

MINUTES OF THE VAN WERT CITY COUNCIL

August 23rd, 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, Agler, Hellman, and Davis were present.

Davis made a motion to excuse Mergy. Agler seconded; all concurred.

Davis made a motion to approve the agenda for the August 23rd Council meeting.
Agler seconded; all concurred.

Davis made a motion to approve the minutes for the August 9th Council meeting. Agler seconded; all concurred.

COMMENTS, COMMUNICATIONS, & PETITIONS

Tomlinson provided an update on the educational and informational meeting for the 23 charter commission candidates that was discussed at the August 9, 2021 meeting. This meeting is scheduled for Monday, August 30, at 6:00 p.m. in the Council Chambers meeting room. Tomlinson stated that this meeting would be closed to the public, as it is only an informational meeting and directed to the 23 candidates that will be on the ballot. The only people invited to this meeting are those 23 candidates - members of Council are not invited/will not be in attendance. Tomlinson also stated that a similar future meeting will be scheduled for the public closer to the early voting period.

Hatcher then provided an additional comment, noting that this type of meeting would not violate Sunshine Laws, as it is not a Council meeting, and therefore a majority of Council members will not be in attendance. As Council members will not be invited, and it is only for the 23 candidates on the ballot issue for the charter commission and the three outside speakers for the informational meeting, it does not need to be a public meeting. It was noted that Tomlinson could attend, but he would be there as a member of the 23 candidates, not as Council President, as he is not running for another term as Council President, and is instead on the charter commission ballot.

Joe Jared asked if the meeting would be recorded, and available for the public to watch. Tomlinson stated that it would be recorded, and he would make sure it gets posted to the city website in the same manner as City Council meetings are posted.

ADMINISTRATIVE REPORTS

MAYOR: Markward reminded those in attendance and, members of the public watching, that brush pick-up will begin the week of Monday, August 30, 2021, so residents should have their brush out to the curb by Monday morning.

Markward stated that tickets for the citywide clean-up were made available on Monday, August 16, 2021, and as of the afternoon of Monday, August 23, there had been 45 tickets claimed. He clarified some of the logistical questions that had been posited. He stated that residents should understand that items will be taken to Young's transfer station → Young's will not pick up items at residents' homes. The details of the clean-up are being provided with the tickets. Residents are also able to take items that are not covered under the provisions of the clean-up, but those items will need to be weighed and cost covered out of their own pocket, as usual.

Markward also informed Council and the public that Danfoss (which is the company that purchased Eaton) had offered to double that amount. This increases the number of tickets available to 300. If 300 tickets are not claimed or used, then Danfoss still would like to pay for half of whatever cost is incurred by the event. Their goal is to set a precedent for area businesses, and hopefully see similar contributions in the future by others.

SAFETY SERVICE DIRECTOR: Fleming reported the Market Street bridge is now open, and it is very near completion. He also stated that the paving contracts for the next section have been awarded, but there is no timeline as of this time. Dave Mosier clarified that this next section to be paved would be from Keplar Street to the railroad tracks, and Fleming confirmed.

Fleming informed Council that an application had been submitted this morning, August 23, for \$660,000, which would be used for the Woodland Avenue water line. They are attempting to get this project under Ohio's infrastructure ARC funding initiative that just became available.

AUDITOR: Balyeat detailed supplemental appropriations for a piece of legislation she would ask to be prepared, explaining appropriations to Fund 101 General Fund (\$1,000.00 to Safety Service Fringe Benefits, \$150,000.00 to Council Other Operating, \$2,000.00 to Municipal Court Fringe Benefits); Fund 215 Economic Development (\$4,200.00 to Other Operating City Clean-up); Fund 601 Water Fund (\$2,000.00 to Water Plant Fringe Benefits); Fund 602 Sewer Fund (\$4,686.05 to Sewer Collection Personal Services, \$1,000.00 to Sewer Collection Fringe Benefits); Fund 801 ESID Fund (\$6,285.61 to Other Operating); and Fund 875 Woodland Cemetery (\$2,022.61 to Personal Services, \$10.39 to Other Operating). She asked Agler to request this be prepared on an emergency.

Keith Stoller asked if the old Van Wert Inn was going to be demolished. Tomlinson explained the goal is to purchase, demolish the building, prepare the area for future construction, and then sell the property for someone to develop.

LAW DIRECTOR: Hatcher issued his legal opinion on Agler's question of whether Council can require residential properties to have utilities, even if vacant. Hatcher stated this was not a legal option.

Hatcher did, however, discuss other possible options, such as vacant building licensing, and noted he would prepare more information for Council on that at a later date. He noted that manpower for enforcement may limit options through this particular process, but he would provide a mockup for future discussion.

Jared asked about criminal prosecution for those that haven't filed income tax returns for years, and suggested that parties who are first time offenders, or may not have realized they made an error, be exempt from this prosecution. Hatcher stated that those in question have not filed and have not paid. He stated if there are additional factors to consider, then it will be resolved in the due course, and the right thing will be done.

COMMITTEE REPORTS

HEALTH, SERVICE, and SAFETY: Marshall opened by referring Council to a mock-up of a possible indigent burial ordinance for study and discussion.

Marshall pointed out that the mock-up, as currently written, stated that cremains would be stored at the funeral home. He countered, however, that the funeral homes will only keep those cremains for a certain period of time, not indefinitely. Hatcher stated that if he receives additional information on the process, then he will make the appropriate edits.

Hatcher also noted that if an application process, which Council has discussed, is approved, then that will also need to be put into the legislation. Balyeat shared that she had three examples of applications, and will forward to Hatcher.

Balyeat questioned the portion of the legislation that would require that the city make reasonable attempts to determine if a person is legitimately indigent. She argued that the city should not be responsible for this step, as they do not have this information. The application process, which the funeral home will fill out, would help determine this information. Others agreed the city should not be responsible for this information, and that it should come through the application process.

Tomlinson stated that there should be language that the city will only pay for cremation only, once the application for indigent burials has been submitted and approved.

Kallas also asked if there should be language around storing or burying cremains in a marked area at a local burial plot. Balyeat clarified that Ridge Cemetery has plots available to the city, and Marshall stated that he had confirmed that.

Kallas asked about wording that would require the funeral home to wait to cremate. Tomlinson suggested that the funeral homes have ways to keep bodies, if needed. If they choose to cremate prior to application approval, and the application is denied, then the city is not covering that cost.

Tomlinson reminded everyone that this was a mockup, and further information will be added to it. He noted it could be edited, brought back to the next meeting, and then asked for official preparation if satisfied at that point.

Marshall also informed Council that he met with the Law Director last week to discuss properties that he is looking into. He stated these properties have been on record, from abandoned properties to properties with other issues. Hatcher will get additional information to him by the end of the week. Tomlinson clarified that these are residential properties, and Marshall confirmed.

Marshall also discussed abandoned houses and boarded up properties throughout the city. He stated that he had reached out to the code enforcement officer, and received pictures of these properties. He noted that some of the properties in question hadn't been lived in for 5 years. He explained that these properties affect the value of surrounding properties, especially surrounding properties that may be for sale now or put up for sale in the future.

He said the question now is how to approach these situations - through renovation, rehabilitation, or other courses of action. Tomlinson asked how many of these properties are repeat offenders, to which Marshall answered many of them are repeat offenders or have already been on the radar through nuisance violations. Tomlinson asked why these issues have not been resolved, and whether it is a court issue or a nuisance property issue. Hatcher stated that some of the properties have deceased owners and have never been probated. Other property owners have been brought to court, fined, brought to court, fined, but yet the cycle continues without resolution. And in other situations, the property owners have left and cannot be contacted or located.

Stacy Adam suggested that if the owner is deceased, and taxes aren't being paid, that should trigger a legal action. And similarly, she suggested that if an owner left, and was not paying taxes, then that should also trigger a legal action. She asked if the tax records had been researched. She asked for the list of properties. It was noted that if at least two years have past, then some actions can be taken. Fleming asked why the probate process hasn't been filed in some of these circumstances. Tomlinson asked for tax records, and suggested that to discuss this fully, a committee meeting would need to be scheduled.

Davis asked about ordinances in Van Wert compared to other communities - Kettering, Centerville, Springboro - and noted that he sees situations here that he doesn't see there. He asked if ordinances and policies are different here than in those areas. Hatcher stated the

policies are similar, but there is a significant tax base difference, and a larger enforcement arm. He explained that the budget differences and socio-economic differences between Van Wert and those areas are a major part of the difference. Balyeat asked about a difference between areas like Ottoville, Kalida, and others against Van Wert. Hatcher stated he didn't have the answer to that question at this time.

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

ECONOMIC DEVELOPMENT: Kallas ceded floor to Stacy Adam, who provided an update on the Van Wert Inn process. At this time, there has been no closure on that property. A purchase agreement has been signed, and they are in the process of due diligence, which includes a Phase I environmental study and an asbestos assessment. They have asked for those results by September, and look to close on the property by the end of September, if there are no surprises.

Secondly, Adam notified Council that the executive committee for the Convention and Visitors Bureau (CVB) met, and decided to transition the CVB under the Van Wert Area Economic Development Corporation (VWAEDC). After the longtime director, Larry Lee, retired, the deliberation of options and the financial position directed this decision, and the VWAEDC agreed to take on that responsibility. VWAEDC is currently considering part-time and full-time positions as part of this move, in order to access a larger pool of candidates.

Adam also informed Council that the 100,000 square foot spec building on the Ohio Inventory Site Program has been approved. The same developer that put up a 100,000 square foot building on Kear Road will be putting up this building. Vision Drive will be extended as part of this project. With Vision Drive extended, there will be access to the new spec building site, as well as access to the 59-acre Certified Site Ohio site that is adjacent. This project will also remediate the floodplain issue in Industrial Park from Maddox Creek. Remediation will be completed, at the latest, by May 1, 2022. Construction on the spec building will start May 1, 2022, with completion by May 1, 2023.

Jared asked about the calendar of events that the CVB had maintained online. Adam said they are reviewing the website in general, and looking at options to bring that website back up to the way it was, or revamping the website overall.

Economic Development had no further report for the evening.

PARKS AND RECREATION: Parks and Recreation had no report for the evening.

FINANCE: Agler made a motion to ask the Law Director to prepare legislation to make supplemental appropriations to several funds, as detailed by Balyeat earlier in the meeting, on an emergency. Kallas seconded; all concurred.

Agler made a motion to introduce Ordinance Number 21-08-048. Kallas seconded; all concurred.

Agler made a motion to suspend statutory rules for Ordinance Number 21-08-048. Kallas seconded; all concurred.

Agler made a motion to pass Ordinance Number 21-08-043: AN ORDINANCE TO MAKE SUPPLEMENTAL APPROPRIATIONS TO TO FUNDS 101, 215, 601, 602, 801, 875 AND DECLARING AN EMERGENCY., on its first and final reading. Kallas seconded; all concurred.

Finance had no additional report for the evening.

JUDICIARY AND ANNEXATION: Judiciary and Annexation had no report for the evening.

STREETS AND ALLEYS: Hellman made a motion to introduce Ordinance Number 21-08-047. Kallas seconded; all concurred.

Hellman made a motion to suspend statutory rules for Ordinance Number 21-08-047. Kallas seconded; all concurred.

Hellman made a motion to pass Ordinance Number 21-08-047: A RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF VAN WERT, TO ENTER INTO A CONTRACT WITH YOUNG'S WASTE SERVICE FOR THE USE OF ITS TRANSFER STATION FOR A CITY WIDE CLEAN UP DURING THE MONTH OF SEPTEMBER 2021, AND DECLARING AN EMERGENCY., on its first and final reading. Kallas seconded; all concurred.

Streets and Alleys had no additional report for the evening.

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

UNFINISHED BUSINESS

Tomlinson stated that code enforcement and charter commission will stay on unfinished business. The citywide clean-up will stay on unfinished business through the month of September.

Davis mentioned that, based on the Council of the Whole meeting on the parking study, which occurred prior to the night's regular Council meeting, that the city could decide to bring on a parking enforcement position. He noted that nothing was imminent, and this was conjecture, but he asked if that position could also double as a code enforcement position. Tomlinson stated that ultimately, that decision is the city administration's decision. Without the Chief of Police present, that wouldn't be a conversation for this time.

NEW BUSINESS

Davis stated that Council members were emailed a "presentation", or language, with other communities' processes concerning their City Council agendas. He stated that we would like every talking point or possible piece of legislation posted, so that the public can view those items. He used Balyeat's financial items during the night's meeting, and the legislation for supplemental appropriations as an example.

He mentioned that this past weekend, when he checked, the City Council agenda on the website was still showing the August 9, 2021 agenda. He asked if this was "customary". The Clerk answered that question - stating that the agenda is typically updated earlier than that (usually 5-7 days ahead of meetings), and adjusted multiple times before the meeting. In this case, it was updated late Friday evening due to internet issues at home. Hatcher also stated that if he does not forward new items until that time, then the agenda cannot be updated until those new items are out.

Davis stated that other communities have processes in place that all agenda items are on the agenda by the Thursday before their meeting, and nothing can be voted on past that day, unless it's an emergency. He noted that this is similar to what Van Wert does now. Tomlinson stated that, legally, nothing can go on the agenda unless it has been asked to prepared, as it is not an official item. He clarified this with Hatcher, who confirmed. Tomlinson did say, however, that it doesn't mean that members of the public can't have access to items that will be discussed, and discussed possible changes to the website to accommodate this. It was noted that sometimes it is possible to pass ordinances by working in advance and going through three readings, but sometimes it is not. Tomlinson explained that the reason for passing ordinances "on an emergency" is due to an immediate, time-sensitive need, or because it needs to be passed in less than 30 days. There are also times that an item is "on an emergency", but still goes through multiple readings.

Tomlinson noted this conversation has been addressed multiple times. He noted that legislation on an emergency or without an emergency is based on his decision, the city administration's decisions, the timeline that Council members choose to bring items to Hatcher's attention, or the timeline needed for passage. Tomlinson and Markward both suggested that conversational points be listed on the agenda, but noted that would require communication with the Clerk to

put that on the agenda. Mosier suggested a "Proposed Action Items" section so that those items could be put on the agenda, but there was no legal requirement to address them.

Tomlinson also stated that Council could vote to say no to suspending statutory rules or allowing legislation to pass on an emergency. Council does not always have to allow legislation to be passed immediately.

He asked Council to provide conversational items or discussion points to be added to the agenda.

CONSENT AGENDA

Agler made a motion to introduce the Consent Agenda. Kallas seconded; all concurred. Agler made a motion to suspend statutory rules for the Consent Agenda. Kallas seconded; all concurred.

Agler made a motion to pass the Consent Agenda, Ordinance Number: 21-08-046: AN ORDINANCE TO AMEND CHAPTER 152: BUILDING CODE MORE SPECIFICALLY SECTIONS 152.50-152.58 OF THE VAN WERT CITY CODE OF ORDINANCES AND DECLARING AN EMERGENCY., on its first and final reading. Kallas seconded; all concurred.

RESOLUTIONS & ORDINANCES

There were no other resolutions or ordinances for the evening.

EXECUTIVE SESSION

Tomlinson noted that the agenda stated that they would now move into Executive Session, with the topic of discussing the ongoing opioid settlement litigation. Tomlinson noted this was not a "done deal", and so there would be no action taken once Council returned from Executive Session.

Agler made a motion to enter Executive Session at 7:37 p.m. Kallas seconded. Agler made a motion to return from Executive Session at 7:58 p.m. Kallas seconded.

ADJOURN

Agler made a motion to adjourn at 7:59 p.m. Kallas seconded; all concurred.



Clerk of Council
Andrew Bittner



Council President
Jon Tomlinson

9/13/2021

Date