

MINUTES OF THE VAN WERT CITY COUNCIL

October 26th, 2020

President Jon Tomlinson 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 were present.

Mergy made a motion to approve the agenda for the October 26th meeting. Seconded by Agler; all concurred.

Mergy made a motion to approve the minutes for the October 12th meeting. Seconded by Agler; all concurred.

COMMENTS, COMMUNICATIONS, & PETITIONS

Tomlinson stated that he received a letter from the Van Wert County Regional Airport Authority - dated October 9th, 2020, but received today, October 26th, 2020 - with their official request to continue receiving funding. Tomlinson noted that all agencies are asked to submit a formal letter to request monies, so that those documents are on file when the budget is prepared. He gave this document to Agler, the Finance Committee chair.

Tomlinson also mentioned that he received an email on October 20th, 2020, as notification of the filing of the audit report. Ensuing discussion centered on whether the audit report had officially been released. After it was noted that it appeared to be officially released, Tomlinson reminded those in attendance that there is an audit every year, and Council had declined to hold an official meeting on the audit earlier in the year. As he read through the highlights, Tomlinson noted that one member of the last Council did not complete Sunshine Laws training. He reminded all elected officials present that Sunshine Laws training is required one time, for each term one is elected. Training can be found on the Ohio Attorney General's website, and currently can be accessed via asynchronous online training programs, or through virtual webcasts. He reminded all elected officials on a two-year term that they need to complete this training prior to December 31st, 2021. Four-year term officials have three more years to complete.

Judy Bowers, of 642 Center Street, asked if there was an update on the Franklin Park situation. Fleming noted he would cover that in his report.

Linda Agler Evans, of 1041 Fairfield Drive, said she was present on behalf of unspoken people. She mentioned that she had spoken to the Mayor (who was not present during this Council meeting), and expressed concerns regarding the Sunshine Laws. She specifically stated concerns regarding Zoom sessions that took place on September 11th, and October 20th, 2020. She stated she felt as if these meetings were "special meetings", and correlated with a meeting

from August of 2020, where she stated that Garry Hunter, of the Ohio Municipal League, came and spoke with the Council. She also put forth additional concerns regarding the notice given prior to Council meetings and other “special meetings” in the local newspapers and media outlets.

Discussion was held around the September 11th meeting, which Davis and Balyeat noted was not a Council meeting, and only Tomlinson, Davis, the Mayor, and Garry Hunter were present. As this meeting was only open to a select number of officials, this was not open to the public. Tomlinson also noted that they are not required to give notice for every meeting that takes place, especially those that do not have a majority of Council present.

Evans asked who interprets the Sunshine Laws for Council. It was stated that Hatcher was this person. Additional discussion ensued, and it was determined that Evans could ask the Law Director for an official opinion on whether Council had violated Sunshine Laws, and the Law Director would address it. She could set up a meeting with the Law Director, provide the information she had gathered, and he would provide an official opinion on the issue.

Regarding this issue, Evans stated that she was concerned about Hunter’s role in informational meetings, as she stated that Hatcher is the Law Director, and that Hunter is not under contract. Balyeat and Tomlinson corrected that Hunter is under contract with Van Wert. They have a contract with Hunter, but they have not been billed yet. Hatcher noted that Hunter has been retained as a special counsel for a specific purpose.

Tomlinson remarked that there are hundreds of meetings that take place in the Municipal Building, and not all of those meetings are subject to Sunshine Laws. Additional discussion on Sunshine Laws, training, and virtual meetings followed. Tomlinson asserted that if Sunshine Laws had been broken by Council, the Law Director’s official opinion will show that. He stated that, as far as he was aware, Council had not done anything that went against Sunshine Laws. If an official inquiry shows they have, they will address it. Hatcher explained that he will have Evans send him an email. He will set up a meeting in his office, and he can review whatever information she brings. Following that meeting, he will issue an opinion. Hatcher also noted that if Council ever has a question on Sunshine Laws, they can send those questions to him.

ADMINISTRATIVE REPORTS

MAYOR: The Mayor was not present during this meeting, so Fleming gave his report.

Fleming relayed that Stacy Adam, of the Van Wert Area Economic Development Corporation, reported the bidding for the Home Guard demolition project is scheduled for Thursday, October 29th, with the demolition process starting two weeks following that date, if not a little longer, depending on the contractor selected.

In-person early voting continues to be available every day through November 3rd. On Tuesday through Friday, those hours are 8:00 a.m. through 7:00 p.m. On Saturday, the hours are 8:00 a.m. to 4:00 p.m., and on Sunday, the hours are 1:00 p.m. to 5:00 p.m. A question was asked about the volume of voting so far. Fleming and Balyeat both stated that while they didn't have concrete numbers, they were told when they voted that more than 4,000 had already cast ballots.

Trick or Treat will be held Saturday, October 31st, from 4:00 p.m. to 6:00 p.m.

Leaf pickup will begin November 16th, and run for four consecutive weeks. Agler asked if brush pickup was over, and it was confirmed that brush pickup is over, and leaf pickup only will begin on the 16th.

Fleming updated those in attendance on the Franklin Park situation. At this time, there are five suspects. Charges have not been filed as of this time, but should be coming soon. There are four cameras that monitor those bathroom doors. They cannot put cameras inside the bathrooms, so sometimes that makes it difficult to discern who may have caused issues. They have a better handle on this situation, and charges will be coming soon.

Bowers mentioned that adolescents rode their bikes through her family reunion this summer. She wondered if it was possible to put signs up that would read no bicycle riding in the pavilion area. Fleming noted signage could be put up, but there is no guarantee that would deter the activity. Fleming also noted that several things would be evaluated with Franklin Park - and the rest of the parks - over the winter.

Penton asked if the doors were locked after hours. Fleming confirmed that, and mentioned they were on a timer system. Penton asked if cameras could be put inside and activated after hours. Fleming said cameras cannot be placed inside the restrooms. It was noted that due to this incident, the doors are now locked at 3:00 p.m.

Davis asked if a "dusk to dawn" timeline had been explored. Tomlinson noted that originally, the posted time had been dusk to dawn, but then arguments were brought forward as to the official definition of "dusk". Council then decided to post specific times at that point. Additional explanation followed, but it was again noted that evaluation of parks will occur over the winter, and also that signs and postings don't always deter delinquent behavior.

SAFETY SERVICE DIRECTOR: Fleming noted that they were working on a service leak on Washington today (10/26/20), and that was why traffic was a challenge.

Additionally, a main blow-up on Walnut Street occurred last week, and that street area is scheduled to be repaved this Thursday.

Fleming noted that the front door of the Municipal Building is now on a timer. There have been some bugs in the software, but in the future, it will not lock until 8:30 p.m. on Mondays to allow for entrance for Council meetings.

Heating units will begin to be turned on for the first floor of the Municipal Building this week.

AUDITOR: Balyeat started by detailing the supplemental appropriations that she would Council to approve on the night. These appropriations would affect Funds 101, 201, 229, 301, 601, 602, 701, and 875.

Balyeat also reviewed the health insurance rates for 2021 that would need to be approved by resolution during the meeting. She noted that rates will not change for 2021, and all aspects are exactly the same as 2020.

She also let Council know that they have started working on the budget for 2021. She will have information prepared for the first Council meeting in November. She asked Council what they would like to see - line by line items, or at the level that Council approves (personal services, fringe benefits, other operating, and capital outlay).

Tomlinson asked if they could see percentage increase and decrease over the last few years, and any differences could then be discussed. Tomlinson noted that most expenses are fixed, and most areas where they could cut have been cut already. Balyeat explained that using the .22 tax to fund salary and fringe benefits in police and fire limits the ability to add positions to the general fund, as Agler had requested an additional officer for code violations.

Additional discussion occurred on the ability to add a part-time code enforcement officer, but it was noted that conversation required other parties, and would require other steps before coming before Council and the public.

Balyeat mentioned she could share the line-by-line budget and make that available for Council.

Additionally, Balyeat explained a series of transfers that would need to be prepared for the next meeting.

Agler motioned to ask the Law Director to prepare a Transfer into Reserve for Retirement Liability Fund 550 from Funds 101, 201, 301, 601, 602, and 701, in the amount of \$57,924.00, on an emergency. Davis seconded; all concurred.

Agler motioned to ask the Law Director to prepare a Transfer from General Fund to Fund 302 Parks Capital Improvement in the amount of \$50,000.00, on an emergency. Davis seconded; all concurred.

Agler motioned to ask the Law Director to prepare a Transfer from Sewer Fund 602 to Sewer Maintenance Reserve Fund 603 in the amount of \$110,000.00, on an emergency. Davis seconded; all concurred.

Agler motioned to ask the Law Director to prepare a Transfer from Reserve for 27th Pay Fund 560 to Funds 101, 201, 301, 601, 602, and 701, in the amount of \$174,000.00, on an emergency. Davis seconded; all concurred.

Agler motioned to ask the Law Director to prepare a Transfer from Reserve for Retirement Fund 550 to Funds 101, 601, and 602, in the amount of \$50,153.30, on an emergency. Davis seconded; all concurred.

Evans asked where the public could find the line items of the budget. Balyeat said the public can request it, and she will send it to them. As it is a public record, all one needs to do is request a copy.

LAW DIRECTOR: The Law Director noted that changes had been made to the draft of Ordinance 20-10-056. After discussion with the Safety Service Director, all references to accepting the petition for conditional zoning have been removed. It will now only reference the annexation agreement.

Hatcher also gave an update on Municipal Court happenings. A massive underage drinking party incident, which took place some 5-6 weeks ago, has been working its way through the court, with about 75 cases resulting from that situation. Many of these young adults are completing community service and taking educational classes as part of a diversion program, as most did not have criminal histories.

He also mentioned that there was a rash of domestic violence cases that resulted from the lockdown situation. Many of these cases have been worked through, but these types of cases can cause a strain on the families and the courts, as they are difficult situations.

Hatcher spoke on nuisance cases they are currently working through. There have been positive outcomes in some of the cases, but others still need to be ironed out, especially in relation to service cases. He explained that he is working through these service issues with the courts and the police department. He is attempting to make the cases go through his office and through the courts more quickly and more uniformly.

Tomlinson asked if any of the service issues would require legislation changes. At this moment, Hatcher does not believe so.

Hatcher again noted the cross-agency discussions that have taken place. He reiterated those discussions are going well, and he expects effective results in the future from this cooperative effort.

He also mentioned that they are still dealing with cases where people are fighting tooth and nail, and taking care of those cases is the next step.

Penton asked about two properties on South Vine. Hatcher acknowledged that is a major problem, and noted those are two of the situations they have worked to address.

COMMITTEE REPORTS

HEALTH, SERVICE, and SAFETY: Marshall noted that he has very few new violations on his report since the last Council meeting. The amount of outstanding cases he has is decreasing, and some of that is due to the positive work coming out of recent meetings. He expects other cases to be closed soon.

Agler asked if they need to look into their fencing ordinance. Marshall said he planned to introduce legislation at the next meeting. Hatcher added to this, noting that there will be changes to the current fencing ordinance, and that he planned to send a draft to those on the committee prior to the next meeting.

ECONOMIC DEVELOPMENT: No report at this time.

PARKS AND RECREATION: Penton restated the need for the Parks Department to hire another employee. He explained the continual struggle the department has serving the public with their budget and employee situation.

FINANCE: Agler made a motion for the Law Director to prepare an ordinance to make supplemental appropriations to Funds 101, 201, 229, 301, 601, 602, 701, and 875, on an emergency. Mergy seconded; all concurred.

Agler motioned to introduce **Ordinance Number: 20-10-055**. Mergy seconded, all concurred. Agler motioned to suspend statutory rules to **Ordinance Number: 20-10-055**. Mergy seconded; all concurred.

Agler motioned to pass **Ordinance Number: 20-10-055 - AN ORDINANCE TO MAKE SUPPLEMENTAL APPROPRIATIONS TO FUNDS 101, 201, 229, 301, 601, 602, 701, 875, AND DECLARING AN EMERGENCY.**, on its first and final reading. Mergy seconded; all concurred.

Agler made a motion for the Law Director to prepare a resolution approving the rates for employee contribution and employer's participation in the city of Van Wert's healthcare program, on an emergency. Mergy seconded; all concurred.

Agler motioned to introduce **Resolution Number: 20-10-057**. Mergy seconded, all concurred. Agler motioned to suspend statutory rules to **Resolution Number: 20-10-057**. Mergy seconded; all concurred.

Agler motioned to pass **Resolution Number: 20-10-057 - A RESOLUTION APPROVING THE RATES FOR EMPLOYEE CONTRIBUTION AND EMPLOYER'S PARTICIPATION IN THE CITY OF VAN WERT'S HEALTHCARE PROGRAM AND HEALTH SAVINGS ACCOUNT (HSA) PROGRAM EFFECTIVE ON JANUARY 1, 2021 THROUGH DECEMBER 31, 2021, AMENDING RESOLUTION 19-12-074 AND DECLARING AN EMERGENCY.**, on its first and final reading. Mergy seconded; all concurred.

Agler asked if a discussion regarding moving code enforcement to law enforcement duties needed to be a discussion of the finance committee, or as a committee of the whole. Tomlinson cautioned that conversation needed to involve the Police Chief and other parties. Balyeat explained that the original use of the .22 tax was that the number of officers on the police force would stay the same. Fleming didn't believe that the public voted for code enforcement to be part of law enforcement. Tomlinson noted that a meeting could be held. He suggested scheduling a meeting with Fleming and the Police Chief. He reminded Agler that if he schedules a finance committee meeting, that would require public notice. He stated that it was Agler's call whether to schedule a finance committee meeting first, or hold a smaller meeting with Fleming and the Police Chief initially. If something could move forward following that meeting, then he could schedule a finance committee meeting, open to the public and with public notice given, to further discuss the issue. Agler acknowledged he would meet with Fleming and the Police Chief as a first step.

JUDICIARY AND ANNEXATION: Mergy made a motion for the Law Director to prepare an ordinance to authorize the Mayor and President of Council to enter into an annexation agreement with Alliance Properties Group, LLC. Agler seconded; all concurred.

Mergy motioned to introduce **Ordinance Number: 20-10-056.** Agler seconded, all concurred.

Mergy motioned to suspend statutory rules to **Ordinance Number: 20-10-056.** Agler seconded; all concurred.

Mergy motioned to pass **Ordinance Number: 20-10-056 - AN ORDINANCE TO AUTHORIZE THE MAYOR AND PRESIDENT OF COUNCIL TO ENTER INTO AN ANNEXATION AGREEMENT WITH ALLIANCE PROPERTIES GROUP, LLC TO ANNEX 22.763 ACRES OF LAND LOCATED ON JOHN BROWN ROAD INTO THE CITY OF VAN WERT AND DECLARING AN EMERGENCY.**, on its first and final reading. Agler seconded; all concurred.

No further report.

STREETS AND ALLEYS: Hellman indicated he received an email from Van Wert Recycle. He relayed this information to Fleming, who is looking into the matter for the next meeting.

PROPERTY AND EQUIPMENT: No report at this time.

UNFINISHED BUSINESS

Tomlinson indicated that code enforcement had been discussed, and would remain on the agenda.


He also reminded those in attendance that the charter government topic was on the ballot, with several other items, and the vote was just over a week away. He urged all to vote on the many issues on the ballot.

NEW BUSINESS


CONSENT AGENDA

RESOLUTIONS & ORDINANCES

Agler made a motion to adjourn at 7:36 p.m. Kallas seconded; all concurred.



Clerk



President

11/09/20

Date