

## **SPECIAL LEGISLATIVE COMMITTEE MINUTES**

**June 7, 2021 @ 6:00 p.m.**

**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*

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

**Call to Order:**            Monica Stark, Chairwoman, RESOLVED THAT this Special Legislative Committee comprised of the committee of the whole does now come to order.

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### **TOPIC ONE:            Temporary Moratorium – Sweepstakes Terminal Devices**

M. Stark reported the law department provided council with the following Ordinance:

**First Reading – Ordinance 2021-39:** AN ORDINANCE ENACTING A TEMPORARY MORATORIUM ON THE NEW OPERATION OF, AND THE CITY'S ACCEPTANCE, PROCESSING, OR APPROVAL OF ANY APPLICATIONS FOR BUSINESS LICENSING, ZONING, OCCUPANCY, AND/OR BUILDING PERMITS THAT MAY CONTEMPLATE THE OPERATION OF, ANY SWEEPSTAKES TERMINAL DEVICES, SKILL-BASED AMUSEMENT MACHINES, OR ANY OTHER GAMING DEVICES WITHIN THE CITY AND DECLARING AN EMERGENCY.

Mayor Forthofer said he supports Chief Hartung's initiative to request this moratorium – not so much on the merits or demerits of sweepstakes cafes themselves, but after conversation with a representative or agent from the Ohio Gaming Commission who caused him to question whether or not the city has proper ordinances governing the sweepstakes café activities and whether or not the building department has the proper permitting process that does not expose the city so much to possible litigation.

B. Brady asked the Mayor what he would go forward with – are you talking about the law department looking at these ordinances and making proposals? Mayor Forthofer said they need to make sure they are in sync with state legislation and to make sure the building permitting reflects those (inaudible). B. Brady asked if a six-month moratorium is long enough to give them a chance to review this. Mayor Forthofer said if not, then they can ask for another six months. B. Brady asked if the exiting sweepstakes will be allowed to continue. Mayor Forthofer said they are permitted to exist, but they will not be able to add additional machines.

S. Herron said a lot of this has to do with an investigation that is ongoing but is it the understanding that there are also state tax issues that would be involved in this particular situation. Mayor Forthofer said he was sure that state tax motivates a lot of these state laws and enforcement. S. Herron believed the Department of Taxation was involved in this. Mayor Forthofer responded, "Absolutely". S. Herron asked the mayor if it was his opinion this will protect the city from financial liability in the event of a potential lawsuit. Mayor Forthofer said it allows the city to structure themselves.

Homer Taft of 3972 Edgewater Drive said with respect to the mayor and police chief he wanted to express concern as he was of the impression this ordinance was being put forth as an emergency with the possibility of it being passed tonight. He hoped council would use a little more caution if they do this. Some statements have been made that concern him and he thinks the city should do their own investigations. One of the statements is that the IRS can come in and seize taxes or fees that were received by the city. He had severe doubt that this is the case and does not think the Internal Revenue Service without due process can come in and seize tax revenue. The other concern is that nobody has really said what is wrong with these in the first place. He does not like gambling if this is what is going on for this matter, but nobody is really saying what the problems are, including the Ohio Gaming Commission. They are concerned the city might not have a good ordinance but have they in writing on the record identified a single thing wrong with them. He has not heard it yet, so he is hoping that before Council passes this, they will hear these things.

S. Herron did not know if the IRS could seize Vermilion funds, but they could certainly come in and assess income that should have been realized before. They are in a situation of trust because this matter is presently under investigation and he thinks the police chief's commentary is trustworthy when he tells them the matter is under investigation and this is his recommendation. At this point, this is where they are, and this is probably why there are still some question marks.

B. Brady asked the law department to respond. Attorney Chojnacki said the issue with respect to the recoupment of fees collected from businesses is an actual issue that is currently being considered pursuant to investigation of another municipality. He has no further details beyond what the chief has told him. The concept being that if you are allowing and looking the other way while an activity that should be regulated by the state is going on or something is not consistent with what Ohio law permits, then you are complicit in the activity that is illegal, and the city wants to avoid this, and a moratorium puts a stop on it so they can study it and make sure they are doing everything appropriately. B. Brady asked him if he felt not

having three readings on the ordinance and passing it by emergency is a problem for the city. Attorney Chojnacki said, "I do not".

Drew Werley of 5016 Timberview said the verbiage in the ordinance severely limits these businesses because it says you cannot add new machines. He said council should consider changing this to not exceeding the current amount of, so if one of these businesses has five machines that go down, then they cannot replace those machines and it would severely limit them if something catastrophic happened and there is a big power surge that kills all the machines. Now this company cannot replace them.

M. Stark adjourned the meeting upon no further discussion.

Next meeting: June 14, 2021 – 7pm @ Vermilion Municipal Complex, 687 Decatur Street

Transcribed by Gwen Fisher, Certified Municipal Clerk (CMC)