

LEGISLATIVE COMMITTEE MINUTES
of December 13, 2021

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

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

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

TOPIC ONE: Outdoor Residential Lighting

F. Loucka explained that G. Fisher supplied Council with several ordinances related to this issue from other communities. To him, Bedford Heights appeared to have a well-conceived ordinance. If council decides to proceed with additional study, it may be helpful to check with Bedford Heights regarding their enforcement procedure and overall success regarding annoying lighting. Their city council passed a statute back in January of 2015, so it may be interesting to know their success rate and how they are actually measuring the light.

S. Herron asked council if they were interested in enacting a lighting ordinance. He agrees Bedford Heights is fair and thorough but is this where council wants to go. In all honesty, they had a situation presented to council that involved a few residents, but really a dispute between two. Even if they pass this, it probably will not affect what they have lighted there, but it is also a citizen dispute and they do not need to be involved in every citizen dispute. They need to be very careful about this.

G. Fisher said she did contact several communities and was told they do have a hard time enforcing this legislation. They said it is something that just doesn't work.

M. Stark said sometimes it is easy to try to put legislation where it is really not necessary, and she thinks it is over legislating at that point. B. Brady agreed. F. Loucka said it could be complicated.

TOPIC TWO:Zoning Enforcement (Crystal Bortan)

S. Herron said council heard information last week from concerned people about a situation going on in the east side of the city. He gave the administration an opportunity to respond to some of those issues.

Susan Anderson said this issue was brought to her attention previously and she worked closely with the service director on the issues that happened. In looking at the city's code, she thought it was pretty clear that the property is being used as an agricultural purpose and farming purpose, and this is a permitted use in R-1, which is what this property is zoned. She noted there were issues raised about the city's home occupation ordinances, but those do not apply because again this is a permitted use in R-1. Those ordinances would apply let's say for instance if they occupied a single-family home and tried to operate some sort of personal business out of the single-family home – then those ordinances may come into play. But because the issue is whether the piece of the property is a homemade use in R-1 and it is, then they do not have to look at the home occupation. Based on what she has seen, she could not see any violation of the zoning code.

B. Holmes asked if she could address the temporary structures on the property. S. Anderson explained that pursuant to code what it physically says in terms of permitted uses in R-1 is - farms and agriculture, providing all stables and manure piles are not less than 100 feet from any lot line. It is her understanding the structures are housing the animals, so used as stables, so she thinks as long as they meet the requirement, then again this would be a permissible structure on the property, and this is something she and the service director have talked at length about as well. She knows there was an issue raised about a fence going through a creek and she believes the city engineer maybe able to speak to that. C. Howard explained they do have an issue with the fence crossing the creek and the city will ask the owner to remove it. There is concern about it collecting debris and possibly flooding the neighbors, so in conversation they will ask them to remove it or provide something that allows for it to go through and not back it up.

Tony Valerius mentioned he was out there inspecting on Friday and noticed that most of the stables complied with the 100-foot requirement, but there was one that did not comply, and he asked them to make sure this stable is at least 100 feet from the property line, so they will be moving that.

B. Brady confirmed that if this is in the R-1, then they do not have to come to BZA for a home occupancy permit. S. Anderson said no she did not believe so because again, it is specifically a permitted use under the city's code. B. Brady said they do have to file as an existing business in the city and file taxes and so forth. S. Anderson said she did not look at the tax issue, but it is her understanding that this property is under the Ohio Rights of Farm Laws. B. Brady said she does not have a problem with the farm side, but if they're selling their goods, then it is a business. S. Anderson said presumably yes, so they would be subject to those taxes. B. Brady said the city needs to make sure the business side is functioning as a business and the city is aware of it and collecting taxes as a business. S. Anderson said this is not an issue she looked into, but yes certainly if they are income producing, then they would subject to city taxes. B. Brady said maybe this goes back to Amy Hendricks. A. Hendricks said she could check with RITA to see what their income tax filings are as far as any specific business tax, as those would go through the State of Ohio.

Tony Valerius said he spoke with the county today and their property is classified as an Agricultural District, which was filed on May 10, 2021.

S. Herron asked if the issue with the structure near the border and the fence issues are violations under the code. C. Howard said yes they have an issue with the fence going across the creek. T. Valerius said he concurs the stable is also in violation of the code. S. Herron confirmed the administration is going to inform the property owners that these are violations. T. Valerius said yes.

Julene Woods said she lives at the said property. She said their character by community members has been attacked for the last year with the city telling them all along that they are okay. She said Mr. Valerius did speak with them today and the fence across the creek is already gone. They will make adjustments to the one stable, so that it is clearly 100 foot from the road. They need to move it about 20 feet, so it is within code. She said the practices they choose are because they have a passion for what they do, so they choose regenerative practices that are meant to be appealing to the senses. She has approximately 20 letters of support from people that understand the practices they do, as well as people in the community that support them that there is nothing (inaudible) because they choose things to be kind to their land and neighborhood. The property who has filed these allegations – they actually spoke with the residents from November to December three times and they were told by the gentleman that they were okay, and they were absolutely understanding from where they grew up. So, when this all came about late December early January they were baffled and they tried to make amends by speaking with them and writing kind emails, and yes, she did lose her cool as it was stated last week. She did lose her cool last August and said if you don't like it move. She doesn't know what else they can do and what adjustments they can do. They just found out this was all presented last week, so she was able to get those together from community members as well as some of their customers. With regards to the question of taxes, they file everything legally through the county, so they are completely legit. She said they love the community they live in, and their children are fourth generation in their home, and they live in the country even though they are city, and she just does not understand how they can be attacked when there are horse farms everywhere. There are goats across the street and there are so many things that say they're country, and so it does start to feel as if it is a personal attack. Her daughter is having anxiety attacks over feeling like she is going to lose something she has a passion for, so it has been a very long year. She apologized for her emotions and thanked Brian Holmes and Tony Valerius for coming out as many times as they have. They really are not hard to work with – this is not their intent, and they love what they do, and they have a passion for it, and they believe God has called them to do it.

Nicoleta Bortan said before her sister addresses the number of issues that have been raised, she wanted to point out that no one has attacked anyone on their behalf. They have never even spoken to them about this directly. Actually, Ms. Woods accosted her mother to the extent that her three children were yelling at

her to calm down and walk away, so they have in no way, shape, or form spoken to them directly about this. Crystal Bortan said the temp structures were moved into the front yard. This is not allowed in a R-1, so this should be addressed. They are not allowed to leave any of those in the front yard. Even if they did receive agricultural district from the Ohio Rights Farm Laws – her complaints predate them, so actually she can still raise her concerns. Her complaints are grandfathered in. Further, they would still be subject to different zoning codes under agricultural zoning regarding adjacent structures and rear setbacks, which they are not following, so those should be enforced. She believed adjacent structures cannot comprise more than 30 percent of the yard of the land, which there is pond and creek that runs through it. She would argue that they probably are over that threshold. It is still R-1. It is not agricultural, and she understands that they received agricultural protection. Actually, when she called the county in January and February when they started this, they said it was very difficult to be under 10 acres to be able to meet the income thresholds. The only reason they have been able to meet those is because of the stance the city has taken on the zoning and choosing to (inaudible) agricultural instead of ecommerce, which it is as evidence by their various websites – nobody has addressed the pipe that they buried – nobody has addressed any other issues they have raised. The only argument they have heard is that agricultural is a permitted use, but she knows that when she was here for the wedding barn, people were arguing even though it was a permitted use – you can't completely rezone the property – you cannot spot zone, so she does not understand how this is seen – nobody has addressed the consumption requirement – 50% - if it supposed to be a roadside stand, there is no way they are consuming half of what they're producing, and this is next to her and everybody in this room that is against the Amazon warehouse that is near it said if this was in your back yard you wouldn't want it. Who here wants pigs near them? She doesn't care if they smell – who wants chickens in the front yards – who wants male goats and goats breeding next to them? Nobody! Nobody wants to see that – this is a residential zone, and the code should be enforced period! N. Bortan said on that note there was a letter written that they received early on that their pigs apparently are the only pigs that don't smell. They would also argue that this is biologically impossible. C. Bortan said they are the adjacent neighbors, and the hardship is on them. It's on their property value and she will continue to appeal this with the county and again because they are grandfathered, they can still bring this through and take different actions if they need to. So, if the city is not going to enforce it, then she just needed to know their stance. She would like them to follow up with the pipe that was buried and would like enforcement about the temporary structures if the city is choosing to say this is agricultural, although it is ecommerce. N. Bortan said not to mention that the approval was after they raised these issues for the Ohio Rights of Farm Law, so actually... C. Bortan said there are no protections against their complaints that they have raised.

B. Holmes asked where exactly the pipe was buried. C. Bortan said behind when you're facing the street – right at the side of the creek. They buried it over the weekend.

Greg Butchko of 52102 Fawn Circle, Amherst, said he is a previous Ward Five Councilman and when the distances were put into place – so some historic value for lifestyle or what have you. The spirit of this was cited in some very serious violations that involved even animal health. The Humane Society and those around Claus Road – the ordinance put it into place, which he would argue was put into place long before anything the people just spoke talked about was strictly put into place to give distances and allow for the animal protective agencies or whatever to take care after that within the city’s ordinances – the distances and what have you are in place and has been for years. Also, within the spirit of this, Ward Five is an agricultural area – R-1 is A-1 – it is the same. It is not exactly the same, but it came from that. They had to stop sidewalks from coming in going down Sunnyside going across places with combines go in and out. They have to accommodate for everything that happens in an area that isn’t – you cannot move there and expect it to be an HOA. This is where they live – out there, and he supports what they are doing there and they’re doing everything they can, and they are not doing things that are harmful to animals. They’re trying their best to be accommodating and he doesn’t know what the rub is, but historically those distances have been there a long time. He said they have heard from the city that they are okay. He thanked Council for hearing so many things through for so many topics, and he appreciated their efforts whichever way they go with it.

Emma Kiska of 2740 Cooper Foster Park Road said they have lived there for about four years and in that time, Mr. & Mrs. Woods have approached them several times throughout the four years with various things and every time they wanted to make an improvement or bring in new animals to their land, they have been very respectful and courteous, and talked to them. She thought it was important that council knows this. They really try to involve the community. Even though it is their land, they want to make sure it doesn’t affect them. Any concerns or questions from their point of view, they have been very respectful and good neighbors in that sense.

Jay Kiska of 2740 Cooper Foster said not only have them been respectful, but he also knows there have been plenty of times they talked about the fence going across the creek – well they have been in the creek constantly cleaning it and keeping it debris free. He said they pay taxes to clean it because it does back up and there has been debris and branches, but they just do it because they want to keep it flowing and they do not want things to back up. Anytime, they have done anything with their animals, they’re out there all the time with them, so it’s not something where they have animals, and they just leave them. They are constantly out there with their animals taking care of them and respecting the animals, and they respect the land because he and Brett are constantly out there cleaning up because they don’t want anybody getting hurt, especially animals because they could step on rocks or sticks. They make sure any dead trees are cleaned up, so they try to make sure they respect their property, and he really does respect them for what they do, but they constantly have been very courteous about coming to talk to them about any issues before they do it. If they have an issue with something, then they say okay we won’t do that, but they have always been so respectful in what they do. B. Brady asked if

they had animals. The Kiska's said they just have dogs. J. Kiska said he used to live next to a pig farm and those pigs did smell, but the Woods' pigs have not smelled to them.

TOPIC THREE: Obstruction of Mailboxes

S. Herron said there is no law on the books about parking your vehicle in front of somebody else's mailbox and he felt this would be a good ordinance because they're not talking about a person's property, but the public street and making life easier for the United States Postal Service as well as other citizens who perhaps may have a longer time getting their mail. He thought it was a situation where everybody would benefit, so he said he is in favor of drafting an ordinance to prohibit parking of your vehicle in front of a mailbox. He suggested possibly anywhere from 10 – 15 feet.

S. Holovacs agreed as he sees a lot of this on Hollyview where the postal lady does everything possible and even gets out of her vehicle to deliver your mail, but when you get a sub in there, they don't care, and they don't drop off the mail. He stopped the other day and asked her what she needs for a distance, and they need about five feet from both sides of the mailbox. He thought council should ask their mail carriers too.

B. Brady asked Chief Hartung if this would be enforceable. Chief Hartung said the issue he has is that there is no parking on the fire hydrant side of the road, so where are people supposed to park, and the issue at hand they are talking about is in result of a neighbor dispute, so he agrees in a situation like this to have an ordinance targeted to these types of specific incidents when you have this harassment between neighbors it gives the police that mechanism. He agrees with it, and he thought generic language that says a person shall not obstruct another mailbox gives them the ability to handle this on a case-by-case basis. He said if somebody is intentionally blocking their neighbor's mailbox because they are mad at them, then this is something they need, but a blanket provision of five or 10 feet will create problems.

S. Herron said in Kokomo, Indiana they have legislation that states: No person shall park any vehicle so close to any mailbox that the vehicle hampers access of postal employees to any mailbox.

S. Herron MOVED, F. Loucka seconded to have the clerk draft legislation mimicking Kokomo, Indiana's legislation. Roll Call Vote 6 YEAS, 1 NAY (Stark). **MOTION CARRIED**.

M. Stark adjourned the meeting upon no further discussion.

Next meeting: January 24, 2022 – 7pm @ Vermilion Municipal Complex, 687 Decatur Street (Immediately following a Public Hearing and Special City Council Meeting).

Transcribed by Gwen Fisher, Certified Municipal Clerk (CMC)