

RECORD OF PROCEEDINGS

Minutes of

Minutes of the Vermilion City Council Meeting

Meeting

SABRETT BROTHERS - DAYTON, OHIO

Form 6/10/1

Monday, December 6, 2021

Held

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

Vermilion City Council: Steve Herron, Council President; Monica Stark, Council At Large; Emily Skahan, Ward One; Frank Loucka, Ward Two; Steve Holovacs, Ward Three; Barb Brady, Ward Four; Brian Holmes, Ward Five

Administrative Staff: Jim Forthofer, Mayor; Amy Hendricks, Finance Director; Chris Howard, City Engineer; Tony Valerius, Service Director; Susan Anderson, Law Director

CALL TO ORDER:

Steve Herron, President of Council called the Monday, December 6, 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:

F. Loucka **MOVED**, S. Holovacs seconded to approve the meeting minutes of November 15, 2021. Roll Call Vote 7 YEAS. **MOTION CARRIED.**

CORRESPONDENCE:

G. Fisher reported she received a liquor permit from the Ohio Division of Liquor Control for Speedway, LLC., 4815 Liberty Avenue, Vermilion, Ohio.

S. Herron said City Council received many emails regarding the Baumhart Road rezoning, which will be part of the permanent record. He will announce the names of the people who wrote letters and their position on whether they are a yes or no on the rezoning at the Public Hearing on December 13, 2021.

PRESIDENT OF COUNCIL'S REPORT: No report.

COMMITTEE REPORTS:

Legislative:

M. Stark reported on the meeting held November 15. The next meeting is scheduled for December 13, 2021 at 6:00 p.m.

Utilities:

F. Loucka reported on the meeting held November 15. The next meeting is scheduled for December 13, 2021 at 6:00 p.m.

Port Authority:

F. Loucka reported the next meeting has been scheduled for December 7, 2021 at 6:30 p.m.

Finance:

B. Brady reported on the meeting held November 15. The next meeting is scheduled for December 13, 2021 at 6:00 p.m.

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Planning Commission:

B. Brady reported on the meeting held December 1. The next meeting is scheduled for January 5, 2022 at 7:00 p.m.

Health & Safety:

B. Holmes reported on the meeting held November 15. The next meeting is scheduled for December 13, 2021 at 6:00 p.m. He commended fire and police for their fine job during the bridge closure.

Parks & Recreation:

B. Holmes reported the next meeting is scheduled for January 18, 2022 at 6:00 p.m.

Stormwater Advisory Commission:

S. Herron reported the next meeting will be scheduled after the first of the year.

Historic Design & Review:

E. Skahen reported the next meeting is scheduled for January 5, 2022 at 6:00 p.m.

Vermilion Tree Commission:

E. Skahen reported the next meeting is scheduled for December 8, 2021 at 9:30 a.m. at the old fire station. She commended the Tree Commission for receiving a \$25,000 grant.

Streets, Buildings & Grounds:

S. Holovacs reported the next meeting is scheduled for December 13, 2021 at 6:00 p.m.

Contractor Registration:

S. Holovacs reported the December meeting has been cancelled. The next meeting is scheduled for January 25, 2022 at 6:00 p.m.

Zoning Board of Appeals:

S. Holovacs reported the next meeting is scheduled for December 7, 2021 at 7:00 p.m.

MAYOR/SAFETY DIRECTOR'S REPORT:

Mayor Forthofer read and presented his report as follows:

Main Street Beach Revitalization

Purchase of the Stuchal Property at Main Street Beach was closed by Western Reserve Land Conservancy on November 11th. This property is the last white house on the right as you go down Main Street to the beach. The critical property was purchased by the WRLC with NON-CITY FUNDS. WRLC will demo and turn the land over to the City of Vermilion. Many thanks to WRLC and the donors including the Erie County Metro Parks. I especially want to thank Linda and Bill Stuchal for contacting me a couple years ago and giving the City of Vermilion first shot at acquiring this property for future park development. This property, along with Ms. Stuchal's mother's property to the east, which was previously purchased and demolished, will be the site of the new comfort station and parking lot to be built this winter. The City owes these community minded summer residents our gratitude.

West Pier

I met with representatives of the U.S. Army Corps of Engineers November 17th. This meeting was in follow up to the allocation of \$5.7 mil in the President's 2022 Budget submitted by Rep. Marcy Kaptur and dedicated to Vermilion Harbor. Much of this \$5.7 mil is to fund reconstruction of the seriously deteriorated

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West Pier like reconstruction of the East Pier reconstruction during 2021. In meeting with USACOE, representatives of the Port Authority and residents, initial communications were established. It is likely that 2021 will see inspection and design of the West Pier with actual construction in 2023.

Auto Zone on Liberty

I am happy to see another blighted building removed on Liberty Avenue. The old McDonalds across from Giant Eagle will be demolished and replaced with a new AutoZone. There are some questions about a new auto parts store being next to an existing auto parts store. A representative from AutoZone explained that clusters of auto parts stores are common in other communities, and all successfully co-exist. I have noticed one such cluster in Sandusky on Perkins avenue and another on Rt 58 in Amherst. I look forward to this revitalization of a section of Liberty and hope it is contagious.

New Administrative Assistant

The Administration has hired a new Administrative Assistant to replace Anne Maiden who is retiring. Anne's last day after 22 years is December 8th. New Administrative Secretary Jody Booker, a Vermilion resident, and former Administrative Assistant to the supervisor of the Clearview Local Schools will begin December 9th.

The position of Administrative Assistant serves at the pleasure of the mayor which means that a change in mayors could easily mean a change in Administrative Assistants. No explanation is necessary. However, Anne Rini Maiden successfully served four mayors, three police chiefs, and four service directors in her career. Such staying power in a political environment is a testimony to her effectiveness and popularity. Ms. Maiden will be missed by the hundreds of residents and employees who she has helped with her lifelong knowledge of the community and the many employees who she has helped and mentored.

S. Herron echoed the sentiments of her service to the community. She is truly a public servant.

SERVICE DIRECTOR'S REPORT:

Tony Valerius reported on finishing the Urban Paving Project in town -- Kokosing has been in town adjusting and pouring concrete around manhole lids, catch basins, and valve boxes. The ODOT inspector reports they will continue with this work until it is completed, which should be by the end of next week. They will then remove the orange barrels on the east side of the river.

He alerted the citizens specifically in the Valley View area, that the street department will not be spreading salt on the newly paved section of Mapleview Drive this winter. The streets will be plowed as normal, but because salt can damage newly poured concrete, they will not be salting this section of roadway. He asked the citizens to please use caution while traveling through this area during the winter months.

He reminded residents that December 8 is the last day for yard waste collection through Republic Services. This service is halted through the winter months and will return again next April.

Lastly, he asked Council to consider suspending the rules and passing Ordinances 2021-73 – 2021-78, and Ordinance 2021-80. These ordinances are related to the chemical contracts for the water and wastewater plants.

FINANCE DIRECTOR'S REPORT:

Amy Hendricks reported the final reading for the 2022 Temporary Appropriations is on the agenda. This will allow the city to proceed with uninterrupted business in the first three months of 2022. Additionally, Council has on the agenda the first reading of necessary modifications to appropriations for 2021 as well as an Amended Certificate of Estimated Resources. Council will have one more meeting on December 13 to get things set to close the year. They set a deadline for non-emergency type orders to be placed last Friday, so those are being entered into the system. She said some new things impacting expense projections across the board this year are fuel prices, general inflation across all areas, and the exciting times of having some younger employees starting families and getting married that require them to change from a single to a family plan during the year.

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Fund 212	Cemetery Operating increase rev/exp \$25,850
Fund 218	Parks Operating increase rev/exp \$1850
Fund 602	WWTP increase exp \$100,000 due to excess repair, parts, fuel, utilities, sludge, etc.
Fund 804	Contractor Fund Rev/Exp increase \$21,000 due to additional projects built

She said the 2021 pool season bills are in and they have been reconciled. They did have a strong revenue year with a little over \$28,000, which compares to the average of the two prior years that operated of \$21,400. The increases were in the areas of lessons because of additional sessions as well as season passes. Daily admissions across the last three years are probably within \$100.00. The operating expenses were \$56,770, leaving the city with an operating loss of \$28,660. Donations were collected prior to the opening of the season and that is covering \$24,560. She secured a NOPEC grant for \$2,000 and there was \$2,100 collected in lifeguard training fees to cover the fees for their programming, so this put the city at a breakeven with those additional revenues and donations, and the one expense that was not covered but was originally paid from the park's operating levy was \$3,100 for a sweeper and cleaning equipment.

She gave an update on the insurance proposals and noted that Matt Arnold from Fitzgibbons Arnold will be at the council meeting on December 13 to go through the proposals that he has received. He still has a couple more that he is waiting for. She thinks there are some important things to consider as they head into this process. Last year the city in an effort to implement their better business practices, engaged an independent consultant to review qualifications for brokers for a three-to-five-year term beginning 2021 for property, fleet, and liability coverages, which is the first time this had been engaged for any competition in over 15 years. This process resulted in the recommendation of Fitzgibbons Arnold. At the close of this process, they had Mr. Pearl come in after the project was closed to attempt to put in a lower offer. However, the administration confirmed they felt this was not an ethical thing to do. She said they were a bit surprised Mr. Pearl quoted again this fall because they felt they were in a multi-year process, so the administration publicly advertised for broker qualifications for 2022 following that request. By this time, Fitzgibbons Arnold was already in the process of marketing the city's coverage to several insurance carriers to obtain the best value for the city as it had not been done in many years. During that time, they were surprised to learn that Mr. Pearl had submitted quotes to at least two companies without their knowledge, which affectively blocked their broker from getting those quotes back from those companies, and at that time she consulted with the law director and proceeded to issue authorization for the city's broker that was under contract to finish getting those quotes. At the advertised submission deadline for the proposals for brokers, the city had received proposals from four separate brokers and those were forwarded to council for review. Those brokers are Fitzgibbons Arnold, Taylor Oswald, USI Insurance, and Weichert Insurance - all four brokers submitted complete proposals as requested in good faith with the expectation that one of them would be selected from a multi-year relationship. Mr. Pearl and Seibert/Keck chose not to submit a proposal at this time, so therefore, they should not be considered for this book of business through the next five-year period that was covered under this. She recommended the city continue their agreement with Fitzgibbons Arnold at this time - offering them a three-year agreement with the option for two one-year extension upon mutual agreement. They have served the city well in the transition year and they have worked diligently to clean up and update the city's insurance information. They have also extended the cap on fixed compensation for the brokerage of the complicated city policy, which assures the city an ongoing annual savings. The previous broker did not have a disclosed compensation rate, but according to their estimates it was very significant over market that the city paid for the last 15 years for this service. She said on December 13 Matt will present the programs, plans, and rates that he has received back thus far.

S. Herron asked if they need an ordinance for this. G. Fisher said this is on the committee meeting for December 13 and then it will have an ordinance on the council agenda for a first reading. S. Herron asked the finance director if she was requesting a three- or five-year contract. A. Hendricks said three years. She said this is what they put in the RFQ for both years.

S. Herron asked the finance director if she needed the appropriation amendment legislation passed. A. Hendricks said no as she may have some changes that come in this week, so it only requires a first reading tonight, but would like it finalized on December 13.

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CITY ENGINEER'S REPORT:

Chris Howard updated Council on the Mapleview Drive Reconstruction project as it has been substantially completed. There are some final punch list items the contractor needs to address, and they will come back in the spring of 2022 to seed and straw.

S. Holovacs asked the city engineer if he needed passage of Ordinance 2021-87 which relates to the professional engineering and surveying services for the Sunnyside Road Resurfacing Phase 2 project. C. Howard said no it can go three readings. He said this project will not be awarded until 2024, but with the Transportation Act coming there may be dollars that will be moved ahead, so it is better to get the project going.

LAW DIRECTOR'S REPORT:

S. Holovacs asked what the city is doing with regards to the Charter issues. He said it has been a stalemate and nobody knows anything.

S. Anderson said she did the research and analysis on the issues and essentially under an Ohio Attorney General's Opinion – when there are conflicting charter amendments, then the amendment that had the most affirmative votes rules, and in terms of the executive session amendments that were both approved by the voters – the one that was put forth by the Charter Review Commission relating to the mayor's attendance at all executive sessions had the most affirmative votes, so this would break the tie. In terms of the Clerk to Boards and Commissions, there were two that were both approved by the voters and the one that was put on by Council relating to the clerk's position had the most affirmative votes.

S. Herron said the Attorney General's opinion is not law per se, but in his experience this is what the judge's question is – do you have any law and if the lawyers said no, then the judge asks if they have an Attorney General's opinion, and if it is on point, then it is on point, and it appears to him that it is on point, so the people have spoken. He said the next council could look at it differently and he would not know what would happen, and he would not want to speak for anybody else.

S. Holovacs said he just wanted to know because nothing has been said and he wanted to find out what was going on. There was an election back in the first of November and since then, no one has said anything until tonight. They do know that the charter amendment council put on about the mayor appointing three members and council appointing two members to the Charter Review Commission passed, so it will be in effect.

S. Anderson said the votes were just certified on November 22, so this delayed it as well because they wanted to make sure they were working off the actual certified votes from the precincts in both Erie and Lorain counties. G. Fisher said she is required to certify the charter amendments with the Secretary of State within a certain timeframe of which she has already done, so does she need to notify them of this result. S. Anderson did not believe so as she thinks it is up to council to pass an ordinance enacting the charter amendments that received the most affirmative votes into the Charter.

B. Brady asked if the percent of positive votes has nothing to do with the results – it is a straight number? S. Anderson said the first analysis is whether the charter amendments conflict with each other. If they are found to conflict with each other, then it is based on the Ohio Attorney General's opinion, which dates back to 1932 – the one with the most affirmative votes. As the Council President indicated, the Ohio Attorney General's opinions are not directly law so to speak – they are a little more advisory in nature. However, there have been cases throughout the courts that relied on this analysis and there are portions of the Ohio Constitution that built in this tie breaker. There is an Ohio Constitution that says if there is a conflict in counting Charter amendments, then the one with the most affirmative votes rules. This is just not in there with respect to municipal charter amendment conflicts but based on the fact that this is kind of the rule that governs in other areas – it has been applied with respect to municipalities.

OPEN TO THE AUDIENCE:

Brenda & Greg Shay of 845 Bryant Drive said this all started on October 26 when they were part of the reason that their neighbors did not get their variance for their house. When they came home from that

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meeting on October 26 they had taken both of their vans and parked them in front of their house. Their neighbors live on Tappan, and they live on Bryant. The red van that didn't run because of a bad battery was parked and they also brought the white work van and parked it before they got home from the variance meeting. The red van was very close to their mailbox - less than 4', and the white van was nose to nose with the red van because the red van would be started daily by the person that owned it. They noticed they were not getting their mail, so she was outside working on a rather nice day and their mailman stopped and said, "I cannot deliver your mail because these two vans are blocking your mailbox - could you please move them". She responded that the vans were not theirs and they belong to the neighbor that doesn't even live on their street. He lost his variance, and it was partially their fault that he lost it, but it wasn't totally their fault. The building inspector did not think it was a good idea to put a driveway out on the little section they have by the metro park. So, a few days went by, and they noticed they were not getting their mail. The mailman said he remembered that guy's van over there as he had seen it in their driveway. She told the mailman Darren the variance story and he shook his head in disgust, and he said they should maybe call the police. She said they went down to the police station and were told there was no restriction or ordinance for parking away from the mailboxes. They were given a paper on the rules and there was nothing about stipulations of how far a person can park - they can park right in front of it apparently as long as they don't block a driveway as this is the only restriction. She said when they hear the mailman coming down the street they will run out and get their mail, but if they're not there, then they receive an envelope that has "blocked" on it. She said this has gone on since October 26 and she called the postmaster to discuss this, and he said blocking a mailbox is against the law. It is not acceptable, so they went down to the police station again about the fourth or fifth day this was proceeding. The white van was parked nose to nose with the red van because apparently his battery died or something. The police said the only thing they could do is make him move his van with the street, so they came down and talked with him and he flipped the van around, but he still stayed over on their street instead of parking on his street. This went on for the whole month and towards the end of November - G. Shay said when the snow ban started. B. Shay said they talked to the police again and they said there was no rule about this, so she called Mr. Loucka and asked him what they should do, and he suggested they write out something and tell their story, so she is here to tell her story and to show council pictures. She said one of the policemen drew a paint line, but obviously the neighbor came and saw that, so he just took the van back to his driveway and replaced it with another car. G. Shay said they have three vehicles that they rotate. B. Shay said they were rotating them on and off. She said her husband is a disabled American veteran and it is very disturbing that a person would do this to them. They do not bother anybody, and they are rarely home, and this person does not even live on their street anyways. G. Shay said it is a corner lot. B. Shay thought maybe they could get an ordinance where you have to be five to 10' away from a mailbox because they are running out to get their mail. Not only is he bullying them - he's bullying their mailman. Their mailman should not have to jump out in the snow and hand them their mail, and she should not have to put on her boots and go get the mail. The guy does not even live on their street. G. Shay said especially on the weekends when you have a fill-in mailman - they're more apt to not to give them the mail. Also, somebody is parking big box trailers all year round that is interfering with their vision. He said the snow ban doesn't apply to them parking in the street and there is an ordinance about this. B. Shay said in conclusion, the Spears prevented them from getting their mail from October 26 through November 29. G. Shay said partially. B. Shay said if they wouldn't have ran out to get their mail they would have not gotten it.

S. Herron asked the clerk to review legislation on this matter from other municipalities. He thought this might be a federal offense. B. Shay said according to the postmaster this is not allowed, but the paper they received from the police doesn't have it on there. S. Herron said they will see if this is a federal offense first and then they will look to see if there are accommodations they can make for parking, but right now there is no parking with the snow ban.

Milo Hildebrandt of 2480 Brownhelm Station Road addressed the proposed rezoning and development of the property on Baumhart Road. He hoped that City Council and the Planning Commission would carefully look at this and how this massive building will affect the community that is already there. These are people that bought these homes before this property was developed. The City of Vermilion has spent millions on a quiet zone in Vermilion and has yet to extend it out farther. Anybody that lives next to that track cannot say that they lived there before the railroad came in and they can make those accommodations. If this property is going to be developed, he would hope the Planning Commission and City Council would hold this developer's nose to the grindstone and deal with light pollution, the exhaust from the diesel trucks that might be idling, noise - there is noise cancelling technology out there that you

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can have microphones and speakers, and you can stand on this side and not hear a single thing – the railroad uses it at some of their rail yards. Plus, the other things that are going to go on that community – the traffic – there will be other developments. He has heard people say that the property is going to be developed and this would be better than a truck stop. Well, if this is developed do not kid yourself – if he is a developer he is going to be put a gas station out there with a facility for trucks because there is no place else out there for trucks to fill up. This will come in after this and there will be more development out there, but what the community he has talked with out there – he is sure that anyone in the room is familiar that none of them want this large facility built, but if it is going to be built, they are Vermilion citizens and they ask them to take this into consideration and hold whoever is developing this to accountability for the community that is there. That they can live together in some type of peace and harmony out there and have some quality of life.

Nicoleta and Crystal Bortan of 2900 Cooper Foster Park Road read a letter into the record that is attached hereto and incorporated herein as the official record of proceedings.

Michael DiCarlo of 320 Elberta said he grew up in Lorain County and joined the military and has been gone for some odd years, and in fact recently within the last year he moved back to Lorain County. He said going to city council meetings is not new for him – he went to city council meetings for six years in Arizona, but the only problem is that there is 50,000 people and he was the only person who showed up. You have to go to the council meetings out there because the press actually out there and unlike here – the press does a good job. They do more than just print government sponsored script – it just prints press releases and calls it news. With this in mind, he took council through the reasons for his comments last time. He said if you can imagine three circles – the first one is that everything costs money (finance), the second one is critical infrastructure, and he called the third one emergency services. So, they have three things that all belong to something bigger, but the three of them can be moved together – those circles, because they all relate to each other. The concern he has with the raises for any employee because he does not want to point out anybody – he doesn't want to point the finger at anybody because this is one team effort. The concern he has is that the service director reported – it was printed in the November 18 local paper that four percent of the city's fire hydrants, which are critical infrastructure, are not operational. How can we with good conscience to the folks they are here to represent – they represent the folks, but you also have to manage the infrastructure as well. They hire these folks to manage the infrastructure. How can they even (inaudible) with a raise when they failed by four percent in a manageable thing – fire hydrants. This involves everybody – that involves business, and it involves residences. If they cannot maintain the fire hydrants how can they continue to build government and how can they continue to give folks' raises. And it is not your fault – five years is good records, but if that is 10 years down prior, then it kind of puts them into the situation they have – just scrapping the surface doing a little bit of research. He told Mr. Holovac that he appreciates all the questions he recently has put in – the critical thought, and to Mr. Loucka thanks for bringing the folks and doing your job and representing folks. The place he came from with 50,000 people had seven open seats – nobody had to care about you. It's good to be home.

Evan Park of 1945 Cooper Foster Park Road said he is relatively a new resident of Vermilion and he and his wife chose to move here after 28 years in Lakewood, Ohio this past May. When they moved here, they did not think the city was going to contemplate building a 65' or 60' tall giant warehouse nearby that will have 1,400 parking spaces that would take up a good part of 119 acres of land. So, they quickly found themselves a part of this conversation even though they had no idea they were moving into such a situation. He appealed to council to think about this giant warehouse in terms of this description – Vermilion, Ohio is the crowning jewel of the south shore of Lake Erie. From quaint shops to fine dining, the arts, entertainment and matched festivities, Vermilion surely has it all. Be reminded of a simpler time when an afternoon at the beach, a hand-dipped ice cream cone and a stroll along Main Street made your day special. Stay for a day, maybe two, and take home a memory that will last forever. He said this is the marketing that is on the city website. How does this warehouse fit this marketing – this description – this beautiful place that they chose to move to after 28 years. They could have moved anywhere, but they chose Vermilion because it is a beautiful small town. You have a diamond here and it is gorgeous – everyone that comes to Vermilion has a great experience, whether you're a resident or a visitor. He chose to write a letter to Brian Holmes, which was copied to City Council, and it is dated October 26, and in the email it is titled the 'Business of Vermilion is Small Town USA'. As a fairly new resident of the area, he gave council ideas on how they could grow this beautiful diamond that they have. He gets that the city has to raise revenue and he gets it that the city needs to grow, and they need more services and

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infrastructure, but his appeal to city council is that they are really at the fork in the road if they let this warehouse get built – other development will come with it. This is really going to mushroom, so he appealed to council to think long and hard about what is in front of them, and in his email he showed them a half a dozen ways they could alternatively think about raising revenue. He gets that they need the tax revenue coming in and he is not here saying they don't, but he disagrees that the warehouse project is the way to do that.

Rex Gary of 48909 Whittlesey, Amherst, Ohio stood in opposition on the distribution center as well. Even though he is not a resident of Erie County or Vermilion, they are still going to be affected. They are very close to the proposed site and the noise, the light pollution, the runoff from the parking lot as there will be some environmental impact for sure. The traffic on the roads will definitely increase up and down Baumhart and at a 55-mph speed limit now it is treacherous, and you can just imagine a 24/7 operation there – semis and delivery trucks, and what not. It is something they need to consider. He and his neighbors are in the same boat, and he asked that city council keep this in mind.

Thomas Palmer of 1680 Cooper Foster Park Road said they cannot zone this specific for this job and go back if the job doesn't go through, but yet on December 1 at the Planning Commission, Ms. Brady told them that after this is planned they will revert this I-1, 65' back. B. Brady said she did not say that. T. Palmer asked how this can happen. B. Brady said no she did not say that. T. Palmer told her she did say that outside. B. Brady said there is always a chance of rezoning. T. Palmer told her she misrepresented what she said then, so he wanted to know from the law director if this is even possible to do this. S. Anderson replied by saying that Council in their ordinances always has the right to look at zoning on its own accord and can do so at any time, but what the law does not allow is for Council to pass an ordinance preemptively saying that if a condition is not met that it will revert back. But, anytime in the ordinances, Council can certainly look at rezoning for many different reasons under the law.

NEW BUSINESS:

S. Herron MOVED, F. Loucka seconded to permanently tabled the third reading of Ordinance 2021-71. Roll Call Vote 7 YEAS. MOTION CARRIED.

Reading of the Ordinances:

Tabled - Third Reading – Ordinance 2021-60: AN ORDINANCE ENACTED PURSUANT TO CHAPTER 1266 OF THE CODIFIED ORDINANCES OF VERMILION, REZONING LAND IN VERMILION, OHIO, AND CONTAINING AN AREA OF APPROXIMATELY 119.60 ACRES FROM B-3 "HIGHWAY COMMERCIAL DISTRICT" (PPN 01-00-022-104-029 and 01-00-022-104-040) AND I-1 "LIGHT INDUSTRIAL DISTRICT" (PPN 01-00-021-000-032 and 01-00-022-104-045) TO I-2 "HEAVY INDUSTRIAL DISTRICT" LAND USE CLASSIFICATION AS FAVORABLY RECOMMENDED BY THE VERMILION MUNICIPAL PLANNING COMMISSION; AUTHORIZING THE CITY ENGINEER TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF VERMILION TO CONFORM HERewith AS SAID MAP HAS BEEN ESTABLISHED BY SECTION 1268.02 CODIFIED ORDINANCES OF VERMILION UPON THE EFFECTIVE DATE HEREOF.

Third Reading – Ordinance 2021-64: 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, 2022 AND ENDING MARCH 31, 2022 AND DECLARING AN EMERGENCY.

S. Holovac MOVED, M. Stark seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Third Reading – Ordinance 2021-65: 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, 2022 THROUGH DECEMBER 31, 2022 AND DECLARING AN EMERGENCY.

F. Loucka MOVED, B. Holmes seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Third Reading – Ordinance 2021-66: AN ORDINANCE CONFIRMING THE APPOINTMENT BY THE MAYOR AND THE VERMILION PARKS AND RECREATION BOARD OF CHAD KUHN AS RECREATION DIRECTOR TO

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BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Held

Monday, December 6, 2021

THE CITY OF VERMILION FOR THE 2022 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.

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

Third Reading - Ordinance 2021-70: AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF VERMILION TO ENTER INTO AN AGREEMENT WITH SOUTH SHORE DREDGE & DOCK INC. OF LORAIN, OHIO TO PROVIDE ICE BREAKING SERVICES ON THE VERMILION RIVER FOR THE PERIOD OF JANUARY 1, 2022 THROUGH FEBRUARY 28, 2022 AND DECLARING AN EMERGENCY.

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

Third Reading - Ordinance 2021-72: AN ORDINANCE ESTABLISHING THE JOB DESCRIPTION, SALARY RANGE AND BENEFITS FOR A FULL-TIME POSITION OF FIRE CHIEF.

M. Stark MOVED; B. Holmes seconded to adopt this ordinance. Roll Call Vote 5 YEAS; 2 NAYS (Holovacs, Brady). MOTION CARRIED. (THIS ORDINANCE GOES INTO EFFECT JANUARY 6, 2022)

Second Reading - Ordinance 2021-73: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH JCI JONES CHEMICALS, INC. OF BARBERTON, OHIO FOR THE PURCHASE OF LIQUID CAUSTIC SODA TO BE USED IN THE VERMILION UTILITIES DEPARTMENT AND DECLARING AN EMERGENCY.

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

S. Holovacs MOVED, E. Skahen seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Second Reading - Ordinance 2021-74: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH USALCO, LLC OF BALTIMORE, MARYLAND FOR THE PURCHASE OF POLYALUMINUM CHLORIDE SOLUTION TO BE USED IN THE VERMILION UTILITIES DEPARTMENT AND DECLARING AN EMERGENCY.

F. Loucka MOVED, M. Stark seconded to suspend the rules. Roll Call Vote 7 YEAS. MOTION CARRIED.

S. Holovacs MOVED, E. Skahen seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Second Reading - Ordinance 2021-75: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH KEMIRA WATER SOLUTIONS, INC. OF LAWRENCE, KANSAS FOR THE PURCHASE OF LIQUID FERROUS CHLORIDE TO BE USED IN THE VERMILION UTILITIES DEPARTMENT AND DECLARING AN EMERGENCY.

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

B. Holmes MOVED, E. Skahen seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Second Reading - Ordinance 2021-76: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH SNF POLYDYNE, INC. OF RICEBORO, GEORGIA FOR THE PURCHASE OF CLARIFLOC CE-1593 POLYMER TO BE USED IN THE VERMILION UTILITIES DEPARTMENT AND DECLARING AN EMERGENCY.

S. Holovacs MOVED, E. Skahen seconded to suspend the rules. Roll Call Vote 7 YEAS. MOTION CARRIED.

S. Holovacs MOVED, B. Brady seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Second Reading - Ordinance 2021-77: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH BONDED CHEMICALS, INC. OF

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COLUMBUS, OHIO FOR THE PURCHASE OF SODIUM HYPOCHLORITE AND SODIUM BISULFITE SOLUTION TO BE USED IN THE VERMILION UTILITIES DEPARTMENT AND DECLARING AN EMERGENCY.

S. Holovacs MOVED, E. Skahen seconded to suspend the rules. Roll Call Vote 7 YEAS. MOTION CARRIED.

M. Stark MOVED, E. Skahen seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Second Reading – Ordinance 2021-78: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH SAL CHEMICAL OF WEIRTON, WEST VIRGINIA FOR THE PURCHASE OF HYDROFLUOSILICIC ACID TO BE USED IN THE VERMILION UTILITIES DEPARTMENT AND DECLARING AN EMERGENCY.

S. Holovacs MOVED, M. Stark seconded to suspend the rules. Roll Call Vote 7 YEAS. MOTION CARRIED.

F. Loucka MOVED, B. Brady seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Second Reading – Ordinance 2021-80: AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF VERMILION, OHIO TO ENTER INTO A CONTRACT WITH ALEXANDER CHEMICAL CORPORATION OF PERU, ILLINOIS FOR THE PURCHASE OF CHLORINE TO BE USED IN THE VERMILION UTILITIES DEPARTMENT AND DECLARING AN EMERGENCY.

S. Holovacs MOVED, E. Skahen seconded to suspend the rules. Roll Call Vote 7 YEAS. MOTION CARRIED.

E. Skahen MOVED, M. Stark seconded to adopt this ordinance by emergency. Roll Call Vote 7 YEAS. MOTION CARRIED.

Second Reading – Ordinance 2021-81: AN ORDINANCE ENACTED PURSUANT TO CHAPTER 1266 OF THE CODIFIED ORDINANCES OF VERMILION, REZONING LAND IN VERMILION, OHIO, AND CONTAINING AN AREA OF APPROXIMATELY 119.60 ACRES HAS A PORTION ZONED B-3 "HIGHWAY COMMERCIAL DISTRICT" (PPN 01-00-022-104-029 and 01-00-022-104-040) WHICH HAS BEEN REQUESTED TO BE REZONED I-1 "LIGHT INDUSTRIAL DISTRICT" (PPN 01-00-021-000-032 and 01-00-022-104-045) LAND USE CLASSIFICATION AS FAVORABLY RECOMMENDED BY THE VERMILION MUNICIPAL PLANNING COMMISSION; AUTHORIZING THE CITY ENGINEER TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF VERMILION TO CONFORM HERewith AS SAID MAP HAS BEEN ESTABLISHED BY SECTION 1268.02 CODIFIED ORDINANCES OF VERMILION UPON THE EFFECTIVE DATE HEREOF. (Public Hearing has been scheduled for December 13, 2021 at 6:00 p.m.)

Second Reading – Ordinance 2021-82: AN ORDINANCE TO AMEND SECTION 1270.15 (2) (d) ENTITLED "I-1 LIGHT INDUSTRIAL DISTRICT" OF CHAPTER 1270 ENTITLED "DISTRICT REGULATIONS" OF THE CODIFIED ORDINANCES OF THE CITY OF VERMILION. (Public Hearing has been scheduled for December 13, 2021 at 6:00 p.m.)

First Reading – Ordinance 2021-83: 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.

First Reading – Ordinance 2021-84: AN ORDINANCE TO RE-ESTABLISH AND AMEND ANY AND ALL PRIOR STEP RANGE CHARTS FOR THE POSITIONS INCLUDING, WATER DEPARTMENT CLERK, BUILDING DEPARTMENT CLERK, AND FINANCE DEPARTMENT CLERK, EFFECTIVE UPON PASSAGE OF THIS ORDINANCE.

First Reading – Ordinance 2021-85: AN ORDINANCE TO RE-ESTABLISH AND AMEND THE FULL TIME SALARY OF THE ADMINISTRATIVE ASSISTANT TO THE POLICE CHIEF TO THE RATE OF A FULL-TIME POLICE DISPATCHER WITH 5 YEARS OF SERVICE EFFECTIVE UPON PASSAGE OF THIS ORDINANCE.

First Reading – Ordinance 2021-87: 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 SUNNYSIDE ROAD RESURFACING PHASE 2; 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

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BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Held

Monday, December 6, 2021

NOT TO EXCEED SEVENTY THOUSAND EIGHT HUNDRED SIXTEEN DOLLARS (\$70,816.00), AND DECLARING AN EMERGENCY.

Announcement of Meeting Dates:

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

- December 13, 2021 – Vermilion City Council Public Hearing – 6:00 p.m. followed by Committee Meetings and Special Vermilion City Council Meeting
- January 3, 2022 – Vermilion City Council Swearing in Ceremony – 7:30 p.m. - Organization Meeting – 8:00 p.m.
- January 10, 2022 – Vermilion City Council Meeting – 7:00 p.m.
- January 17, 2022 – Martin Luther King Jr. Day – City Offices Closed

Adjournment:

S. Herron adjourned the Vermilion City Council meeting upon no further discussion.

Transcribed by: Gwen Fisher, Certified Municipal Clerk

To: City of Vermilion City Council Members

From: Nicoleta Bortan and Crystal Bortan, Property Owners of 2900 Cooper Foster Park Rd.

RE: Zoning Violations at 2800 Cooper Foster Park Rd. and Ongoing Dispute with Mayor and Building Service Department

My sister and I own the property located at 2900 Cooper Foster Park Road. My parents built the home in 2005. We have been the owners of record since 2011.

We have been in communication with the City of Vermilion Building Department officials and Mayor since late 2019/early 2020 regarding zoning violations at the property located at 2800 Cooper Foster Park Road, which sits on the parcel directly to the east of our property.

The north side of Cooper Foster Park Road where both of these properties are located is in the City of Vermilion and zoned R1. The property tax codes utilized in assessing property taxes by the County for the properties are for single family dwellings as the primary use. This area is very clearly zoned for residential use.

Beginning in late 2019/early 2020, my sister and I raised certain zoning-related concerns to the City regarding the property located at 2800. We have continued to regularly bring these concerns to the attention of the City. However, instead of addressing these concerns, we were ridiculed and dismissed, with the only explanation given being that agriculture is a permitted use for R1 properties so long as no stables are within 100' of the property line. None of the other issues that we have raised have been addressed to date. None. We've instead been ignored while members of the Building Department perpetuate the issues by advising the owners and granting permits that should not be allowed, such as that for a business sign in an area zoned as R1.

We are formally requesting clear responses to the following zoning violations and that action taken by the City to enforce its own Codified Ordinances. We are requesting these matters are handled within a reasonable amount of time. We have been requesting that the City address these matters for almost a year. We are taxpayers. This matter needs to be taken seriously. There also needs to be an investigation into this City's Administration and who is doing or not doing their jobs. People need to be held accountable.

Home Occupation:

Per Chapter 1271 of part 12 – Planning and Zoning Code of the Codified Ordinances of the City of Vermilion, the “purpose of the Home Occupation regulations is to protect the character and the surrounding residential neighborhood while recognizing that traditional workplaces are no longer necessary in all situations due to changing technology, computerization, networking, and the changing job market.” The regulations are “intended to recognize...and allow Home Occupations that are located and conducted in such a manner that the existence of the Home Occupation is not detectable outside of the dwelling unit or accessory building.” Further, “the Home Occupation use shall be **clearly subordinate** and incidental to the residential use of the property.”

The Woods, the owners of the property at 2800 Cooper Foster, (herein collectively referred to as “2800”), are running an ecommerce business, as evidenced by their various websites, that they are supporting with animal agriculture at 2800. They have completely altered the look and feel of this property to support this ecommerce business, which is now the primary use of the property. You can go online and reserve pigs, chickens, or turkeys for fresh pickup, among other products including eggs. Every year, to support this business, they raise thousands of chickens for slaughter and well as layers for eggs, tens of turkeys, and tens of pigs. They also have tens of goats, including males, and at least one donkey. This is not a

roadside stand where they are selling within the 50% consumption guidelines that the City claimed allowed for this to continue in a residential zone under the permitted use of agriculture. There is no physical way possible that a family of five could eat at minimum 10 pigs, 10 turkeys and 1,000 chickens per year (they raise at least double this number each year). 2800 has, in writing, in an email, which has also been provided to the Mayor and Building Department as proof of the illegal home occupation, stated that it is their intent to leave their jobs outside of the home to focus on this business as their main source of income. This means that the primary use of the property is no longer residential. Their residence in the home is now subordinate to the use of the property for income-generating purposes. They intend to make their livelihood from this land, and they have drastically altered the property to do so, in direct violation of the City's Code.

Further, 2800 has incorrectly cited the Ohio Right to Farm Law as protection against our complaints. We have reviewed that law, and it is very specific as to who would qualify for protections thereunder. 2800 does not meet those requirements. First, the property does not sit on 10 acres, nor is it zoned in an agricultural district. Also, 2800 has not applied for or been granted such designation as an agricultural district to or from the County.

2800 also maintains a garden in the front yard, which we believe is in violation of the 50' front yard requirement for R1. They have also erected a fence/barrier over the creek that runs through their back yard as well as ours. This will cause any debris that flows through the creek to get stuck on my side of the creek and for the creek to back up into my yard. This should not be allowed.

Also of concern is the animal waste and emissions (methane) that come from these large numbers of animals. 2800 moves these animals, which are housed in temporary structures, around to practice regenerative farming, which they learned in West Virginia. These temporary structures, which are a further violation of the zoning code, are moved all over, including into the front yard. The pigs (and more recently turkeys) are often left to roam in areas of the front yard visible to the street and in the back areas by the creek.

I invite you all to review 2800's ecommerce business websites, which I have listed below. These are the only ones of which I am aware; however, 2800 also maintains various social media pages related to this ecommerce business and Woods Home Solutions, another business that is also registered at this address. We note that they have drastically expanded their product offering since we first complained to the City about this in late 2019/early 2020.

<https://www.woodsfamilyfarm2016.com/>

<https://app.barn2door.com/e/QMdBz/all>

Temporary Structures:

Section 1272.15 – Temporary Structures, Chapter 1272 - Supplemental Use, Height, Area and Yard Requirements, in Title Six – Zoning discusses temporary structures. 2800 utilizes temporary structures in violation of this Section of the Code on a regular basis and without penalty. Section 1272.15(a) states that the building inspector is authorized to issue a permit for temporary structures, provided such permits shall be "limited as to the time of service, but shall not be permitted for more than 180 days. For demonstrated cause, the building inspector is authorized to extend such permit one time for a period not to exceed 180 days."

2800 has tens of temporary structures all over their yard and particularly concentrated on the side of the property that faces mine, and more recently also in the front yard. These have been up for at least a year, and definitely since I started complaining to the City. In fact, they have multiplied in numbers. Accordingly, any such 360-day maximum window has long passed. Further, no such permits have been granted per any of the public records requests I have submitted, and therefore could not be extended. What would such permits even be granted or extended for? The only use of these structures is to house animals, etc. to support the illegal home occupation. We have alerted the Mayor, Jim Forthofer, Building

Department employees, Bill Diffuci and Tony Valerius, and both the previous Law Director, Ken Stumphauzer, and current Law Director, Susan Keating Anderson, and much to our dismay, but not surprise, have yet to receive any response.

Further, per 1272.15(b), "In residential districts, no temporary structures will be permitted in front yards. Per clause (d) of that same section "Temporary structures shall conform to the applicable structural strength, fire safety, mean of egress, light, ventilation and sanitary requirements of Vermilion's Codified Ordinances, and must be secure to ensure the public health, safety and general welfare." We have submitted documented proof via pictures that 2800 moves these structures all around their yard, including into the front yard - in direct violation of the City's Code. Since this is not permitted in residential districts, why does the City not enforce the code? The City needs to take immediate action to enforce the zoning and require action be taken to remove all temporary structures at 2800.

Requested Action

The City needs to do its job and take action to enforce the zoning for R1 and the violations at 2800. The zoning code is reactive. We have complained many times and nothing has been done. We find it highly frustrating that we have to come before the entire City Council to request that the Building Department and Mayor do their jobs and enforce the code. Even more frustrating is that instead of looking into our concerns, the Building Department and Service Department have dismissed them, worked against us, and have tried everything possible to not have to do their jobs. 2800 on the other hand feels emboldened by the City, having expanded their product offerings, and has stated that the City "said they could do it."

We would like to understand what the 36' pipe that was buried ahead of engineering approval was for? Also, why is anyone permitted to put up a fence on the property lines without having it first staked? There have been no changes in zoning, as a hearing would be required, so why is the City permitting the Home Occupation and Temporary Structures at 2800 to continue almost a year later?

The intended permitted use of agriculture in R1 was not to support an ecommerce animal agriculture business. It was intended to allow for enough product to support a roadside stand. This is not what is going on at 2800. As the directly adjacent property owners, this places an undue hardship and burden on us. Our property value is directly and **negatively** affected. Which of you, under oath, would state that they wanted to buy a house zoned for residential that was raising 20+ pigs, thousands of chickens, turkeys, male goats, etc.?

Also, every year, 2800 plants pumpkins and they throw them all over the yard for the animals to eat. It is unsightly to say the least, and again I do not understand why this is permitted in an area zoned for residential use. Our quiet enjoyment of our property has been negatively and severely impacted by the sights and smells from next door. We are concerned about the negative impact on the environment from the animals emissions and the animal waste going into the lake. Mrs. Woods has accosted our parents on several occasions, most recently yelling at our elderly mother as she took pictures from our property, and telling her that if "she doesn't like it, she should move. The city, the police, everyone is behind her."

My parents and we have done nothing but try and improve our property at 2900 Cooper Foster to raise the property values of our home and the surrounding homes. We will be taking these matters before the County in January, as we have received notice that the tax assessed value of our property has increased as a result of the overall real estate market, while the City meanwhile has done nothing to protect our property value. Again, this administration needs to be investigated. No one is doing their jobs.

Even if the City chooses to stand by the fact that agriculture is a permitted use in R1 districts, there is no way anyone can deny the home occupation or temporary structures are in direct violation of the zoning

code. We ask that this be addressed specifically by the City by the next Heath and Safety Committee Meeting on December 15, 2021 and ahead of the January 1 opening of submissions for property tax appeals so that we can plan accordingly. After almost a year, the City and all of you need to be held accountable.

Regards,

Nicoleta Bortan

Crystal Bortan

Nicoleta Bortan and Crystal Bortan