

LEGISLATIVE COMMITTEE MINUTES
OF MARCH 8, 2021 @ 7PM via ZOOM

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

Administration:
Jim Forthofer, Mayor; Chris Howard, City Engineer; Amy Hendricks, Finance Director; Tony Valerius, Service Director; Attorney Ben Chojnacki

Call to Order: Steve Hologacs, Vice Chairman, RESOLVED THAT this Legislative Committee comprised of the committee of the whole does now come to order.

TOPIC ONE: **Review of Transient Rentals – Draft Legislation**

S. Hologacs noted the transient rental legislation has been re-drafted using the City of Sandusky’s legislation as a template. Any changes made were highlighted in red and language to be omitted has been stricken as shown. He said the city will not meet the March 31 permit deadline this year, so council has time to get the legislation finished this year and to do it right. Prior to Council discussing this legislation, he asked Bill DiFucci and Tony Valerius to explain the ordinance in its entirety as they worked with the clerk Gwen Fisher to rewrite the legislation.

Tony Valerius started with Section 1484 (a) Purpose and Intent by which they noted they will be amending Section 1270 to include transient occupancy/transient rental as a permitted use in most zoning districts as determined by Council. B. DiFucci explained the discussion was not to prohibit them in any zoning district and allowing them in every zoning district – border to border pending they meet the regulations as set forth in the ordinance. B. Brady asked if she was correct by saying they did not have to go to the BZA as it will be automatic that they are permitted. B. DiFucci said forcing this many applicants to BZA would probably burden the board because they could have over 100 or 200 transient rentals coming in and they would need to give public notice for each one and they would have to get signs out for everyone, and the board would then just look at the requirements they have in the code anyways to make sure they meet them, so they thought this was something that could be done administratively and making sure council approves the requirements to be a transient rental. If they meet those requirements upon the building department review, then they would approve them, which would take the place of two weeks of public notice and having 20 to 30 applicants per month

potentially attending a Board of Zoning Appeals meeting. B. Brady asked what areas they would not be permitted in. B. DiFucci said this would be at council's discretion. He said he finds it hard to prohibit them in any zoning districts because why would one zoning district be allowed and one would not. Again, this is council's right to have this discussion and decide if they do not want them in certain areas.

T. Valerius said Section 1484 (b) Definitions just had changes to meet Vermilion's codes and not Sandusky's code. G. Fisher said she would have to amend by separate legislation Section 1260.06 of Vermilion's code to renumber the sections. B. Brady said this section addresses a dwelling but what about rooms because some places rent out only rooms. T. Valerius said they did say dwellings or other living accommodations. It was noted to include "or other living accommodations" to the Transient Rental definition as well. G. Fisher noted the change.

T. Valerius said the changes in Section 1484 (c) again pertains to the city's building department instead of Sandusky's. Under (d) (1) Transient Rental Permit Application they included an annual permit which expires on March 31 of the year the permit is issue and to pay an initial fee of \$200 per dwelling and an annual renewal fee of \$100.00 per dwelling. T. Valerius said the March 31 date was determined since it would be before the season starts. He said if they use December 31, the building department has contractor registrations that are due, so they would be slammed with all these new applications. G. Fisher said the season for rentals usually does not begin until April, May, and June. E. Skahen asked if the fees could be lowered. G. Fisher said they chose these numbers because this was the consensus of most of the council in previous meetings, but it can be changed at council's discretion. B. Brady said if they have a multi-unit would each unit be considered a dwelling. T. Valerius said yes and it would be charged independently.

T. Valerius said in (2) (E) they added CO detectors and took out the parking plan because parking is hard for the Building Department to enforce. If it gets to off street parking, then this is enforced by the Police Department. Yard parking is covered by current code.

He addressed (F) Proof of property insurance/liability insurance and noted that commercial insurance is not required by VRBO and it would be the owner's responsibility to provide proof of insurance and they can have an umbrella coverage in addition. B. Brady asked if the city could talk to the city's insurance company to make sure the city is not putting themselves at risk if they do not have a commercial policy, as she believed in other cities that private or homeowners' insurance would not cover you if you were renting the property, so she wants to make sure they are not putting the city as risk. G. Fisher asked the finance director if she could contact the city's insurance company to check on this. B. Brady

thought they need proof of ownership of the property. G. Fisher thought this is required in the permit process. S. Herron asked if the recommendation is to not demand any insurance. B. Brady said she would like to see the city insist on commercial insurance and not homeowner's insurance. S. Herron said at the end of the day it is going to be the property owner's relationship with their insurance carrier to tell them they are engaging in this business. B. Brady said the city is licensing them, so they need to make sure the city is not at risk.

T. Valerius addressed Section (e) (1) Transient Rental Health and Safety Regulations as it states the maximum number of persons who may occupy the dwelling overnight during a transient occupancy shall be determined on a case-by-case basis by the Building Department upon inspection. He said this is so they can see how many bedrooms/beds there are. B. Brady said she had someone with rental property in the township call her to tell her they do not allow guests to stay. She asked if anyone felt this was important to include. S. Holovacs said the building department just needs to decide on how many beds are there, so they can say the maximum number of person in the unit is such. He said VRBO's and others have clauses in their contracts that states how many can rent and if they bring in others, it may be so much per person if it does not exceed the maximum number of persons occupying the dwelling. B. Brady said they are not saying, "No parties" or anything like that. T. Valerius said it would be hard for the building department to determine who is the renter and who is the guest if they maintain the number of people, they are eligible to have per the beds and the room.

T. Valerius said that (4) – (9) was stricken from the ordinance as they did not feel it pertained to Vermilion. B. Brady said they had talked about making sure only the owner of the property can get the permit and she does not see where that is specified. Also, they want to make sure there are no outstanding debts on the property. G. Fisher believed they addressed this in the permit application and in the Transient Rental Health & Safety Regulations section on the permit application it does state that the registered owner or local contact for the transient rental shall be within a one-hour arrival of the transient rental unit while the transient rental is being occupied. B. Brady said they need proof of ownership and they need to make sure there are no outstanding water bills or taxes on the property that the city is owed. F. Loucka said in the permit application only the owner can submit the application. B. Brady said this is okay if it is in there.

Section (g) Penalties and Fines were addressed by First, Section and Third Violations. G. Fisher said they included the fine amounts that Sandusky has. B. DiFucci said this is like the fines imposed on contractors when they do not make proper application. A good enforcement is having a penalty in place that is intimidating. He said these violations are in their discretion and they are not going to throw fines at people, but they will inform the people they have an issue that

needs to be taken care of. However, if they ignore it, then they will know the fine will get stiffer as they revisit it. E. Skahen went back to the previous section where the homeowners need to present their floor plans. She asked if it would cost the homeowner additional money to purchase plans. B. DiFucci explained they can generate those plans on their own through a hand sketch of the dwelling. G. Fisher said Section 1484.99 PENALTY also identifies another penalty, which they want to make sure is not in conflict with (g). Therefore, the clerk will send this to the law department for their opinion on the penalty clause. S. Herron said if they enact (g) then they can probably delete the penalty clause as written in 1484.99.

S. Holovacs said this issue will be referred to the Legislative committee on April 12.

D. Werley of Timberview Drive said the first thing he saw in the new drafted ordinance is they are sticking to the thirty (30) day consecutive and H. Taft had brought up a couple times a good point that if anyone rents month to month, they are now a transient rental property and they would have to abide by this ordinance. Additionally, he said everything expires on March 31 and it was mentioned that the building department has the contractor registrations on December 31, so this would be too much to do at the end of the year, but it looks like you will have all these people renew their permits for the next year on that date, and it sounds like it will be cumbersome for the building department to do this. He asked if there are provisions set up to prorate this amount, so if he has a property that is due in December is this prorated since he is using less of the time. He was glad to see that it gives Steve Herron what he wants, and this is to know who is in there and gives the city the power to get this information. He still does not agree with this though. Also, he said the city is not allowing people to advertise that there is a transient rental prior to obtaining a license. He did not think this was right as people should be able to for future bookings. Obviously, if they book without having a permit then they would be in violation, but he does not think the city should stop them from advertising when they plan on booking for the future. He said the fines are ridiculously overbearing because essentially you can fine somebody \$4,000 on day one and subsequently you can fine them \$4,000 per diem each day after that until things are taken care of. He addressed the fees of \$200 for the initial and \$100 for renewal and when it was brought back up to amend this ordinance, he believed Monica Stark had said she checked with Bill DiFucci at the building department and they were fine with keeping the fee \$100 – now magically it must be \$200, or they will operate in the deficit and he is not sure how this happened. He said it sounds like Bill DiFucci is open to it and it is up to Council to make the determination on what the fee should be. He said the fact they require somebody to be an hour from the rental is silly – if his property were here in Vermilion then he could not travel out to the west side of Toledo or the east side of Cleveland because it would put him an hour away from his properties. G. Fisher clarified the hour means that if the owner does not live in Vermilion, then they need to list another local contact of

someone who lives within an hour away. D. Werley said if the owner lives at that property and they are in Florida, then they are within the regulations of the ordinance. G. Fisher said if the owner is in Florida, then it is just saying they need a local contact listed who lives no more than an hour away. He said this is what he is saying – he cannot travel to Toledo if he is outside of an hour. G. Fisher felt it meant that it means the local contact on record just needs to reside no further than an hour away. She noted this is up for debate. He said it appears that Council still plans on passing this as emergency, which he strongly recommends they strike this section.

TOPIC TWO: Review of Ordinance 2021-1 (Junk Yards)

Attorney Chojnacki said he along with the law director took a brief review of all the comments from the previous committee meeting and made some slight modifications to accommodate those concerns. They incorporated a new definition to the definition of junk buildings, shops, and yards. The previous code since 1969 had the same definition, which is found throughout a lot of municipal codes throughout the State of Ohio that probably defines junk buildings, junk shops, and junk yards. They accommodated the concerns of folks who might want to engage in the repair of motor vehicles or boats, and they attempted to carve out that particular use as it is already permitted under Section 660.07 of the codified ordinances. In doing this they have narrowed the scope of the prohibition while at the same time clarifying some of the restrictions that exist on the usage. Beyond that, the ordinance remains the same and the objectives as the mayor articulated previously in his statements are the same.

E. Skahen said she was not sure if it was listed under Ordinance 2021-1 or 2021-4, but Homer Taft had brought up the donation containers and things like that – would either one of those prohibit anyone from having those on a property. B. Chojnacki said this would fall under the modular storage units and their provisions.

B. Brady said she did not understand why they were including the residential areas. You cannot have a junk yard in a residential area because it would not be a permitted use, so it seems to be a property maintenance issue in residential areas. B. Chojnacki said he recognizes the distinction, and it is a good point to raise, but he would prefer to make the commercial use explicitly prohibited to the extent of mirror definitions of the permitted and conditional uses within the residential districts. He said it is better to put people on notice rather than go back and cross reference other sections.

Homer Taft of 3972 Edgewater Drive shared with council his comments on transient rentals and modular ordinances. He said one person's junk is another person's treasure and the way junk is defined is extremely broad and broader than it should

be. His concern is with structures and buildings. With all due respect to Mr. Chojnacki, the exact words of the junk yard ordinances relate to any structure – a modular collection center is a structure under the ordinances as defined, so it includes this one as well as the modular storage ordinance. He said Carvana just built a 200,000 square foot building that everybody wanted which potentially brings in a lot of taxes and business, and other development, and this is a structure that is 200,000 of junk that people got rid of that will be reconditioned and sold. It would fit under the junk ordinance of this ordinance. If it is inside a structure, why do you want to prohibit it? If somebody is a collector and the car does not work, and it was discarded by somebody else – why do you care – why is this a problem? Most of this ordinance seems to be closing the barn door after the horse left as far as the so-called junk yard, whether it is or not or whether it really would be under this ordinance’s definition down at the east end of the city. There may be other solutions for that, but if it is inside a structure and it is not within site and is being responsibly done, and it is not a fire hazard – why would you get involved in that at all? And, as Ms. Brady said, “In a residential area you really can’t have a junk yard”. He said there are limitations on temporary work on boats, cars, but not permanent businesses doing it. He thinks the ordinance is still exceptionally and inappropriately broad, and wrong.

S. Herron MOVED, F. Loucka seconded to untable the third reading of Ordinance 2021-1 from the City Council agenda. Discussion: B. Brady asked if council has seen Attorney Chojnacki’s definition of junk yards. Attorney Chojnacki said the definition of junk yards is in the amended definition of junk buildings, shops, and yards in Section 69 of Chapter 1260.06. He said the definition of junk is defined in 1260.06 (68) of the existing codified ordinances, which has been that way since 1969. Roll Call Vote 5 YEAS, 1 NAY (Brady). **MOTION CARRIED**.

TOPIC THREE: Review of Ordinance 2021-4 (Modular Storage Units)

B. Brady said she has a problem with the last section where they are limiting to 30 with an extension of 60 days. If somebody like Americut has a vehicle there, they can only have it there for 30 days. What is he supposed to do with it? It is what he runs his business out of, and it is in an industrial area. The city is saying it cannot be seen from the right of way and they cannot have electrical. They have limits to what it can do, but they are also limiting it to 60 days a year. This does not make sense to her if this is integral with her business, what is she supposed to do with it for the other 10 months. In the industrial area she does not understand why this is a problem. Attorney Chojnacki asked her if this specific example is for temporary storage containers. B. Brady said correct and in 1272.17 the city specifies they need a permit to have it and temporary storage containers are permitted to remain on commercial and industrial property for a period not to exceed thirty (30) days within a calendar year, and then they can get an extension, so if she would have a

trailer pull up to her loading dock and it takes her three months to fill that trailer before she ships her goods, then she can't put it there. S. Holovacs agreed with B. Brady, and in using her example of Americut, they get big projects, and they take those containers and put them on the job, so nothing is stolen on the project. He said maybe they have multiple containers they use on different projects and when they bring them back and put them in their yard waiting for the next project to start, then they are in violation.

Attorney Chojnacki said he would review this as this is the first time he has heard this specific concern and perhaps there might be some legislative work arounds, but it sounds like that use might not be a temporary use if the permanent home for that container is going to be on the job site or the contractor's main site. He is not sure it would fall within that temporary definition, but he recognizes the concern and ambiguity and perhaps an additional study can be done on this. He said he had talked with T. Valerius on the provisions of the extension and limiting it to 30 and 30 on the day periods, but maybe the accommodation they can provide for is to allow that second one to be for a period that is appropriate for T. Valerius and the building inspector.

B. Brady said if she rents a trailer on her property, she can do this. Attorney Chojnacki said he would not say this – this regulates temporary storage containers. B. Brady said if she puts a permanent storage container on her property then she is okay? Attorney Chojnacki said it would not be regulated by the temporary storage container provisions of this section. B. Brady said she thought they were trying to eliminate the possibility of people using modular storage units as storage units, so if the only difference is the word temporary, then she thinks they have a bigger problem. She said they have a business in Westlake, and they were told they could not put a storage unit on their property because they cannot put a second building on an industrial lot, but they told her that if she got a wheeled vehicle then she could park it behind the building and use it as a permanent storage unit. This ordinance she thought was to stop people from using those on lots, especially in the residential and business districts. Attorney Chojnacki agreed with this. He said if it is permanent than it is not a temporary storage container. B. Brady asked if they are accomplishing what they want to do.

Mayor Forthofer said they do not want to outlaw metal sheds that you buy at Home Depot because they are permanently there and have a base, and you store your tools. They are talking about units that have been designated for another purpose; like to ship stuff over to China, and then to repurpose that as a storage unit without any kind of foundation. He said this is like what is possibly being used in storage/rental places. Those units were not originally intended to be a storage unit. B. Brady said so if they say this should have a foundation then this is okay?

F. Loucka said a trailer must be licensed as it is a vehicle, so they should be able to have it in the back yard of their business because it is not a temporary storage unit. B. Brady said she was told to get one without a cab. S. Holovacs said it is semi with a trailer – they take the tractor away and leave the trailer, but this is different than shipping containers. S. Holovacs asked if a trailer with wheels is the same thing as a steel container they put on ships and send to China. F. Loucka said he would say no personally because it is a licensed trailer.

H. Taft said he does not understand why council is still considering this ordinance. Two years ago council passed something that prohibited shipping containers and modular storage and now they are adding to it another ordinance that does the same thing, and then council changed it to where it is still in the banned section, but it says, “Except as provided” in the ordinance they passed before, so if it is allowed, then it shouldn’t be in the banned section to begin with, but he doesn’t understand where a separate case has been made for this ordinance over 1272.17 and 1272.12 that are already in the code, so he is very confused on why council is doing this. If you do it and use the current definition, then he thinks they should not be doing it in an industrial zone if it is somebody’s business, and the city should not be banning somebody in an agricultural area for bringing in containers for their product that are modular shipping type things. He is concerned the city is not distinguishing all these things very carefully. He thought wheeled trailers at one point may have been removed, but he still does not understand it and believes every recycle bin, donation bin, and garbage bin of the city would violate this ordinance.

B. Brady said she would like Attorney Chojnacki to review this ordinance again. The remaining members of council agreed to look at the existing ordinances to make sure there are no conflicting sections. S. Herron said they need to look at the use of the item at the time, because it is a tool being used as a business. S. Holovacs referred this issue to the April 12 Legislative meeting for further review.

S. Holovacs adjourned the meeting upon no further discussion.

Next meeting: April 12, 2021 – 7pm @ Vermilion Municipal Complex, 687 Decatur Street

Transcribed by Gwen Fisher, Certified Municipal Clerk (CMC)