

**HEALTH & SAFETY COMMITTEE MINUTES**  
**OF AUGUST 17, 2020**

Municipal Council of the City of Vermilion

**In Attendance:**      **Vermilion City Council:**  
*Steve Herron, President of Council; Monica Stark, Council at Large; Emily Skahen, Ward One; F. Loucka, Ward Two; Steve Hologacs, Ward Three; Barb Brady, Ward Four; Brian Holmes, Ward Five; Gwen Fisher, Certified Municipal Clerk.*

**Administration:**  
*Jim Forthofer, Mayor; Chris Howard, City Engineer; Chris Hartung, Police Chief; Amy Hendricks, Finance Director; Tony Valerius, Service Director*

**Call to Order:**      Vice Chairman, Steve Herron, RESOLVED THAT this Health & Safety Committee comprised of the committee of the whole does now come to order.

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**TOPIC ONE:            Fire Chief's Report**

Safety Director Jim Forthofer reported on behalf of Chief Stempowski by noting there were 23 incidents in the month of July for a total of 117 year-to-date through July 31. He said the fire department is still training in small groups due to COVID. The fire alarm system at both stations have been tested and the new fire station is proceeding on schedule and it should be completed yet this year in December.

**TOPIC TWO:Police Chief's Report**

Chief Hartung said the portables were replaced and the radios installed, but there are some issues with the radio system and technicians were out on Monday. They checked the repeater which is 15 years old and they tend to get 20 years or more out of it. He said officers are hearing radio traffic from somewhere and they are finding out it may be radio interference from Canada or other places. He is waiting on how to resolve this issue.

Secondly, he said he would like to address the Civil Service Commission and the recent issues with the prior commission resigning. He was sure Council had been well-aware of their position and he is not getting into the personal issues with those members, but he wanted the opportunity to explain his situation. He said he also had Bob Kish attend the meeting as he has been instrumental in the development of these processes over the years and he would also like the opportunity to address Council. He said in 2002, he was promoted to the rank of sergeant after being with the department for three years. In 2002, there was an effort of some of the older officers "to squeeze out the competition." There was an effort to make it five years on the department to be promoted and there were all sorts of contention within the agency. He said while working with the commission this is when they came up with the 36-month of police experience standard, which was cited quite a bit by the current dispute. The 36 months of police experience was a compromise between the five years that the senior officers wanted and the 12 months the Ohio Revised Code required, so it was specific how they came to this.

He said before the next round of promotional exams in 2005, they asked the commission what the 36 months of police experience meant. He explained that Chairman Bob Schwartz wrote in March of 2002 that three years of police experience was required to be eligible to take the exam. Essentially for 18 years that has been the prevailing theory. When Patrolman Chandler and Patrolman Davis were ruled ineligible to take the exam, he objected as he was there when this was created, and it has been this way for 18 years. They had a different interpretation and he is not going to argue. He just wanted council to understand what his objection was to this whole process. He has heard ridiculous statements about favoritism and trying to get somebody in. He said he doesn't have anything to do with the testing and he doesn't control the written portion or the oral board, but those two individuals had the right to take this test, which was his objection in this whole process.

B. Kish said he did not have a personal interest in this issue, but when you see injustice somewhere that is the justice everywhere. He proceeded to cite case law on how it controls things. He said in 1987, he took the sergeants test and back then you had to have five years to take it. He said he took the test and scored number one; it was strictly a written test. He was involved with the number two scorer and he helped start the Harbortown Police Patrolman's Association which had to do with collective bargaining. He went to the state employee relations board, which was proven with probable cause that he was denied a promotion based on his union activity. In the interim, he was checking lawyers everywhere. He went to law school at the time. He said it cited where you can promote one of three if the city charter allows you to do that. If not, state law takes over, and you must promote the top scorer. He further spoke on Ohio Supreme Court decisions and appeals, and noted he filed an appeal himself. He read another short summary from the MacArthur case.

Chief Hartung conveyed the last time there was a thorough review of the Civil Service rules was in 1998 and this is up to the Civil Service Commission. He thought the rules should be taken to the law director to make them up-to-date and sent back for approval.

S. Herron commented they had an honest disagreement among good people – is this a conflict, or is this an ambiguity? It was a question of interpretation. He said council needs to get rid of what is considered an ambiguity. He said this is what created a rise to several decisions that were made that ended up being very painful. He said Council's job is to try to get rid of any ambiguities which is an ongoing job for any municipality. B. Brady inquired if he was talking about ambiguity in the charter or the civil service rules. S. Herron said it is in both and did not feel they needed to change the charter, but make sure the rules are clearer to the Civil Service Commission.

Mayor Forthofer said the newly seated Civil Service Commission has met twice. They have been in charge of accomplishing three things: 1) Have the two officers tested, which is in process. 2) Address the rule and clarify with the review of the law department. They have rewritten this, which has been sent for compliance with state law, charter, and then it will go before public hearing and discussion. 3) The next meeting will create a new rule which reviews the qualifications of all applicants consistent with the newly written rule before anyone ever picks up a pencil and starts taking a test. He said the rule will be scrutinized well before anything ever happens like this again.

B. Kish said there are less numbers of people taking police jobs. He said the way the police academy works you can just go to the academy without being a police officer, so then you are looking for a job. A lot of people are working part time and guys are moving up from different departments, so they had a lot of officers at the time when the Chief got promoted to sergeant and several other sergeants – but again this is a compromise and they agreed that if you had experience with the Cleveland Police Department and you came here it would be the same as being with Vermilion.

Homer Taft of Edgewater Drive said he became aware of this situation and intended to write some suggestions and forward it to the Civil Service Commission. He said he did not read the MacArthur case, but he will as he has been an attorney for 50 years. He conveyed the charter says the council may adopt additional regulations. He said there is nothing that prohibits in his opinion a city from requiring anything it wants to. Council has the right to make any decisions they want, and it does not have to be in the charter. This is what he disagrees with. The charter explicitly gives this power to city council. S. Herron said he was thinking in terms as this situation was involving - they would have had no business getting involved while the Civil Service Commission was doing their jobs. He would have not interfered or tried to enact any legislation because as it was going on it was the charter and their rules. He agrees with changing the rules at this point. H. Taft said he was addressing this in a manner of going forward.

S. Herron said the Civil Service Commission is doing their job and there is no reason for Council to interfere. He said they are free from intimidation from anybody.

B. Holmes adjourned the meeting after no further discussion came before the committee.

*Next Meeting: September 21, 2020 – 7:00 p.m. at Vermilion Municipal Complex, 687 Decatur Street, Vermilion, Ohio*

*Gwen Fisher, Certified Municipal Clerk*