

**MINUTES OF THE  
VAN WERT CITY COUNCIL**  
February 10, 2020

The President called the meeting to order at 6:30 p.m.

Pastor Keith Stoller gave the invocation.

On call of the roll: Marshall, Kallas, Penton, Agler, Mergy, Hellman and Davis.

Agler made a motion approve the amended agenda for the 2/10/20 meeting; seconded by Davis; with all concurring. The agenda was amended to add the executive session at the end of council to discuss updates of the ongoing opioid lawsuit and to remove the Chris & Jody Wilson from Comments, Communications, and Petitions.

Mergy made a motion to approve the 1/27/20 minutes; seconded by Davis; with Marshall, Kallas, Agler, Hellman and Davis concurring. Penton abstained.

**COMMENTS, COMMUNICATIONS & PETITIONS**

President Tomlinson read three emails he had received. One was a request for information and the Mayor included that the FOA was a lengthy list, some found easier than others but it was being worked on. Hatcher noted he was available to help if needed. An email was received, dated January 22, 2020 to the zoning board of appeals from the city law director, followed by an opinion titled Haven of Hope review for city council. Another email mentioned was dated January 24, 2020 to Chris and Jody Wilson from Bill Lawson, as secretary of the zoning board of appeals. Lastly, a two-page email was received from Joshua J. Nolan, a lawyer for Haven of Hope. The president noted that these emails regarding Haven of Hope would be discussed during the city law director's report. (Communications are attached)

Robert Hickerson of 701 Elm Street was present to discuss semi trucks entering Gordon Street and questioned council how it could be prevented.

Fleming stated that signs were up prohibiting semi trucks but that he would have the Street Department make sure the proper signage was up. The President also suggested that Mr. Hickerson to take a picture or get logo information on the truck and to call authorities to make a report.

**ADMINISTRATIVE REPORTS**

**MAYOR:** The Mayor had no report due to the safety service and law director's report and the executive session.

**SAFETY SERVICE DIRECTOR:** Fleming reported that street bids for paving were about to begin for 2020 and he requested Hellman to request legislation on an emergency basis to bid and award contracts. The project was pushed back last fall due to high-priced bids. Fleming stated various streets on the agenda for these the bids. As spoken at last council meeting, ODOT is doing Washington Street this summer from the railroad tracks to 224/127 intersection, along with that they are doing Main Street from Washington to Shannon Street. ODOT requires preliminary legislation to make sure everyone is on board so legislation was requested for Hellman to request on an emergency basis. After that is agreed, ODOT will require formal legislation; therefore the process will run twice. Van Wert's cost is \$210,000, 20% of the project, as long as the estimate holds and the other one comes in at a million, Fleming stated we should be ok but that he wanted to evaluate both of them (paving and ODOT project) before deciding on all of the streets that are listed for paving. His wish is to see everything come together for it all to be completed. Fleming requested Hellman to request legislation to advertise and award bids for street painting. Over the last year, Van Wert has been planning to replace the Franklin Street pump station and Industrial Drive. Originally they were going to do Franklin Street but Industrial Drive needed attention so it was decided it was going to be more economic to bid the two projects together, with one contractor getting both jobs. The preliminary estimate for Franklin Street replacement is \$421,800 and Industrial Drive is \$170,000. The money will be taken from the sewer maintenance reserve fund and the Auditor will make appropriations with the permanent budget to allow the monies to be spent. Fleming stated that both estimates contained 10% contingencies and that the bidding climate was good and didn't foresee the estimates being any higher and that he wanted to get the bid out now so that the contractor had the summer to perform the work and legislation was requested from Davis to request on an emergency basis. Last year, a bid for the water tower painting came in at \$380,000 and that was for exterior painting only so they decided to wait for better bidding climate for January of this year. There was a base bid, based with a 25-year epoxy paint on it, the best that can be put on, adding 10-15 years of intervals of painting. A base bid came in at \$335,000; \$330,000 had been budgeted. Along with that, a bid was made for the inside to be recoated so the tower was on the same cycle at \$115,000. Fleming requested \$120,000 to be in the permanent budget so that the items could be done at the same time. Fleming spoke about the walking trails around the reservoir and the inability to maintain the asphalt and requested Penton to request a resolution allowing Fleming to apply for a grant from ODNR to help with monies to pay for the project. Fleming shared that Honeywell Corporation approached him about House bill 420, a state initiative that allows Van Wert to enter in an agreement with Honeywell where they design a heating and cooling system and build cost recovery based on energy savings. Fleming stated Van Wert will not get much cost recovery from energy savings even though it will be about \$9,000 per year. Fleming stated we've averaged over \$8,000 over each the last three years in maintenance issues related to the system. The project at hand with lights replaced, included is budgeted at \$959,710 and requested that we loan the money to ourselves with bonds that the Auditor would speak more on. Fleming closed

his report, stating that Honeywell would be preparing legislation and Hatcher would be receiving it and that legislation for the bonds would also need to be requested and prepared.

**AUDITOR:** Balyeat went over the bank reconciliation report (attached) for January 31. The first page shows \$12.3 million on the books and shows \$12.3 in various bank accounts and investments. The second page shows that we took in \$515,939 in revenue in January and we spent \$827,884.37, \$300,000 more than we took in, mostly because of the 3 pay periods in January. The statement of cash position shows a column of unexpended balance shows positive balances as required. The last two pages shows comparisons of revenues in January of 2019 and for January of 2020. The report shows \$507,000 for 2019 and \$515,000 for 2020. Balyeat stated income tax is up, she also stated that January was really hard to make predictions on. A Then and Now was shared (attached) for two invoices that needed to be approved for Innovative Office Supplies for the Municipal Court, in the amount of \$11,328.72, the second was for Smart Bill, Utility Billing, the January services for the billing, in the amount of \$3993.00. Balyeat mentioned that Agler would be requesting for the permanent budget to be prepared. Exhibits were not available because of glitches in the personnel budgeting component of the new software. Balyeat said she would be emailing an exhibit before the end of the week so everyone had time to study it before the next council meeting. Balyeat also stated it would need to be prepared as an emergency but would be read three times because it needs to be in place by April 1<sup>st</sup>. Balyeat spoke on the bonds that Fleming mentioned in his report. The plan is to issue municipal bonds and then buy them back. She referred to the bank reconciliation report, noting \$8 million in investments, showing in Huntington securities. Balyeat stated that rather than reinvesting the money into a treasury issue or CD, we would buy back the bonds issued. She shared the benefits of this process, interest is made on the debt but we receive the interest back because we have the investment. Balyeat shared that there were a couple of more things that needed verified before we moved any further. She shared an estimate for \$1 million issue is \$9,000, which is added on to the bond sale, with no out of pocket expense up front. Legislation would be prepared and available by the next city council meeting. Bonds should be to closed by mid March and if the process is started in April, the bill would be payable when received. Martha also said it would be a 20 year bond.

The President asked about percentage rate, Martha stated that Squires would do a survey to come up with the rate. The President explained the process and the benefits of funding large projects and that because we are a municipality; we are able to issue our own bonds. He also stated that a bond is simply a debt instrument.

Balyeat encouraged a finance committee meeting because the issuance of the bonds would need to be approved and the buying back of bonds would need to be approved as well.

**LAW DIRECTOR:** Hatcher provided information about a zoning appeal that would be coming back to council at the next meeting, regarding Haven of Hope. Hatcher's report included information on the property and a timeline on what has occurred to this point; a definition of

quasi/semipublic use that the city administration used to initially allow the property located at 233 N. Market St. to fall under that definition as part of the B-3 business zoning usage; information on Council's power of review of zoning decisions, and that power's limits; and his legal opinion on whether an appeal by Chris Wilson of the administration's decision to allow the homeless shelter/drop-in center under the above usage was filed in a timely manner. A letter from Joshua Nolan, an attorney for Haven of Hope was shared, stating that Wilson's appeal was not filed in a timely manner, since it wasn't filed within 30 days of the city's decision to allow the shelter on November 6, 2019. However, Hatcher noted that, because the Wilsons and neighboring residents were not notified of Haven of Hope's application, that was the basis for the city's decision, the statute of limitation for the appeal under Ordinance 150.66 did not apply. A more applicable date to use for the 30-day appeal limit was December 18, 2019, when Haven of Hope withdrew its appeal to the city. Wilson filed his appeal on January 2, 2020, which Hatcher said was within the 30-day limit. The law director noted that Franklin County Common Pleas Court had decided in 2000 that homeless shelters can be permitted as a "quasi-public" use (City of Bexley vs. Duckworth), but added that court's opinion was later overturned on appeal, although the reversal was on a technical issue not related to the "quasi-public use" issue. Hatcher stated his role was to make certain that City Council members reached a decision that was informed, well thought out and reasonable.

The President stressed to Council members that their job in hearing the appeal was not to decide whether a homeless shelter was needed or wanted in the city, but purely whether such a facility met the definition of quasi/semipublic usage under B-3 zoning.

## **COMMITTEE REPORTS**

**HEALTH, SERVICE AND SAFETY:** Marshall reported he currently had 10 code violations that were open.

Hatcher reported that a trial was scheduled for one of the current properties on Thursday at 1pm.

**ECONOMIC DEVELOPMENT:** Kallas reported that the economic development department is working with the owner of the 110 acre Laemmle farm partial on 127, north of Wal-Mart. They want to use portions of rent money, provided by AEP, Ohio to complete a phase 1 study. It is believed that having the environmental studies completed will make the site more marketable. Stacy Adam will be attending a meeting scheduled for March 3 with Jobs Ohio and the Regional Growth Partnership. They will be announcing a new brown field and green field site incentive program from Ohio Jobs that may also apply to spec buildings. Stacy Adam plans to update the board after the meeting.

**PARKS AND RECREATION:** Penton reported that Woodlawn cemetery operated at a loss for 2019. The number of full cost burials was down and has been down for the past two years. The trustees made a decision to make \$25 increases in fees.

Penton motioned for an ordinance to be prepared to allow the safety service director to submit grants for the ODNR recreational trail program on an emergency basis. Seconded by Mergy; with all concurring.

**FINANCE:** Agler requested to schedule a finance meeting at 6:15pm on February 24, 2020.

Agler motioned for an ordinance to be prepared for the 2020 permanent budget, on an emergency basis. Seconded by Kallas; with all concurring.

Agler motioned for an ordinance to be prepared for the issuance of bonds for the HVAC system, on an emergency basis. Seconded by Hellman; with all concurring.

Fleming requested to include the Properties and Equipment meeting with the Finance meeting, scheduled for 6:15pm, on February 24, 2020.

Agler motioned to approve the Then and Now invoice (attached) for Innovative Office Solutions for invoice number: 10088, in the amount of \$11,328.72 and Smart Bill Utility Billing for invoice number: 40826-F, in the amount of \$3,993.00. Seconded by Penton; with all concurring.

**JUDICIARY AND ANNEXATION:** Mergy reported that on January 31<sup>st</sup>, she and members of administration met with Garry Hunter of Ohio Municipal League, he represents the firm that is guiding Van Wert with getting the Charter Government issue on the ballot for November. The meeting was for the purpose of his opinion on the timeline on what was needed to be done and when, getting the word out and educating the public on the issue. A vote is not permissible on the issue any sooner than 120 days prior to the election date.

Hatcher stated that the election has to be no more than 120 days after passage of the ordinance and no less than 60 days.

Mergy stated the process would need to be started in June and passed by July 6<sup>th</sup>.

At least 15 committee members were required, no judges, no council members. Council decides how many signatures were required but could be as few as 5. All the names could be put on one petition or individual petitions, council decides. Once the legislation is in place, Hunter suggested that Van Wert begin the education process in August and again in October as a refresher. 2/3 of votes from council are required to put the issue on the ballot. Mergy stated that a contract was received and would be preceded in June.

Balyeat stated that the funds would need to be encumbered and that a requisition was required.

**STREETS AND ALLEYS:** Hellman motioned for an ordinance to be prepared, allowing the safety service director to advertise for street painting bids. Seconded by Agler; with all concurring.

Hellman motioned for an ordinance to be prepared for preliminary legislation for the 127/224, 118/709 ODOT project on an emergency basis. Seconded by Agler; with all concurring.

Hellman motioned for a resolution to be prepared, authorizing the safety service director to bid and award contracts for miscellaneous paving projects in the city of Van Wert on an emergency basis. Agler seconded; with all concurring.

**PROPERTIES AND EQUIPMENT:** Davis motioned for an ordinance to be prepared, allowing the safety service director to advertise for bids and award for the lift/pump station project on an emergency basis. Seconded by Mergy; with all concurring.

#### **UNFINISHED BUSINESS**

Code Enforcement  
Charter Government

#### **NEW BUSINESS**

#### **CONSENT AGENDA**

#### **ORDINANCES AND RESOLUTIONS**

At 8:00, Agler motioned to enter into an executive session for the purpose of discussing updates, regarding the ongoing opioid lawsuit. Seconded by Mergy; with all concurring.

At 8:10, Mergy motioned to exit the executive session. Seconded by Kallas; with all concurring.

Mergy made a motion to adjourn at 8:10 p.m.; seconded by Agler; with all concurring.

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CLERK

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PRESIDENT

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DATE