in the past, but it's also one of those funds that has been hit by the fee collections from motor vehicle registrations, etc. The city may have a transfer into this fund before the end of the year.

## CITY ENGINEER'S REPORT:

C. Howard reported the Haber Road Bridge Replacement project has been completed and it will open this weekend. The Sanford Street Water Main Replacement project is substantially completed. There is still some topsoil and seeding work to be done.

## LAW DIRECTOR'S REPORT:

Attorney Susan Anderson said she had no report but welcomed questions regarding the class action lawsuit for damages against Purdue Pharma. S. Herron asked if the city could stand to receive proceeds from this settlement, and if so, when. Attorney Anderson said at this point it is filed as a bankruptcy case.

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So, they filed on behalf of the city a Proof of Claim for damages. The way it has been set up through the court is that the City of Vermilion's damages have already been estimated in terms of past and future damages, and this estimate is around six million dollars. This takes into an account monetary amounts that already have been expended, dealing with folks that have had these opioid addictions, education and training, and additional services you may expend in the future. There is a lot of people with money in this pot – trying to get the money, so she is telling her clients that if the estimate is six million dollars this is a big number, but really at the end of the day you're probably only looking at maybe pennies on the dollar in payments that will be structured over a number of years. She said the deadline to file a Proof of Claim was July 30 and now that this has passed they should have a better sense going into the next few months as to how many claims have been filed and what the process will be, and what the city may actually see. Her estimation is that it was certainly worth filing the city's claim to reserve their right to get some of the money if they can do so.

B. Brady asked why Purdue since there are many pharmaceutical companies. Attorney Anderson said this is the one that has been focused on in lawsuits. They may see it with other companies in the future, but this is the one that is at this point in terms of filing bankruptcy and trying to collect all the claims and getting it resolved.

Attorney Anderson said with regards to the mayor's report she wanted to mention that she lives in Avon and her son and husband both frequent Railway Barbershop and it is a great place! She said it would be a great addition to the city.

#### OPEN TO THE AUDIENCE:

Annette McCreedy of 5830 Ohio Street said she is a new resident of Vermilion as she purchased a home in August of 2018 and moved in February of 2019. The property she purchased is in the Historic District of Vermilion and it is very close to Jefferson Street towards the west side. She believed the property she purchased is a blighted property – reason being is because there is a paved area that comes across the front of her property and it takes up about 90% of her frontage. She has 56' of frontage according to her deed and her neighbors are taking up 43.6' x 6' wide right across the front of her property. She has asked them not to use this anymore – the area she is talking about is a tree lawn, but in affect it is her front yard and it is between her bilateral side to side property lines. Under a blighted property it is diminishing her property value and has a negative effect on the adjacent property owners that discourage neighborhood stability. She was before Council to ask for a little bit of a judgment and guidance as to what they can do to have this paved area removed.

S. Herron said per the Charter the administration is obligated to respond to her at the next regular council meeting on August 17 at 7pm. He asked for confirmation that she is stating this is a blighted property and she's looking for guidance as to what can be done to get rid of this right of way that is being used on the tree lawn. Annette McCreedy said this is correct.

Mayor Forthofer responded by saying this matter has been brought to the administration's attention by the property owner for the past several weeks and he has driven by the property and it really is unfortunate. They discussed this issue with the building department and with the Service Director and Annette is not wrong – it is situation he would not want to have.

T. Valerius said it is a neighbor's driveway and it goes through the right of way in front of Ms. McCreedy's house. All driveways go through the right of way at some point and because of the way this one is situated, this house sits on a hill or at least the road dives down right there, so apparently in the past it was hard for them to get a driveway put in because of the lay of the land. This driveway was put in like this several years ago – he provided a picture from 2005, which is as far back from where the city could go. The driveway was asphalted, and it has been there so long. It is in the city right of way and it does not cross through her property, and there is nothing really the city can do. They cannot make the guy move his driveway out of the city right of way or from in front of her property.

Annette McCreedy said this neighbor has like 59' in front of his own home that they could create a second driveway instead of using the front of her home to do it. S. Herron asked if she is saying he could use 59' to the west from this location. A. McCreedy concurred.

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Annette McCreedy showed Council pictures of where the driveway comes across the front and where her property line is. She would like to square up her property to look nice again. The home was built in 1886 and it is a tiny cute house and she would like to restore it to its historic value. She said the neighbors are the ones using the front of her property and they do have another drive on the left side of their home, which is on the other side of their home from where she lives. She said there is a garage there and several access points where they can do the same thing on the front of their property. She showed a picture of the paved drive as it goes through and it is covering almost entirely in front of her home. She doesn't see that it's making the community look very nice, and then they drive over the top of the sidewalk to park next to the house in the grass, so she isn't sure the city allows people to drive over the top of the sidewalk to go wherever they want to go, but she believes there is something that needs to be done about it. It has been like this for awhile and the neighbors are insistent about not moving their driveway and not wanting to discontinue the use of this property. According to ordinances, a lot is an invisible line on either side of your home that goes to the middle of the street. This is where they do the iron pin, so they're actually using her lot and a portion of that lot, which she is in common ownership with the city – the tree lawn, so she wants to make arrangements with the city to fix it and then she thinks her neighbor should make arrangements with the city to make a regular drive for their house if they don't want to use the one on the west side of their home.

S. Herron said the city does not make ordinances to deal with these situations and it is the city right of way and frankly it will be up to the administration. He asked the administration if they have considered going to the property owner and trying to mediate this situation. T. Valerius said both the building inspector and him were out there with both homeowners, and Ms. McCreedy had offered some things to the other homeowner – possibly helping them with installing a new driveway, but the homeowner wasn't interested in that. He said certainly a new driveway could be put in straight in front of their house, but he doesn't think the city can make them remove this driveway that has been in existence for years as their primary access for their vehicles. A. McCreedy asked if there was ever a permit issued for this driveway to be placed there. T. Valerius said probably not because the driveway is just so old, so he doubts it. B. Brady said Ms. McCreedy made the comment that this homeowner parks on the grass after they come across the sidewalk and they do not do that. T. Valerius said there is no yard parking in the front yard, but he thinks these vehicles are parked along the side of the house, which is a side yard. A. McCreedy said the homeowners do drive over the city sidewalk to park on the right side of their house in the yard.

M. Stark asked if the street where their driveway would be is paved. F. Loucka said yes. M. Stark said it is a paved area, so it is not like they had to make that going across her property because it was an unpaved street to get to their access.

B. Holmes asked if there was any way to have a drive come off the end of Jefferson. T. Valerius said quite possibly it could be an option. Annette McCreedy said when properties are zoned and a homeowner decides to build a home and the zoning inspector comes out to see the intent of what the homeowners are doing, they have to plot out where the driveway is going to be, where the house and garage are going to be, and again, when this property was built, this driveway wasn't there. She believed it has been in use since 2005 and probably since they purchased it in 1999. Because the home was neglected rental property, nobody ever said anything to them. She said it's not like they are parallel parked on the road, they paved an area all the way up through the front, so without a permit she thinks the city should be able to make them remove it.

S. Herron said they are the legislative body, but she may very well have a claim on a nuisance and she may want to seek an attorney to say this is inhibiting her ability to use her property in the manner she is allowed to under the law. He said a court may grant her the relief she is looking for from the city. He told her he does not envy her situation at all. A. McCreedy asked if she is correct in saying the city owns this tree lawn. S. Herron said yes, but to him this is the situation – it is not her property they are doing this to, and it has been there so long that the city is kind of stuck with it. T. Valerius said all throughout the Harbortown District there is parking in the right of way in areas very similar to what she has in front of her house for whoever wants to use it. It is not just dedicated for the homeowner.

F. Loucka said this is an unfortunate situation and what would stop Ms. McCreedy from parking in front of her house – parking in that driveway. A. McCreedy said she thought about this too. She said last week she put her garbage can in front of her house so she wouldn't hit it when she backed out and they were taking pictures of her garbage can because now it's blocking their way to get to their property, which is 90

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percent in front of her yard. She said this is ridiculous and it's a heated situation between them both. She prefers not to go to court because that is no fun. She would rather work out something with the city and the neighbors to make it nice. T. Valerius said she cannot block their driveway; it is there only access to the house. F. Loucka said they have a driveway on the other side of the house. T. Valerius said this driveway is more established than the other one. The other driveway is just a grassy strip. A. McCreedy said the other driveway is covered with weeds. T. Valerius said this driveway is asphalted and very old, but it is their driveway and he does not think they can block their driveway. Every driveway goes through the right of way and if you block somebody's driveway in the right of the way, you are blocking the driveway. A. McCreedy asked how many driveways go through their neighbors' front yard to get to their house. S. Holovac agreed that everybody drives through the right of way, but they are using somebody else's right of way to get to the front of their house when they could put a driveway straight to their own property. The unfair part is that nobody here was on council in 1999 and if they are talking about things that were not right then, it is not right now. He thinks they need to look at their neighbor's and what is going on because this is not fair because they are using somebody else's right of way. T. Valerius said the year 1999 was thrown out, but this neighbor will tell them this driveway was there for 50 years, so they really do not know when the driveway was put in.

Annette McCreedy said the neighbor said they had a grandfather clause that said they were allowed to park there and when she asked to see a copy of the document they could not produce it and the reason why they could not produce it is because in 1915 the United States Supreme Court ruled that grandfather clauses were unconstitutional, so there is no such document.

M. Stark asked if she offered to pay for their driveway. A. McCreedy said she offered to do this because she wanted the driveway off her property. M. Stark said this is not going to be financial cumbersome for this landowner, so the city cannot tell them they cannot use our city property for their driveway. T. Valerius said this is between the homeowners and they need to make this decision. Attorney Anderson concurred and understands the concerns, but for the length of time this right of way has been there. She said it is not true that grandfather clauses are not permissible; they are. There are grandfather clauses in many different ways, so unfortunately this is a civil action between Annette McCreedy and her neighbor, and if she is willing to take the steps to pay for the driveway, this may be a resolution they come to, but she will likely have to hire her own lawyer to do this as there is nothing the city can do to force a change in this driveway. A. McCreedy said she is concerned because they do not own this property. According to her deed, she thinks she has some claim to it, but the city owns it, so if this goes to court, she can't take them to court and say they can't park on city property. S. Herron said she could make an argument that it interferes with her right to the quiet and enjoyment of her property. He said it is a civil matter and he cannot promise her a beneficial outcome, but this is what he would do if he was in this situation. He said this is a bad situation and he does not envy her situation. He said this is the interpretation of the law and he thinks it is the administration's interpretation as well. A. McCreedy asked if there was nothing the city could do to enforce an action to make this driveway go away. S. Herron said correct because under the law this is the neighbor's ingress and egress and they can use this part of city property to get on and off their property.

Homer Taft of 3972 Edgewater Drive said he wasn't present to talk about the matter he just heard about, but he wanted to say that he believes the city's right of way is precisely that - the city's, not any residents, so the city gets the say what to do and he might have something more to offer to the Mayor, Law Director, and City Council on this matter.

He said he saw there was an ordinance on the agenda to amend Section 618.01 of the code but was not sure what it was even though he thought it was the dog ordinance. G. Fisher noted she changed the caption of the code in the ordinance to reflect this, which Attorney Anderson will read into the record tonight. H. Taft said as a dog owner and as having experiences with irresponsible dog owners, he fully supports a leash law on city property and when people are on a right of way street or sidewalk, he would fully support them having a 6' leash, not 15' leashes. He would also be troubled if they completely prohibited retractable leashes. He said when you go to parks and other open areas, it may be that you can let your dogs run a little freer. The real issue is whether the owner of that dog or the person with that dog, maintains control of the animal so it cannot reach to another dog or another human being.

Additionally, he mentioned there seemed to be a lot of water lines blowing, but the Service Director is already on it. He said this raised the question of water bills and he really wishes on water bills that the



# RECORD OF PROCEEDINGS

Minutes of

Minutes of the Vermilion City Council Meeting

Meeting

BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Held

Monday, August 3, 2020

city gives people long enough to pay before the penalties kick in because less than a week from the time you receive the bills, from the time the city wants them to pay is foolishness.

The main thing he wanted to address is transient housing and the sewers. As council considers this legislation and knowing that he is a property rights guy – are these regulations they would pass for other residences, rental apartments, houses in the city? Are they something you would pass for your own home in terms of how many people can occupy, how many people can visit? He urged council to have some caution before they jump on people in a town that is a vacation town, and put inappropriate burdens on them for fees and inspections, and so forth, that they wouldn't be willing to do to other folks. He hopes council will think about this.

He expressed concern about the fact that it seems to be a big deal that clean storm water is coming down the hillside onto Riverside Drive and a lot of activity suddenly occurs about it, and yet they can have areas of the city where for 10 years they have had sanitary sewage coming into their houses and yards, and onto their streets. Until they take care of this storm water problem, he really wishes they keep an eye on this ball. He knows the engineer is coming in with a report next week that he has great interest in, but this is a whole lot worse than any storm water problem that's just storm water, so he hopes this will be addressed with great promptness because it's getting irritating.

Lastly, he mentioned that at some future time he hopes to have further conversation with council on the question of pools and parks. He thinks an issue that needs to be underlined with regards to the pool is that if the city only has 1,100 visits and spent \$30,000+, this is over \$30 of non-private money – public money for every visit. This suggests to him that this pool isn't working and he thinks there are people that just want to see it reopened and he thinks this would be a horrible mistake; particularly when he's talking about \$100,000 or more to fix it up for 1,100 visits a year. Really?! He has concerns with this and concerns with the parks, and he is sure they will have the misfortune to hear from him again. S. Herron said it is not a misfortune and assured him with respect to transient housing, his concerns were discussed. This will be taken up at the next Legislative meeting.

## NEW BUSINESS:

F. Loucka MOVED, B. Holmes seconded to support the City Administration's intent to file as part of a class action lawsuit for damages against Purdue Pharma. Roll Call Vote 7 YEAS. MOTION CARRIED.

## Reading of the Ordinances:

Second Reading – Ordinance 2020-23: AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO AN AGREEMENT BETWEEN AUDITOR OF STATE KEITH FABER (AUDITOR), CITY OF VERMILION, AND CHARLES E. HARRIS & ASSOCIATIES, INC. FOR INDEPENDENT PUBLIC ACCOUNTANT SERVICES FOR THE PERIOD OF JANUARY 1, 2020 THROUGH DECEMBER 31, 2022, AND DECLARING AN EMERGENCY.

First Reading – Ordinance 2020-27: AN ORDINANCE AMENDING ORDINANCE 2020-5 ADOPTED MARCH 2, 2020 TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF VERMILION, OHIO FOR THE FISCAL YEAR ENDING DECEMBER 31, 2020 AND DECLARING AN EMERGENCY.

First Reading – Ordinance 2020-28: AN ORDINANCE TO OFFICIALLY SUPPLEMENT THE MINIMUM CONTRACTUAL SERVICES TO BE PERFORMED BY BRAMHALL ENGINEERING & SURVEYING COMPANY BY VIRTUE OF ORDINANCE 2018-5 ADOPTED JANUARY 2, 2018, BY AUTHORIZING PROFESSIONAL DESIGN ENGINEERING SERVICES RELATED TO THE MAPLEVIEW DRIVE RECONSTRUCTION PHASE 1 PROJECT; PRESCRIBING THAT THE FIRM SHALL BE PAID FOR ADDITIONAL SERVICES IN ACCORDANCE WITH THE RATE SCHEDULE SET FORTH IN THE PROPOSAL DATED JANUARY 3, 2018, IN A TOTAL AMOUNT NOT TO EXCEED FIFTY THREE THOUSAND THREE HUNDRED SEVENTEEN DOLLARS (\$53,317.00) AND DECLARING AN EMERGENCY.

First Reading – Ordinance 2020-29: AN ORDINANCE TO OFFICIALLY SUPPLEMENT THE MINIMUM CONTRACTUAL SERVICES TO BE PERFORMED BY BRAMHALL ENGINEERING & SURVEYING COMPANY BY VIRTUE OF ORDINANCE 2018-5 ADOPTED JANUARY 2, 2018, BY AUTHORIZING PROFESSIONAL DESIGN ENGINEERING SERVICES RELATED TO THE LIBERTY AVENUE 12" WATER MAIN REPLACEMENT PHASE 1 PROJECT; PRESCRIBING THAT THE FIRM SHALL BE PAID FOR ADDITIONAL SERVICES IN ACCORDANCE WITH THE RATE SCHEDULE SET FORTH IN THE PROPOSAL DATED JANUARY 3, 2018, IN

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A TOTAL AMOUNT NOT TO EXCEED FORTY-FIVE THOUSAND FIVE HUNDRED FIFTY-THREE DOLLARS (\$45,553.00) AND DECLARING AN EMERGENCY.

**First Reading – Ordinance 2020-30:** AN ORDINANCE TO AMEND SECTION 618.01 ENTITLED "DOGS AND OTHER ANIMALS RUNNING AT LARGE, DANGEROUS AND VICIOUS DOGS" OF CHAPTER 618 ENTITLED "ANIMALS" OF THE CODIFIED ORDINANCES OF THE CITY OF VERMILION, OHIO AND DECLARING AN EMERGENCY.

**Second Reading – Resolution 2020R-9:** A RESOLUTION EXPRESSING THE CITY'S SUPPORT IN ALLOWING THE PLACEMENT OF "THIN BLUE LINE" BANNERS UPON PUBLIC PROPERTY IN HONOR OF AND TO SHOW RESPECT FOR VERMILION POLICE OFFICER FRANCIS SMOLKA.

**S. Holovacs MOVED,** F. Loucka seconded to suspend the rules. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

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

### Announcement of Meeting Dates:

August 17, 2020 – Vermillion City Council Committee Meetings – 6pm followed by Vermillion City Council meeting.

### Adjournment:

Upon no further business coming before the body, Steve Herron, President of Council adjourned the Vermillion City Council meeting.

*Transcribed by Gwen Fisher, Certified Municipal Clerk*