

**VILLAGE OF SOUTH LEBANON
REGULAR MEETING MINUTES
FEBRUARY 6, 2014
6:30 P.M.**

1. Mayor Lawhorn opened the meeting at 6:30 p.m. with the Pledge

2. Linda Allen - Present Sue Johnson - Present
Randall Atkins – Present Steve Riley – Present
Dean Evans – Absent James Smith – Present

3. Mayor Lawhorn opened the floor to the Public:

John Moore – stated he has three issues and one of them is for Dean’s replacement. He said he asking that council take the time think about who you are going to pick as a council member. He said the elections were just held in November and Madison and Holloway were the fifth and sixth persons in the election results and that he thinks that is something to be considered. He said the voice of the votes was pretty loud who they wanted and granted they were only voting on a certain amount of positions and all of those were taken. He said to keep everything on a bi-partisan level and allow every body to have a free voice I think it is something you need to take into consideration stated he asks council to keep that in mind.

John stated the information packets online and a lot of people not mobile are not able to see them posted at the post office or local banks and is a lot of information for people to see what is going on to see if they want to risk getting out in the weather to come.

John said thirdly the updating of the information for council members and their contact information on the web site. He said granted elections were in November and did not take effect until January but that was over ninety days for that to be updated and at one point it still had Mr. Holloway. He said he is asking that the information be updated so if people want to contact their council member, that they voted in, they have the right to do so with updated information. He said he would also ask that the council members at least have enough respect to respond back if someone contacts you even if it is something you don’t want to comment on, at least open the dialogue with the people who put you in so the people know they made a right choice.

Council member Smith stated as far as updating the web site, he looked at it today and Mr. Holloway is on there and I agree with you. He stated he thinks we should move forward and it should have been updated, I agree with you. John Moore said it still has picture of elected officials from several years ago. He said it doesn’t cost anything and a simple thing to do and as a whole

that is a communication issue that is used for your residents and if it is not updated it makes us wonder what is being done.

Council member Atkins asked who updates that for us and Gary stated he would take care of that. Gary stated that we have somebody do that and Council member Allen said didn't we change the person to Web Masters and she was told no, Johnny Miller still does that.

Scott Doughman – 260 E. Forrest Ave. – he mentioned his grandfather and three uncles are on that quilt hanging here. He said he would also like to mention that he submitted a request from the Ohio Public Records Act for six months of communication between the staff, Mayor, Administrator and Louallen who is a part of the communications. He said this is not deliberating upon council meetings and this is also not going to back to the appointment of Mr. Vidmar or the solicitor who were not competitive bids for this towns services. He stated he expects an update on the open government act, I have rights too. Thank you. Council member Smith asked Dr. Doughman that he spoke so fast he did not understand and what was his request? Doughman stated the Ohio Public Records Act allows for any citizen as resident of this village to request open government. Which means that all communications, all emails, all emails that were deleted, and anything pertaining to communications between the administration, the mayor and the staff, requested by myself shall be forth coming. He said he requested up to 2500 pages to be delivered to my disposal. Smith asked emails and Doughman stated emails deleted or undeleted that shall be on the server or on the server home records regardless of whether or not they are present in open records are subject to my six month request as perhaps there have been issues that I would like to bring out. He said that either clearly error or inaccurate in other format, I am simply requesting as a citizen, open government and that is within my rights. He said in addition there is an ability to take this further and it has been shown that the judge in Clearcreek Township has ruled in favor of the citizenship on request of these matters. He said this is not closed government. Smith said if he requested records for six months, why don't we give him the public records? Mayor Lawhorn stated it is being handled and being taken care of by the solicitor and you don't know what is going on and he has to follow the solicitors request. Smith stated first of all this legislative authority, the solicitor works for us, period. He said in the section as far as retention and giving out public records, if we are not careful we are going to end up with a huge fine against us. Smith said we have to gives records to anybody who wants them not just Dr. Doughman, in a reasonable amount of time and if we don't do that then it is up to \$100 a day up to \$1000 per document. Smith said 2500 documents is a lot of documents and it may take some time but six months. He asked Doughman if he has any documents and the mayor stated it has not been six months. Mayor Lawhorn said that request has been since the first of the year and since this is only February that can't be six months. Doughman said six months is July to December 31st and the mayor stated you have not been waiting six

months and Doughman said no he has not. He said he has been waiting one month. Smith said a reasonable amount of time, I remember records requests coming through in the past it has been given in a week or two. Solicitor McGary said he has communicated with Mr. Doughman on multiple occasions and I checked on the status of it today and I have records from two of the public officials that have been asked for and for me to review and I would say at this point they are knee deep, so that is going to take some time. McGary said Smith is correct on the law, it is a reasonable amount of time based on the circumstances. McGary said there is no definitive date so what's reasonable based on the circumstances, it will take some time for me to go through those records to try to determine what's a public record. Smith asked what part of public record is not public? McGary said there is a substantial amount of documentation that may not be a public record. Smith asked for him to just spell it out, do we have medical records or investigations going on in the police department, we don't have those types of investigations going on in the city side. McGary said we may very well have records that information that require by law for information that are required by law to be redacted, such as social security numbers. He said there may be email communications that don't constitute a public record, that don't have to be provided in response to the request and those are the things that generally standard protocol is that they be reviewed and that determination is made and the law requires if there are documents not produced then there is an explanation and a citation to the statutory authority for those documents that are not produced. Smith said and a fine that we have to pay and McGary said if we do not comply with the public records act, there can be a fine but the amount you stated is not accurate, but there can be a penalty for that yes. Smith said if you don't charge us for it why don't you look 149 under the statute in the ORC. McGary asked what he meant by that and Smith stated at least the way he read it. McGary stated he wrote Mr. Doughman a lengthy letter that outlined the Ohio Public Records Act and as far as I know, all council persons were copied on it. Smith said it looks like when I look at some of these bills, Mr. Doughman is mentioned in these charges and we are paying to look for ways not to give him records, what is so that we have to keep secret in public records. Allen said first of all she doesn't think it is a secret, she thinks we have to follow the law ourselves, Smith asked her if she knows the law on this section Linda. Smith said this is a citizen that requested public records and we have public records so any record I have you can have. Doughman said in the law it says that any citizen, such as myself, takes tremendous courage to approach a council of this form. He said this is why the law is on the side of the citizenship. Mayor Lawhorn stated his time is up and Mr. Doughman stated yes sir.

John Moore asked to make a brief statement and said what determines what is public record and what is not? He said tax payers dollars pay for the server. Information on that server for the company where you work is public record and should be the same way here. If you are using an email that has gone

against integrity or slamming something else, then by God it needs to be released and it should be grounds for somebody to be terminated, it should be grounds for public records to say this is what we are doing and we are actually paying a solicitor to go through the information and to withdraw that, to me that is not right and if that is the case, then go back to inter-office envelopes, they are going to disappear anyway. Smith told Doughman if he does not have the records in the next two weeks then he will make the request himself for the records and emails. McGary said they will definitely be done by then.

4. Mayor Lawhorn stated the next order of business is Dean Evans has given his resignation to council due to health reasons. He said council has thirty days to appoint. Smith said he makes a nomination to accept his resignation. Mayor Lawhorn said he has not asked for a motion yet, and I am going to finish and I am running the meeting when I finish. Smith stated, Mr. Lawhorn why don't you act like a professional? Mayor Lawhorn said he is and why don't you act like a professional keep quiet until I am ready for you to speak. Smith stated as he told him before, he is a legislator and can speak at any time. Mayor Lawhorn stated he is running the meeting and he is not. Smith stated is not running the meeting, he made a motion and the motion is a viable motion. Mayor Lawhorn said he would like to explain his resignation. Smith said he understood he did and Mayor Lawhorn said he didn't I said he issued one. Smith said the motion stands so finish your comments. Mayor Lawhorn said he resigned due to health reasons and the resignation was effective February 1, 2014. Mayor Lawhorn said now he would entertain a motion. Smith stated he already made and Mayor Lawhorn asked for a second. The motion was seconded by Atkins, all yeas.

Council member Smith made a nomination for Bill Madison. Mayor Lawhorn stated he will open the floor for nominations for the position that Dean has left on council. Smith stated he nominates Bill Madison. He said Bill Madison is a runner up and took the initiative to run for public office and he is well versed and has sat on the planning commission, council member, fireman, paramedic and has a long list and a great asset to this community and it is my pleasure to nominate him. Mayor Lawhorn asked Bill Madison if elected would he accept and Bill stated he would. Mayor Lawhorn asked if there were any other nominations and Council member Allen said she would like to nominate Mr. Boerio and the reason why she says that is, first of all he stepped up when we needed him to and there were other people that wanted to come up. She said she thinks since Jeff Sturtevant is no longer with us, Mr. Boerio is a member of the home owners association in his area. She said a lot of us are here from the valley, Randall is over there and I am over here, and she would really like to see Jim represent that area on council. Mayor Lawhorn asked Jim Boerio if he would accept the position if elected and Jim stated he would.

Solicitor McGary stated roll will be called and you vote for the candidate. Allen – Boerio, Atkins – Boerio, Johnson – Boerio, Riley – Boerio, Smith – Madison. Smith asked if council had a meeting of the minds about this it looks so cut and dried, did you actually have a meeting of the minds for this appointment? Atkins stated there was no meeting and Smith said he did not say a meeting, a meeting of the minds, communication. Mayor Lawhorn stated council has made their selection and Smith asked did you, I asked the question. Mayor Lawhorn said he did not have a meeting with anyone and Smith said he did not say meeting, he said meeting of the minds. Atkins said if you want to know did I think about it, yes I did think about who I was going to vote for.

Mayor Lawhorn swore Jim Boerio in to fill the council seat.

5. Mayor Lawhorn said next order of business is an agreement with Warren County Sheriff and Warren County Commissioners amendment. The first reading of Resolution 2014-02 was held. Smith asked if there were changes in the agreement from the original and Mayor Lawhorn said there are some changes and Smith asked where they were and McGary said the changes are for the compensation only. Allen asked by having three readings will this make any interruption what so ever in our protection or salaries? McGary stated we have a contract and Sheriff's office sent Sharon an invoice for compensation for 2014 and the addendum last year was for the commissioners to pick up the additional deputy. Allen was told three readings will not interrupt anything.
6. Mayor Lawhorn presented Resolution 2014-01 for the second reading authorizing an consulting agreement with Warren County Regional Planning Commission.
7. Mayor Lawhorn stated we have received an invoice from the Warren County Drug Task Force for \$2535.00. He said before council makes any decision about it he wanted to interject something. He said January of last year he went to the Warren County Drug Task Force to report a drug dealer in the Village of South Lebanon. He said he had at least two informants that he he was selling drugs and he is still in business today and nothing was done. Mayor Lawhorn said he would like to at least see someone from the task force come and explain before this is paid. Mayor Lawhorn said he knows of no other thing they have done in the village. Allen said she knows Sgt. Boylan and his crew have been very active. Mayor Lawhorn said it is not our department, the task force is run a little different. Mayor Lawhorn said he would like to table this until someone comes and speaks to us.
8. Council member Smith said he has a couple of questions for the solicitor. He said on 12/23/13 your invoice states a review and response to council member Linda Allen in reference a whistle blower and retaliation matter.

He asked what that was about and what we paid for that. Allen said we didn't pay for that and Smith said we are being charged for that. Allen said what happened was she sent an email and then asked McGary if he wanted to explain that or did he want her to. McGary said it is probably a matter that would necessitate an executive session to discuss personnel issues. Smith asked why he has not been briefed on this and Allen said she didn't think anybody had. Smith stated so council does not even know except for you and Allen said it is possible they may she did not know. Mayor Lawhorn stated he knows about it. Allen said it was an email that was sent that was a question. Smith said he is requesting a copy of that email and he wants it from her. He said you sent those emails and they are now public record so I want them. Allen said she sent it to the solicitor as a question. Smith said he wants the communications from the emails you had back and forth with him. Allen said she will discuss that with the solicitor and we will see what we can do. Smith stated he is making a public request for it right now. McGary said one of the exceptions to a public records request would be an attorney client privilege communication. He said if council wants to waive that then that information may be released. Smith said first of all attorney client privilege is if I have an attorney outside this body, but you as a solicitor works for us that is not privileged information. That is public record if it goes between us. Smith said if he sends an email to the solicitor it is public record and McGary stated your email maybe but my communication is attorney client privilege. Smith stated as a legislature he is requesting this information, why we are keeping this a secret I don't know and don't know why you would even ask a question like this, retaliation of a whistle blower. Allen said that is not what my email stated and Smith said that is what we are charged for. McGary said it had to do with a personnel matter that was discussed as a personnel matter involving discipline and that email arose out of that communication. Smith stated so we are going to discipline someone or retaliate for someone is that what this is about? Mayor Lawhorn said he agrees it should be handled in executive session and we can do that at the end of the workshop. Smith said his request stands and as a legislator he thinks he is entitled to the documents and wants them.

Smith stated January 17, 2014 correspondence to village administrator and mayor regarding status of matter. He asked what is that. McGary said that arises out of an issue that you raised at a meeting about there being franchise agreements. Smith said why didn't you put that in there and I wouldn't have asked the question. McGary said it says it in the first entry and Smith said you are talking to different dates and I looked at it and was trying to make a connection. Smith asked if there is anything in your contract we don't get charged for? McGary said sure, the services outlined in my contract and Smith asked for a copy of his contract. Mayor Lawhorn said which is exactly the same as the prior solicitor. Allen said when they were handed the bill she went back and looked at what papers I had from Keith and they were exactly the same. She stated she was not for sure. Smith stated he asked the solicitor

and I need his definition and asked that it be corrected for the record what the bill means.

Atkins said he would like to say the village employees did an excellent job on the snow removal. He said he was out on Lebanon streets and when I came home ours were better than Lebanon. Smith said then why didn't we give them a little more raise instead of 1%?

9. Mayor Lawhorn commented that we lost a long time resident, Viola Smith and it is a loss to the village and she will be really missed.
10. A motion to adjourn the meeting was made at 7:00 p.m. by Allen, seconded by Riley, all yeas.

Sharon Louallen, Fiscal Officer

Lionel Lawhorn, Mayor