

MINUTES OF THE VAN WERT CITY COUNCIL

May 24th, 2021

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, Mergy, Hellman, and Davis were present.

Marshall made a motion to excuse Agler. Penton seconded; all concurred.

Mergy made a motion to approve the agenda for the May 24th Council meeting. Kallas seconded; all concurred.

Mergy made a motion to approve the minutes for the May 10th Council meeting. Kallas seconded; all concurred.

COMMENTS, COMMUNICATIONS, & PETITIONS

Tomlinson relayed that he had received an email, with several attachments, from the Ohio EPA related to a Van Wert screening for a water supply revolving loan project. Tomlinson noted that he had communicated with city administration on the matter, and that administration would be taking care of that situation. Tomlinson also confirmed that the parties that need to be invited for any meeting, would be invited.

Tomlinson also made note of a flyer that all members of Council had received in regards to a Vantage house that will be auctioned. The flyer detailed that a house, built by Vantage junior and senior carpentry students, located at 148 Kepler Street (Van Wert), would be auctioned on July 22nd at 6:30 p.m. on site. An open house is scheduled for June 27th, as well as July 11th, from 1:00 - 2:00 p.m. for those interested. This is a 3-bedroom, 2-bathroom home, with 1217 square feet of space. For more information, call or email Jim Shaffer -- 419-795-5511 or jdshaffer77@hotmail.com.

ADMINISTRATIVE REPORTS

MAYOR: Markward requested that Council move into an Executive Session, toward the end of the meeting, for the purpose of the potential purchase of real estate, based on information that will be provided by Stacy Adam. Markward noted that no action would be taken when Council exited the Executive Session and prior to adjournment. Tomlinson then confirmed they would enter Executive Session following the resolutions and ordinances section of the meeting.

The Mayor had no further report for the evening.

SAFETY SERVICE DIRECTOR: Fleming referenced the email from the Ohio EPA that Tomlinson had made mention of earlier, informing Council that they are working diligently on the meter replacement program. Fleming relayed that they have been told that the supply of meters is now approximately three months out, and due to that, installation will likely begin around March 1st, 2022. He explained that the current timeline, with bidding in September and meter arrival three months after, would push into winter, and they can't install the meters with snow, ice, and frozen ground. So, the installation will likely be pushed into 2022. He also noted again that the loan Tomlinson mentioned earlier was tied to this project, and they would be providing more information to Council in the near future.

Fleming also informed Council that they have begun work on the water and sewer extension that was part of the agreement with Alliance Automation.

Finally, Fleming mentioned the accident at the parklet in front of Brewed Expressions on Main Street. He stated that the parklet has been rearranged as a result. He also stated that no cars had been hit on that block of Main Street in the 20 years he has been working for the city, so it was surprising that the accident happened now after Main Street Van Wert instituted the parklet.

AUDITOR: Balyeat opened by addressing a flyer about the proposed charter city legislation, which she said was circulating around Van Wert, by an unsigned/unnamed person(s). She continued to state that the information on the flyer was untrue, except for the single statement that Van Wert is a statutory city.

Balyeat then detailed an invoice, for Crime Victims Services, in the amount of \$3,479.00 that she asked to be approved on a Then and Now. She explained that part of the Law Director's budget, which the city is required to provide, is money directed to the Crime Victims Services program.

Balyeat also provided details on supplemental appropriations that she would ask Finance to request legislation for during the meeting. The supplemental appropriations were to the General Fund (101), in the amount of \$27,200.00, for two retirement fund payouts in the Fire Department, a piece of equipment for the Parks Department, and new software and training for the Auditor's office, and to the Water Fund, in the amount of \$25,000.00, for the sand replacement project.

LAW DIRECTOR: Hatcher explained that he had been asked by a citizen to issue an opinion on whether city administration had the authority to allow the parklet to be installed. He stated that he reviewed Ohio Revised Code and the city's ordinances and procedures, and took into consideration the stated idea of the parklet, which is a "temporary use" of a parking space, and one not funded by the city. In his legal opinion, it is within the legal authority of city administration to allow this temporary set-up. He continued that, as this is not a permanent

change to a parking space, then by analogy, he would now view this any differently, in terms of authority, as allowing the city to block off a street for a special event or allow a business to have an extra large trash receptacle in front of their business. He also stated that if this would become a permanent change to a parking space, then that would require an ordinance to come before Council. Hatcher said that everyone is entitled to their opinion, and different viewpoints on the parklet are allowed, his official legal opinion is that it is within the city's authority to allow that temporary setup.

Joe Jared asked Hatcher for further definition of the word "temporary". Hatcher responded that, if it is for a finite period of time, then it is considered temporary.

Penton asked if the parklet has increased the business of the area. Mitch Price, of Main Street Van Wert, stated that it has increased business, not only for Brewed Expressions, but for other businesses in the area. Jared stated that, in his opinion, this increased traffic could have been accomplished by putting out tables or benches in front of Brewed Expressions on the sidewalk, similar to Truly D'vine.

Markward commented on the specificity of the terms "temporary" and "finite period of time", noting that these were vague, and asked if there was a standard that could be addressed. Hatcher stated that if this were in a statute, temporary would have a specific definition. If it's not a matter of statute, then it reverts to the common definition of temporary, such as looking it up in the Merriam-Webster dictionary. Hatcher also recalled that Markward originally stated that the parklet would be rotated every 5 weeks, and that is what he based his opinion on. Hatcher continued to explain that if this turned into the entire summer, every summer, year after year, that would contradict the definition of temporary. There is no specific definition of temporary for this situation within the research Hatcher has done, and his opinion is based on the timeline that was originally given.

Markward explained the changes that could occur, with the original intent for the parklet to be in place for 6 months, rotating in front of the businesses that expressed their interest. He noted that some businesses may choose not to have the parklet in front of their location, which would then increase the amount of time the parklet is in front of others. Hatcher stated that if those details do change, then it would be prudent for Markward, or Main Street Van Wert, to come before Council and request an official change, or officially ratify the construction, by legislation.

COMMITTEE REPORTS

HEALTH, SERVICE, and SAFETY: Marshall discussed a meeting held with the Law Director and Bill Lawson, approximately two to three weeks ago, regarding the issues of junk vehicles across the city and maintenance of properties, as well as the timeframe for resolving issues that move to court. He asked the Law Director to further clarify those matters, and if there was additional action that could be taken to hold parties responsible for resolution.

Hatcher stated that there are minor procedural items that could be instituted, which aren't currently part of the typical procedure. He explained that there could be a delay in sentencing from a plea, or a chance to get into compliance with extending deadlines, but that the goal is ultimately to work with the public to resolve these issues. He noted that the preferred outcome is resolution instead of a fine. He also stated that he agreed there needs to be a way to hold someone's feet to the fire, if necessary.

Marshall asked if there is any type of ordinance that could be put into place to further hold parties accountable. He stated that one way could be to change the fine structure for repeat offenders. He noted that it is a Council issue and not a court issue. Changing procedures around pleas and sentencing is a measure the court could work on with Council.

Marshall asked if someone could be held in contempt of court if they haven't made a good faith attempt for resolution. Hatcher noted that could depend on the sentence, the type of fine and the type of situation. If something is not in line, or sufficient progress has not been made by the deadline given the court, that person could be held in contempt of court, instead of filing new actions.

Tomlinson asked Hatcher if the court was ok with adjustments in sentencing guidelines in attempts to get better compliance, or what Council can do to help with the process. He noted that in the past, he has heard complaints that people are directed to the court, but the accountability measures don't hold, and it starts right back over. Davis noted that the fine or monetary aspect of it isn't the most important piece, but that resolution/compliance is the preference.

Hatcher continued to discuss the process and the situations that could play out. At the end of the discussion, Tomlinson noted that there would be three weeks until the next Council meeting, and asked the Law Director to talk to the court and get the buy-in for changes, and he asked Marshall to schedule a committee meeting in the future for enhancements to statutes.

Marshall also addressed a large number of junk vehicles and unregistered vehicles around the city. Marshall explained that COVID shutdowns affected the ability to register vehicles with the License Bureau, so that was part of the issue. And, as a result, the Police Department wasn't citing vehicles. Marshall mentioned that he had reviewed the ordinances, which addresses these issues, citing Ordinance 96.01, and noted that there was action the city could take for yards that have significant amounts of junk or rubbish, scrap, or junk vehicles/parts.

Hatcher made note that the moratorium on unregistered vehicles is coming to an end soon, and that those actions could easily be put into effect then. Tomlinson clarified that the key terms were registered and operational in regards to vehicles.

Penton asked if penalties are attached to the property owner or to the vehicle owner, with regards to tenant situations. Hatcher noted he will review. Marshall closed by stating he didn't think new legislation was needed in this case, only for the current ordinances to be enforced.

Jared asked if penalties had already been doubled last year. It was clarified that fines for mowing were increased last year, but it had been multiple years since fines for vehicles had been increased. Tomlinson reiterated that Marshall didn't believe new legislation was needed in this situation, only that current ordinances be enforced.

Davis asked if we needed to address the citywide clean-up that was in the works. Tomlinson noted he had discussed this with Marshall prior to the meeting, and the next step is to get a representative from Young's Waste to a Council meeting so it could be discussed in-person.

Health, Service, and Safety had no additional report for the evening.

ECONOMIC DEVELOPMENT: Kallas ceded the floor to Stacy Adam. Adam asked Council to consider a piece of legislation amending the City of Van Wert Job Creation Incentive Program Guidelines and Application. She provided members of the current program document, and directed Council to page 2, which contained a tier matrix for companies' Qualifying New Payroll amounts. Under Tier 3, which is for companies that create \$10,000,000 or more of payroll, Adam asked Council to reinsert "20 years" under the term, instead of the current "negotiable", reestablishing language that had been in this document at a previous time. She explained the term "negotiable" cut the incentive amount that businesses could rely on, as it automatically reverts back to the Tier II term and incentive factor defined.

Dave Mosier asked about the minimum details of that set-up, and Adam explained the details. She also noted all of those details are outlined and defined in the current program document. Davis asked who tracks the information for this program. Adam noted that the City Tax Administrator tracks, calculates, and approves the payments.

Fleming also noted that the language of this ordinance had been adjusted, authorizing the Mayor to approve implementation and awarding of the incentives.

Kallas made a motion to ask the Law Director to prepare legislation to amend several ordinances that would revise the City of Van Wert Job Creation Incentive Program, on an emergency. Davis seconded; all concurred.

Kallas made a motion to introduce Ordinance Number 21-05-034. Davis seconded; all concurred.

Kallas made a motion to suspend statutory rules for Ordinance Number 21-05-034. Davis seconded; all concurred.

Kallas made a motion to pass Ordinance Number 21-05-034: AN ORDINANCE AMENDING ORDINANCE 10-12-075, 17-06-040, 17-07-047, 17-09-053, 17-09-057, 19-06-033, AND 19-11-072 REVISING THE CITY OF VAN WERT JOB CREATION INCENTIVE PROGRAM AS A DEVELOPMENT TOOL TO RECRUIT AND RETAIN BUSINESS IN THE CITY OF VAN WERT AND DECLARING AN EMERGENCY., on its first and final reading. Davis seconded; all concurred.

Hatcher informed Council that, as of May 17th, the Division of Liquor Control had received the DORA application. They will have a response to the city within 14 days. Price noted he had talked with the Division of Liquor Control earlier in the day, and they hoped to have a response by the end of the week. Once Price receives the approval notice from the Division, it will officially be in effect. Price stated that cups are ordered, signs are ordered, and training is planned for the businesses involved. He will discuss with Bill Lawson where to post the signs. Fleming asked Price to let the Police Department know when it is in effect.

Jared noted that adding the alley behind businesses to the north side of Main Street to the DORA district would be beneficial. It was explained that it is not included yet, as construction will be occurring in that area in the future, but since Council reviews the DORA legislation each year, it could be added down the road.

Economic Development had no additional report for the evening.

PARKS AND RECREATION: Price noted that Kyle Klinker and the Parks Department have done a great job with the ballparks and the summer ball program. Penton noted that the numbers have gone up over the past three years, and gave Klinker the credit. Fleming noted that the recent fishing tournament was also a success.

Parks and Recreation had no additional report for the evening.

FINANCE: Agler was absent for the evening, and Mergy filled in as the vice chair of Finance.

Mergy made a motion to approve the Then and Now invoice payment to Crime Victims Services in the amount of \$3479.00. Hellman seconded; all concurred.

Mergy made a motion to ask the Law Director to prepare legislation for supplemental appropriations to Funds 101 and 601, on an emergency. Hellman seconded; all concurred. Mergy made a motion to introduce Ordinance Number 21-05-038. Hellman seconded; all concurred.

Mergy made a motion to suspend statutory rules for Ordinance Number 21-05-038. Hellman seconded; all concurred.

Mergy made a motion to pass Ordinance Number 21-05-038: AN ORDINANCE TO MAKE SUPPLEMENTAL APPROPRIATIONS TO FUNDS 101, 601 AND DECLARING AN EMERGENCY., on its first and final reading. Hellman seconded; all concurred.

Finance had no additional report for the evening.

JUDICIARY AND ANNEXATION: Mergy noted that discussion was held at the May 10th Council meeting in regards to the possibility of placing the charter commission issue on the ballot for the November 2022 general election. She opened the floor for discussion from Council on this issue.

Hellman stated that he disagreed with a section of the possible legislation, a section stating that if there were fewer than 15 qualified electors who had submitted nomination paperwork for the charter commission by the deadline, then Council could nominate electors to be added to the ballot so that the ballot contained 15 candidates. Hellman argued that if there were less than 15 candidates for the ballot, then the issue should be “dead in the water”, and Council should not have the ability to nominate or add names to the ballot.

Davis stated that he agreed with Hellman. Hatcher noted that this was the same language that was passed prior to the previous election, and Tomlinson noted that this section was suggested by Garry Hunter during their discussions prior to the last election. Further discussion ensued, but it was Council’s suggestion to remove this section prior to the preparation of this legislation.

Davis also mentioned that, post-election, if the citizens of Van Wert have approved the charter commission, and there is a time where there are fewer than 15 charter commission members, then Council has the authority to nominate members to reach the 15 number. Hatcher noted that, even if this happened, whatever charter is drafted by the commission would then have to be approved by the public again by vote, as the initial issue on the ballot would be whether to select a charter commission, and then any charter drafted by the commission would also have to be approved by the general public by majority vote.

Judy Bowers-Agler asked for a copy of the document that Council had been referring to during this discussion. Hatcher confirmed he would print a copy off for her after the meeting.

A short conversation then took place about the timing of any vote on the issue, and it was stated that a final vote, if approved by Council, would have to be completed by July 2021.

Mergy made a motion to ask the Law Director to prepare legislation for submitting the question of selecting a commission to frame a charter to a vote of the qualified electors of Van Wert, on an emergency. Davis seconded; all concurred.

Mergy made a motion to introduce Ordinance Number 21-05-039. Davis seconded; all concurred.

Judiciary and Annexation had no additional report for the evening.

STREETS AND ALLEYS: Streets and Alleys had no report for the evening.

PROPERTY AND EQUIPMENT: Property and Equipment had no report for the evening.

UNFINISHED BUSINESS

Tomlinson noted that code enforcement was discussed during the meeting. He also noted that the citywide trash clean-up was also addressed during the night's meeting, and would continue to stay on Unfinished Business.

NEW BUSINESS

There was no new business brought before Council.

CONSENT AGENDA

There were no items on the Consent agenda.

RESOLUTIONS & ORDINANCES

Kallas made a motion to introduce **Ordinance Number 21-05-037**. Hellman seconded; all concurred.

First reading advisory for **Ordinance Number 21-05-037: AN ORDINANCE TO AMEND VAN WERT CITY ORDINANCE 150.15 PERMITTED AND CONDITIONAL USES**. All concurred; first reading passed.

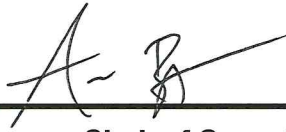
First reading advisory for **Ordinance Number 21-05-039: AN ORDINANCE SUBMITTING THE QUESTION OF SELECTING A COMMISSION TO FRAME A CHARTER TO A VOTE OF THE QUALIFIED ELECTORS OF THE CITY OF VAN WERT AND DECLARING AN EMERGENCY**. All concurred; first reading passed.

Davis made a motion to enter into Executive Session at 7:28 p.m. for the purpose of discussion of the potential purchase of real estate. Kallas seconded; all concurred.


Davis made a motion to return from Executive Session at 7:48 p.m. Marshall seconded; all concurred.

ADJOURN

Davis made a motion to adjourn at 7:49 p.m. Mergy seconded; all concurred.



**Clerk of Council
Andrew Bittner**



**Council President
Jon Tomlinson**

6/14/2021

Date

