

RECORD OF PROCEEDINGS

Minutes of

Minutes of the Vermilion City Council Public Hearing

Meeting

BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Monday, June 21, 2021

Held

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).

Vermilion City Council: Steve Herron, Council President; Monica Stark, Council At Large; Frank Loucka, Ward Two; Steve Holovacs, Ward Three; Barb Brady, Ward Four; Brian Holmes, Ward Five (late arrival). Absent: Emily Skahen, Ward One

Administrative Staff: Jim Forthofer, Mayor; Ken Stumphauzer, Law Director; Chris Howard, City Engineer; Amy Hendricks, Finance Director

CALL TO ORDER:

Steve Herron, President of Council called the Monday, June 21, 2021, Vermilion City Council Public Hearing to order.

Third Reading – Ordinance 2021-36: AN ORDINANCE VACATING A PORTION OF THORNWOOD ROAD, EAST SIDE OF HIGHBRIDGE ROAD IN THE CITY OF VERMILION, LORAIN COUNTY, OHIO, AS THE SAME HAS BEEN FAVORABLY RECOMMENDED BY THE VERMILION MUNICIPAL PLANNING COMMISSION.

S. Herron noted that Jim Ziemnik, Director of the Lorain County Metro Parks submitted an email stating they had no objection to the street vacation request. B. Brady explained that when they do this, they split the street in half so the property owner on each side get half of the 50' of city property.

No further discussion was presented, and S. Herron adjourned the Public Hearing.

CALL TO ORDER:

Steve Herron, President of Council called the Monday, June 21, 2021, 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 meeting minutes of June 7, 2021. Roll Call Vote 5 YEAS. MOTION CARRIED.

CORRESPONDENCE:

G. Fisher reported she received a liquor permit transfer from the Ohio Division of Liquor Control JDK Quaker LLC, DBA Quaker Steak and Lube & Deck & Patio, 5150 Liberty Avenue from TA Operating LLC, DBA Quaker Steak and Lube & Deck & Patio, 5150 Liberty Avenue, Vermilion, Ohio.

PRESIDENT OF COUNCIL'S REPORT:

S. Herron said the Festival of the Fish went very well and there were good crowds that were very respectful. He thanked the administration for all they did and for the people of Vermilion for coming out to do things together.

COMMITTEE REPORTS:

Legislative:

M. Stark reported on the meeting held June 14. The next regularly scheduled meeting will be held July 19, 2021, at 7:00 p.m. at the Vermilion Municipal Complex.

RECORD OF PROCEEDINGS

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Utilities:

F. Loucka reported on the meeting held June 14. The next meeting is scheduled for July 19, 2021, at 7:00 p.m. at the Vermilion Municipal Complex.

Port Authority:

F. Loucka reported on the meeting held June 10. The next meeting is scheduled for July 8, 2021, at 6:30 p.m. at the Vermilion Municipal Complex.

Finance:

B. Brady reported on the meeting held June 14. The next meeting is scheduled for July 19, 2021, at 7:00 p.m. at the Vermilion Municipal Complex.

Planning Commission:

B. Brady reported the next meeting has been scheduled for July 7, 2021, at 7:00 p.m. at the Vermilion Municipal Complex.

Health & Safety:

S. Herron reported on the meeting held June 14. The next meeting is scheduled for July 19, 2021, at 7:00 p.m. at the Vermilion Municipal Complex.

Parks & Recreation:

S. Herron reported on the meeting held June 15. The next meeting is scheduled for July 20, 2021, at 6:00 p.m. at the Vermilion Municipal Complex.

Stormwater Advisory Committee:

S. Herron reported the meeting was cancelled tonight due to no quorum.

Historic Design & Review:

The next meeting is scheduled for July 7, 2021, at 6:00 p.m. at the Vermilion Municipal Complex.

Vermilion Tree Commission:

The next meeting is scheduled for July 14, 2021, at 9:30 a.m. at the old Fire Station.

Streets, Buildings & Grounds:

S. Holovacs reported on the meeting held June 14. The next meeting is scheduled for July 19, 2021, at 7:00 p.m. at the Vermilion Municipal Complex.

Zoning Board of Appeals:

S. Holovacs reported the next meeting is scheduled for June 22, 2021, at 7:00 p.m. at the Vermilion Municipal Complex.

Contractor Registration:

S. Holovacs reported the next meeting scheduled for June 22, 2021, has been cancelled.

MAYOR/SAFETY DIRECTOR'S REPORT:

Mayor Forthofer provided his written report to the clerk as read into the record as follows:

Festival of the Fish

Vermilion is back in the festival business, and I have to give a big thanks to Executive Director Sandy Coe of the Vermilion Chamber for the seamless management of our town's Third Thursday followed by a full weekend of Festival of the Fish activities. Ms. Coe estimates a total attendance of 40,000 for the weekend with Friday being the heaviest day. I heard of not one complaint or problem and Monday morning the town was so clean you would not know anything happened. Congratulations and thank you.

Navigational light

As reconstruction proceeds on the east pier at the mouth of the Vermilion River it was brought to my attention that the US Coast Guard navigational light was removed from the position at the entrance with

RECORD OF PROCEEDINGS

Minutes of _____

Minutes of the Vermilion City Council Public Hearing

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DARRETT BROTHERS - DAYTON, OHIO

Form 8101

Monday, June 21, 2021

Held _____

our busiest boating weekend of the year ahead of us. In a mad scramble I want to thank Captain Don Parsons, Coast Guard Veteran and Dispatcher Dave James, Kovalik Construction and Russ Whaley of

the US Army Corps of Engineers for establishing a regulation temporary navigational light to keep Vermilion boaters and visiting boaters safe during our busy season.

Liberty Avenue Projects

A brief update on projects along Liberty Avenue.

Road to Hope recovery center has made its way through City boards and is in pre-bid. They expect to start reconstruction mid-summer and have a grand opening in March of 2022.

The new convenience store gas station next to Farmer's Market has also made its way through City boards and is in finished drawings. They have conditional approval pending some final drawing modifications. The current truck repair at the back of the property will be torn down.

F. Loucka asked if there was a plan to put up the Harbor View camera. Mayor Forthofer said there is a plan, and it will temporarily be placed on top of the pump station, but they need to run the cable and the Canopus had to be removed so nothing was broken underground. When the new restroom is built it will be moved to that permanent location.

FINANCE DIRECTOR'S REPORT:

Amy Hendricks provided her written report to the clerk as read into the record as attached hereto and incorporated herein as part of the official record of proceedings.

CITY ENGINEER'S REPORT:

C. Howard reported on Liberty Avenue Watermain Replacement Phase 1 as the contractor will be starting tomorrow morning at 6:00 a.m. to do an open cut of Liberty Avenue from Vermillion Road to Linwood Park. The traffic early in the morning is not as busy and safer for the contractor.

S. Holovacs asked for the status of the new fire station punch list items. C. Howard said there is still a list of punch list items that Marker has to address, so the city is withholding payment until those items are done.

LAW DIRECTOR'S REPORT:

K. Stumphauzer provided the clerk with a written response with regards to questions asked at the June 7, 2021, meeting by James Batchelder. Those responses are attached hereto and incorporated herein as part of the official record of proceedings. G. Fisher said she would email Mr. Batchelder a copy of the responses.

OPEN TO THE AUDIENCE:

Michael Sigg of 332 Niagara Road addressed Council on concerns regarding Niagara Road. Those comments were submitted in writing to Council and are attached hereto and incorporated herein as part of the official record of proceedings.

B. Brady advised Mr. Sigg that the city has a stormwater committee that was supposed to meet tonight but they did not have a quorum. She said part of their purpose is to look at their law on how they handle storm drainage, so she suggested that he attend the next Stormwater Advisory Committee meeting. Mr. Sigg said after talking to people in the city he was told this is not the city's stormwater system, and he thought clearly it is. B. Brady agreed. S. Herron said the council clerk would advise him of the next stormwater meeting date.

Marilyn Brill of 1745 Cooper Foster Park Road addressed concerns regarding the Memorial Day Service at the Brownhelm Cemetery as they were embarrassed by the high weeds around some of the headstones at the site. She said two weeks later in the middle of June someone was weed whacking. She would think someone from the cemetery committee would try to make the cemetery look better for a

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public event rather than wait two weeks later. She expressed this to Brian Holmes earlier this week who agreed with her. Secondly, she addressed the property at 1920 Baumhart Road that abuts her home, which is the Regala property. She said the homeowners passed away and believed she was told the city was mowing the property but after talking with someone mowing there today who was hired by the children of this family, the city does not have any reason to continue mowing this property. She said this person is also taking down the dead pine trees that line her property that she was concerned about. She said they are getting something done and it does look better. She pointed out that the Gammons property on the corner of Cooper Foster Park Road and Baumhart Road is empty now. The people moved at the end of May and the high weeds are a problem causing a traffic hazard at this corner. She was not certain whose department handled this. She said there are high weeds on the Regala empty lot and is not sure how they will ever get this taken care of - it is a city issue she believes. She asked what the ruling is on an empty lot. Mayor Forthofer said whether the lot is occupied or unoccupied - if it is grown beyond 9" and the property owner hasn't responded after three notices, then the city will mow the property and send the bill to the property owner. If the property owner continues to not pay for it, then it becomes a law matter. M. Brill said this is a two-acre empty lot and there are two sheds on the property and the weeds are higher than the shed. S. Herron said this would normally be handled by the Service Director, but he was not in attendance this evening. Lastly, M. Brill addressed the Brown's Lake Road Cemetery and the restoration that is occurring on some of the headstones that have been down for over 100 years. They are making improvements with the city's permission and she asked if they needed a permit to put fencing up. Mayor Forthofer said they will work with non-profit organizations, so they can give him a call to work this out. M. Brill said at the same location someone had mentioned there was a culvert pipe that could be put there. Mayor Forthofer said this is a little more complicated, but they can look into it.

NEW BUSINESS:

S. Herron MOVED, S. Holovacs seconded to adjourn into executive session to discuss imminent litigation after the reading of the ordinances. Roll Call Vote 6 YEAS. **MOTION CARRIED.**

Reading of the Ordinances:

Tabled - Third Reading - Ordinance 2021-4: AN ORDINANCE AMENDING SECTION 1260.06 "DEFINITIONS;" 1270.01 "A-1 AGRICULTURAL DISTRICT," SECTION 1270.02 "R-1 ESTATE RESIDENCE DISTRICT," SECTION 1270.03 "R-2 RURAL RESIDENCE DISTRICT," SECTION 1270.04 "R-3 SUBURBAN RESIDENCE DISTRICT," SECTION 1270.05 "R-4 URBAN RESIDENCE DISTRICT," SECTION 1270.06 "R-4A TWO-FAMILY URBAN RESIDENCE DISTRICT," SECTION 1270.07 "R-5 APARTMENT RESIDENCE DISTRICT," SECTION 1270.08 "R-6 SPECIAL FAMILY RESIDENCE DISTRICT," SECTION 1270.09 "RS SPECIAL RESIDENCE DISTRICT," SECTION 1270.10 "RL-1 EXISTING LAGOON DISTRICT," SECTION 1270.11 "B-1 NEIGHBORHOOD BUSINESS DISTRICT," SECTION 1270.12 "B-2 CENTRAL BUSINESS DISTRICT," SECTION 1270.13 "B-3 HIGHWAY COMMERCIAL DISTRICT," SECTION 1270.14 "B-4 MOTORIST SERVICE DISTRICT," SECTION 1270.15 "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 1270.16 "I-2 HEAVY INDUSTRIAL DISTRICT," SECTION 1270.17 "I-3 INDUSTRIAL PARK DISTRICT," SECTION 1270.18 "I-U UTILITY DISTRICT," SECTION 1270.19 "FP FLOOD PLAIN DISTRICT" AND SECTION 1272.17 "TEMPORARY STORAGE CONTAINERS," OF THE PLANNING AND ZONING CODE OF THE CITY OF VERMILION TO DEFINE AND PROHIBIT MODULAR STORAGE UNITS.

Tabled - Third Reading - Ordinance 2021-28: AN ORDINANCE AMENDING CHAPTER 1484 "ENTITLED "RENTAL REGISTRATION" OF THE CODIFIED ORDINANCES OF THE CITY OF VERMILION, OHIO.

Tabled - Third Reading - Ordinance 2021-29: AN ORDINANCE AMENDING "PERMITTED USES" IN SECTION 1270.01 "A-1 AGRICULTURAL DISTRICT," SECTION 1270.02 "R-1 ESTATE RESIDENCE DISTRICT," SECTION 1270.03 "R-2 RURAL RESIDENCE DISTRICT," SECTION 1270.04 "R-3 SUBURBAN RESIDENCE DISTRICT," SECTION 1270.05 "R-4 URBAN RESIDENCE DISTRICT," SECTION 1270.06 "R-4A TWO-FAMILY URBAN RESIDENCE DISTRICT," SECTION 1270.07 "R-5 APARTMENT RESIDENCE DISTRICT," SECTION 1270.08 "R-6 SPECIAL FAMILY RESIDENCE DISTRICT," SECTION 1270.09 "RS SPECIAL RESIDENCE DISTRICT," SECTION 1270.10 "RL-1 EXISTING LAGOON DISTRICT," SECTION 1270.11 "B-1 NEIGHBORHOOD BUSINESS DISTRICT," SECTION 1270.12 "B-2 CENTRAL BUSINESS DISTRICT," SECTION 1270.13 "B-3 HIGHWAY COMMERCIAL DISTRICT," SECTION 1270.14 "B-4 MOTORIST SERVICE DISTRICT," SECTION 1270.15 "I-1 LIGHT INDUSTRIAL DISTRICT," SECTION 1270.16 "I-2 HEAVY INDUSTRIAL DISTRICT," SECTION 1270.17 "I-3 INDUSTRIAL PARK DISTRICT," SECTION 1270.18 "I-U UTILITY DISTRICT," AND SECTION 1270.19 "FP FLOOD PLAIN DISTRICT" OF THE PLANNING AND ZONING CODE OF THE CITY OF VERMILION TO PERMIT TRANSIENT OCCUPANCY AND TRANSIENT RENTAL.

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Tabled - Third Reading - Ordinance 2021-30: AN ORDINANCE AMENDING CHAPTER 1260 ENTITLED "GENERAL PROVISIONS AND DEFINITIONS AND SECTION 1260.06 DEFINITIONS OF THE PLANNING AND ZONING CODE OF THE CITY OF VERMILION.

Third Reading - Ordinance 2021-36: AN ORDINANCE VACATING A PORTION OF THORNWOOD ROAD, EAST SIDE OF HIGHBRIDGE ROAD IN THE CITY OF VERMILION, LORAIN COUNTY, OHIO, AS THE SAME HAS BEEN FAVORABLY RECOMMENDED BY THE VERMILION MUNICIPAL PLANNING COMMISSION.

S. Holovacs MOVED; F. Loucka seconded to adopt this ordinance. Roll Call Vote 6 YEAS. **MOTION CARRIED.** (Ordinance goes into effect on July 21, 2021)

Second Reading - Ordinance 2021-38: AN ORDINANCE AMENDING ORDINANCE 2021-8 ADOPTED MARCH 15, 2021, TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY OF VERMILION, OHIO FOR THE FISCAL YEAR ENDING DECEMBER 31, 2021, AND DECLARING AN EMERGENCY.

Second Reading - Ordinance 2021-41: AN ORDINANCE PURSUANT TO SECTION 1240.02 OF THE CODIFIED ORDINANCES OF VERMILION GRANTING A LAND USE (ZONING) VARIANCE TO BROWNHelm CREEK REALTY, LLC, THE BARN AT BROWNHelm CREEK, LLC, KODY HERCHLER, KORY HERCHLER, JAIMEE SENK, AND THOMAS ZACHER IN ORDER TO ALLOW FOR A COMMERCIAL USE ZONING VARIANCE IN THE R-1 ESTATE RESIDENCE DISTRICT, 1440 CLAUS ROAD, PERMANENT PARCEL NUMBER 0100021000061, VERMILION, OHIO. (Public Hearing - July 12, 2021 @ 7:00 p.m.)

First Reading - Ordinance 2021-42: AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ACCEPT NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) 2021 ENERGIZED COMMUNITY GRANT(S) FUNDS AND DECLARING AN EMERGENCY.

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

B. Brady MOVED; F. Loucka seconded to adopt this ordinance by emergency. Discussion: B. Brady asked what the city was doing with this money. A. Hendricks said there is \$2,000 that is a community grant that is being used to fund activities at the pool and then the \$28,000 for the energized community grant is going towards the lighting of the Fulper Lot. Roll Call Vote 6 YEAS. **MOTION CARRIED.**

First Reading - Ordinance 2021-43: 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 ENGINEERING AND SURVEYING SERVICES RELATED TO THE RECONSTRUCTION OF VERMILION ROAD PHASE 4a; 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 EIGHTY-NINE THOUSAND EIGHT HUNDRED SEVENTY-SIX DOLLARS (\$89,876.00).

First Reading - Ordinance 2021-44: AN ORDINANCE TO AUTHORIZE FINANCE POLICIES TO PROVIDE FOR THE EFFICIENT AND EFFECTIVE OPERATIONS OF THE CITY OF VERMILION BUSINESS FUNCTIONS IN COMPLIANCE WITH FEDERAL AND STATE REQUIREMENTS.

Announcement of Meeting Dates:

- July 12, 2021 - Public Hearing (1240.02) - 7:00 p.m. followed by Vermilion City Council Meeting
- July 19, 2021 - Vermilion City Council Committee Meetings - 7:00 p.m.

(All meetings will be held at the Vermilion Municipal Complex, 687 Decatur Street, Vermilion, OH)

Council adjourned into executive session.

Upon the conclusion of executive session, S. Herron reconvened the regular Council meeting.

Adjournment:

S. Herron adjourned the regular council meeting upon no further discussion.

SIGG FAMILY TRUST
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REMARKS OF MICHAEL SIGG
TO VERMILION CITY COUNCIL
JUNE 21, 2021

Good evening, my name is Michael Sigg and I am the Trustee for the Sigg Family Trust, the owner of property at 332 Niagara Road in the City of Vermilion.

We purchased this property in late 2017 and we have invested a considerable amount of time and money into renovation, converting a deteriorated, non-comforming (and possibly unpermitted) duplex into a single family house.

My reason for being here tonight is the abysmal condition and lack of maintenance of the stormwater system on Niagara Road. Pipes are plugged and the grade of ditches does not align with the pipe outlets. Water surcharges out of the pipes and flooding is common. After a recent rain the inlet of the pipe to our south (356 Niagara Road) was under several inches of water while there was only a small stream coming out the outfall end (266 Niagara Road) I would note that at the outfall the pipe appears to be half full of stones and the ditch bottom is higher than the pipe.

On the other side of the street, water shoots up out of a broken pipe as the outlet to that side is also apparently plugged.

I realize the recent storm was severe but, hours after the rain stopped, there was barely any water at the pipe outfall but the water at our yard rain was several inches deep and the water was backed up at the southern inlet.

We encounter severe backups an average of once per year and experience lesser drainage flooding issues even in normal rain events.

In speaking with neighbors and in personal conversation with city officials I have been informed that the City does not consider the drainage structures on Niagara Road to be a part of the city stormwater system.

I find this problematic in that the residents are charged a stormwater utility fee.

In a former life, I was Director of Administration\City Manager for Wooster Ohio. The City of Wooster led the way for stormwater utilities in Ohio with the high water mark for stormwater utilities (no pun intended) being the case before the Ohio Supreme Court, *Wooster v. Graines*.

For the record, I am not an attorney but the following remarks have been reviewed by an attorney having intimate knowledge of the case.

The question before the court was whether the stormwater utility fee was in fact a utility fee or a tax.

The power of the city to tax, especially absent a vote of the electorate, is not without limits. Mr. Graines refused to pay the stormwater fees contending that the city of Wooster's stormwater utility was in fact a tax and that legislature has not provided for a city to levy such a tax without a vote of the electorate. Wooster's stormwater utility had been adopted by city council.

REMARKS OF MICHAEL SIGG
TO VERMILION CITY COUNCIL
JUNE 21, 2021
Pg 2

The Ohio Supreme Court found in favor of the city, citing O..R.C 729.49 which states:

"The legislative authority of a municipal corporation which has installed or is installing sewerage, a system of sewerage, sewage pumping works, or sewage treatment or disposal works for public use, may, by ordinance, establish just and equitable rates or charges of rents to be paid to the municipal corporation for the use of such services, by every person, firm, or corporation whose premises are served by a connection thereof. . . ." (emphasis added)

Key was the trial court record which noted there was

"no question storm sewer services have been provided and that the amount due and owing for services is accurately reflected..." (emphasis added)

In short, the difference between an impermissible tax and a stormwater utility fee is that the fee is charged for the usage. An Ohio city cannot charge a utility fee where no utility exists.

By virtue of the fact that the residents of Niagara Road have been paying this utility fee for over twenty years, the city has acknowledged that the stormwater system on Niagara Road is, in fact, the city's responsibility.

This is also reflected in Vermilion's Charter, Section V-2 which states the Director of Public Services is . . .
"charged with the construction, improvement, repair and maintenance of . . . drains, ditches, culverts, streams, watercourses and harbors . . ."

Further, Section 1080.01(h) of the City of Vermilion Codified Ordinances defines the city's stormwater system as *"All man-made facilities, structures and natural watercourses used for collecting and conducting stormwater to, through and from drainage areas to the points of final outlet, including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, channels, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, curbs, gutters, dams, floodwalls, levees and pumping stations."*

Clearly, the ditches and pipes on Niagara Road are a part of the City of Vermilion's stormwater system.

I fully realize that the stormwater system on Niagara Road is not built to current standards. I am not asking that the city replace the system. However, the owners of property on Niagara Road are entitled to the services they have been charged for twenty plus years. At a minimum, the ditches need re-graded to correspond to the pipe elevations, broken pipes need repaired, and the pipes cleaned and cleared of roots on a regular basis.

Thank you for your time and attention. I am providing copies of my remarks to members of Council and the Mayor as well as the Clerk for inclusion in the public record.

SUMMARY RESPONSES TO LETTER
FROM JIM BATCHELDER DATED 6.7.21

1. What is the legal status of the property known as the Huron Street beach and Huron Street-end?

a. A title report and a survey are required in order to appropriately address this inquiry. However, both Huron Street Beach (located at the west end of Huron Street) and Huron Street-end appear to be owned by the City. This is based on our review of the Erie County Auditor's website and available online records. Another public right of way, Jefferson Street (which also appears to be a public street), runs northward into the beach. The length of the beach itself is ninety feet, east to west.

2. What is the City's proof as to the ownership of Huron Street? If the street is owned by the City, what right does the City have to put an obstruction (ie ... bench) in a street meant for vehicular traffic?

a. The Erie County Auditor's website shows that the Huron Street Beach and Huron Street-end are not part of any surrounding private legal parcel. They are within the City limits, and are therefore, to our knowledge, are owned by the City. It may be worth performing a title search of the surrounding parcels, and obtaining an ALTA survey or boundary survey of the area to see if there are any discrepancies.

O.R.C. 715.19 states that any municipal corporation may establish streets within such municipal corporation. In addition, O.R.C. 723.01 states the City has special power to regulate the use of the streets...and control the public streets (and avenues, alleys, sidewalks, public grounds within the City).

3. Was Huron Street abandoned westward past the O'Hara's driveway? If so, was an ordinance involved? What legal process was followed?

a. We are not sure what Mr. Batchelder is asking here. Is he asking if a portion of Huron Street was abandoned by the City? That does not appear to be the case. We could not find any ordinance abandoning or vacating Huron Street. Evidence of mere non-use is typically not enough to establish an abandonment. (*Kiser v. Bd. Of Commrs.*). However, the Ohio Supreme Court has held that mere non-use of a road can constitute abandonment if it has continued for over a period of twenty-one years or more. (*Chuzinski v. Mosser*).

O.R.C. 723.04 provides that a City can vacate or narrow a street or alley upon the petition of a individual owning a lot in the immediate vicinity of the vacated street, so long as it is not detrimental to the general interest, and so long as an ordinance is effected to vacate such street or alley.

4. What are the rules of a paper street?
 - a. A "paper street" is a street that has been platted but has never been physically constructed. Additional clarity is required in order to answer what "rules of a paper street" the question is referring to.
5. What are the rules of the tree lawn?
 - a. The City owns the trees on the tree lawn and the tree lawn itself as a public right-of-way. No person shall remove, cut down, or destroy any tree without first obtaining a permit from the Mayor per Vermilion Codified Ordinance 668.01.
6. If there is a parcel number for Huron Street beach, when was that number established?
 - a. Not that we found. A title search/survey may confirm that, but it is unlike there is an actual parcel number for the beach.
7. What is the process for the City to sell a parcel owned by the City?
 - a. The City has traditionally followed Chapter 721 of the Ohio Revised Code when contemplating the sale of municipal property.

O.R.C. 721.01 states that the city has the power to sell the property when it is not needed for any municipal purpose. Under 721.03, no contract, except as provided in Section 721.28, for the sale of property shall be made unless authorized by an ordinance, approved by a two-thirds vote of the members of the legislative authority, and by the board or officer having supervision of such real estate.

When the contract is so authorized, it shall be made in writing by such board or officer, and, except as provided in section 721.27 or 721.29 of the Revised Code, only with the highest bidder, after advertisement once a week for five consecutive weeks in a newspaper of general circulation within the municipal corporation or as provided in section 7.16 of the Revised Code.
8. What other parcels has the City sold in the last 5 years and what process was followed?
 - a. We are reviewing our files to determine what parcels the City has sold in the past 5 years. Generally, however, the process requires Council to pass legislation authorizing the sale of municipal property. Alternatively, Council may follow the procedure set forth in R.C. 721.03. This requires the City to advertise the sale or lease of the property according to one of the methods permitted by statute, and to award the contract to the highest bidder only. Any contract that the City intends to award to the highest bidder must be first authorized by Council. Authorization from Council to award the contract to the highest bidder is only valid if passed by a two-third (2/3) majority.

9. If the land is a City-owned parcel what are the City's obligations to pay to maintain it?
- a. Generally, the City's maintenance obligations are limited to ensuring that the land does not constitute an active public nuisance. That does not mean that the City is prohibited from engaging in other maintenance obligations as it sees fit within its discretion and as resources allow.
 - b. Also, for what it's worth, Section VIIA-2 of Vermilion Charter establishes a Board of Parks and Recreation which enjoys the following authority:

The Board shall be vested with the power to acquire or improve parks, playgrounds or other recreation facilities having an estimated useful life of five (5) years or more funded by the one-half of one mill levy as provided for in Article X, Section 2, of this Charter. The Board shall be an advisory Board that shall make recommendations to the Director of Public Service for the maintenance of the parks, playgrounds, playfields, gymnasiums, public beaches and swimming pools, provided, however, that such Board shall have the power to plan, schedule, govern and direct the operations of all recreational programs it shall sponsor consistent with the appropriations of City Council.

10. What do those maintenance obligations include generally? And specifically, do those maintenance obligations include permitting and resetting the wave breakers, maintaining the dock and beach, trimming the dead trees, providing and emptying trash receptacles, maintaining the bluff?

- a. Generally, the City's maintenance obligations are limited to ensuring that the land does not constitute an active public nuisance. That does not mean that the City is prohibited from engaging in other maintenance obligations as it sees fit within its discretion and as resources allow.

11. Is parking permitted on the side of a street without curbs where a fire hydrant is located? What are the restrictions on parking by a fire hydrant?

- a. Section 452.13 of the Codified Ordinances prohibits vehicular parking on the paved or main traveled part of a street that is not improved with curbs or guttering, irrespective of the location of fire hydrants. Section 452.03(a)(4) of the Codified Ordinance prohibits parking within ten feet of a fire hydrant. Section 452.03(a)(17) prohibits parking on the fire hydrant of curbed streets in a residential area.

Appropriation and Amended Certificate 2021 Updates

The appropriation amendments are included for approval this evening for June after 1st Reading as well as discussion at Finance Committee last week:

Fund 101	General Fund	Increase \$58,700	Tree Comm, Fulper Project
Fund 200	Streets	Increase \$89,876	Vermilion Rd Ph4a Engineer
Fund 224	Court Computer Fund	Increase \$600	
Fund 240	Tree Commission	Increase \$10,000	Transfer from General
Fund 405	Museum Fund	Increase \$4,600	Canopus Sale proceeds
Fund 508	Fire House Construction	Reduce \$450	
Fund 602	Sewer Fund	Increase \$20,000	Centrifuge Repair Rental

Update to 2021 Planning Budget Snapshot

Fund	YE Cash	Est. Rev	Available	Est. Exp	Approvals/ Net Cancels	ARP \$ RevRepl	Remaining	Current Yr. +/-
101 Operating	\$3,650,468	\$6,009,588	\$9,660,056	\$6,171,590	\$57,800	\$247,450	\$3,678,116	\$27,648
200 Road Levy	\$2,013,085	\$1,400,700	\$3,413,785	\$2,439,982	\$176,358	\$2,010	\$799,455	
201 Street M&R	\$148,939	\$678,400	\$827,339	\$794,405		\$843	\$33,777	
203 Permissive Us	\$302,763	\$233,000	\$535,763	\$250,305		\$7,728	\$293,186	
601 Water	\$1,243,355	\$2,710,575	\$3,953,930	\$2,945,874	\$779,460	\$0	\$228,596	
602 Waste Water	\$593,084	\$2,191,365	\$2,784,449	\$2,248,832	\$81,230		\$454,387	
605 EPA	\$249,213	\$402,900	\$652,113	\$504,322			\$147,791	

Financial Policies

Additional attention is devoted in the 2020 Audit to compliance with Federal grant awards due to the CARES funding receipts. This will also continue in 2021 and forward as the ARPA monies are received and expended. The Auditors have recommended the adoption of six (6) Finance Policies for compliance with all award guidelines. All reviews indicate that Federal awards were managed in compliance with guidelines, however the City has not adopted policies to formalize these practices.

The policies presented for 1st Reading this evening are as follows:

Internal Controls

Cash Management of Grants

Prohibition Against Contracting With a Person Against Whom a Finding for Recovery Has Been Issued

Time and Effort Reporting