

**VILLAGE OF SOUTH LEBANON
REGULAR MEETING MINUTES
APRIL 17, 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
Jim Boerio – Present James Smith – Present

3. Mayor Lawhorn opened the floor to the public:

John Moore – Fern Valley Way – stated he gave each council member a packet of things he wanted to cover. He said he requested invoices from all of the network support and two invoices he feels should be reimbursed to the village by the administrator. He said the first invoice is where he requested access to a drive that was a secure drive he had no business being in. He said the second invoice was for the village to make sure he did not have access to it. John said that is something above and beyond what the village should have to pay for and I think reimbursement should be sought. He stated his second statement is concerning the issue with Mr. Vidmar and postage. John said after talking with the prosecutor, and he included that email in the packet, and since our mayor and village did not file a police report with the Sheriff Department he was able to. He said even if the Sheriff Department does not process for misdemeanor charges, at least it is on file so if anything happens again there is a record proving that he acts unfaithful while being in employment of the village. John said he thinks that is important for council to consider when you go to review his contract for a second time. John said his third issue is he sent an email to EPA about a property in the village that has fuel tanks still on the property that were covered up and never removed. He said no abatement was done and we do not know if there is still fuel in the tanks, if it could have leaked out into the water table or what kind of hazardous issues we might have. He said there will be more coming from the EPA once they make a determination, so just letting you know if you get documentation questioning this issue, you should know where it came from.

Maryan Harrison – South Lebanon Historical Society – stated she is asking for more support on preservation and hoping that you will make a motion to move forward on this. She said she hopes all have went over the the information she provided council with. She said some ask why would you want local government involved and the reason is because the grants available require we work together. She said it helps large and small communities rebuild their core neighborhoods. She said she hopes council

makes a motion to move forward.

Kimberly Flaughner – Morrow Road – she said the Clean Up Our Streets Walk is moving forward. She said she hopes all will come and join in. She said a letter was drawn up and she read it to council. It referred to Friends of the Little Miami asking for a port-o-let at the bike trail and discussion of putting one at the Memorial Park. It stated that parks raise property values and they believe port-o-lets at the parks would do just the opposite. She said it won't make a difference if permanent or port-o-lets where drug use and alcohol is involved. They believe we need permanent restrooms and drinking fountains and wish the council to pursue grant money to accomplish these. She said she spoke with Mary Finch from ODNR and that she told them these grants are given by the state and she could help with these grants. Kimberly said they would be willing to help raise funds for these projects. Mayor Lawhorn said we are in process of putting a port-o-let at the bike trail and possibly one at this park and Kimberly said they are asking that we try to put permanent restrooms instead and we will help you.

Joe Johnson – 106 W. Forrest Ave. – he said he would like for council to explain to him this water system and what is going to become of it. He said maybe Mr. Smith could explain that to us, he is the one that signed and got it in here and if I'm not mistaken they are the ones that let our treatment plant go to pot so we couldn't have our own water. He said he would like somebody to tell him about it so he can understand it. Mayor Lawhorn said all he can tell him tonight is we are going to have something on the agenda about the water system. He said the other questions we can't answer tonight but if you make an appointment with me or the administrator maybe we can explain it.

Smith stated he wanted to address a couple of things. He said it was very unprofessional of Mr. Johnson, first of all council decides what water system goes in and the previous administrators are in charge of the water systems by the statute of Ohio. He said the water plant went down and like the City of Lebanon, the City of Mason and all chose to go the same route to get water. He stated the cost of the water of this agreement was cheaper than purchasing from Warren County. Smith said when you have an issue where the water goes down, it is not an issue until that happens. He said the village is in the position now, with the water system in place, to provide water across the river if that system goes down once the final piece is put in across the bridge. He said he believes the council made the right decision. He said council makes decisions based on the best information at the time. He said the same with sewer, we own and purchase capacity. Smith said even with agreement we are still under what the county would charge per thousand. Johnson said what about where we have to pay for the water we are not using. Smith said we have not paid for water we are not using, it is take or pay and

worst case scenario you would purchase the water and you would have a credit. He said they have made changes in this agreement and in the future we will certainly meet the need, development is picking back up. Smith said we went from a system that was found to have a leakage of 400,000 gallons a day and once the system was tightened up the usage went down by almost half. He said now you have a tight system which needs to be checked again and we were 23% loss in water. He said based on the projections current administration negotiated it will meet the needs in the future. Joe said he was wondering about that, he has heard so much rumors about it and he doesn't have nobody to get up and put questions to the council like some people and that is all I have to say. Smith said he would be happy to answer them for him.

Scott Doughman – 260 E. Forrest Ave. – said this is only an introduction tonight and that he received a packet by request and thanked Bruce McGary for providing it. He said the application for the risk mitigation grant, with respect to the Warren County Emergency Management, which goes to FEMA. He stated propagation of that starts here in this council. The information at the time it is given should be accurate. Scott stated at the time council was being given information about this risk mitigation grant and I can name many here who have mentioned problems with this grant and then voted yes to go forward with it. He stated it may have been misrepresented at the time. He said this building has never had a wet carpet, the word forced to mitigate risk of property damage was a voluntary act based on Turtlecreek swell and had nothing to do with this building. He said there is a separation between risk mitigation and expansion project. He said if you want to defraud the Federal Government for an expansion project based on a risk mitigation of a 1% statistic. He said next he is going to the Warren Emergency Management director and ask for their records for how they did here to find out what they are going to do besides just raise this building that has no risk in the history of this building in fifty some years and it has never had a claim of insurance, never had a wet carpet, has no risk of damage from mud slides, from tornados any more than anyone else. Scott said in fact we might as well have glacial insurance. Someone from the audience asked Mr. Doughman how long he lived in this village and the mayor stated, Christine let him speak. Scott said there have not been any insurance claims on this building, there have been no damages to this building and there is a need for expansion of the governments resources but that does not mean we need to spend time getting money from the Federal Government, for which is not true.

Mayor Lawhorn said he will add one thing and Linda can verify it that in 1959 you would not be standing where you are standing because the flood was here and Scott said but there is a Caesar Creek Dam. Mayor Lawhorn said Linda lived across the street and Doughman stated this building was not built until after that flood.

4. Mayor Lawhorn presented the following minutes for approval:

Regular Meeting – March 6, 2014 – motion to approve made by Atkins, seconded by Allen, all yeas.

Workshop Meeting – March 6, 2014 – motion to approve made by Smith, seconded by Allen, all yeas.

Regular Meeting – March 20, 2014 – motion to approve made by Smith, seconded by Allen, all yeas.
5. Mayor Lawhorn presented Resolution 2014-07 authorizing an agreement with Contract Sweepers for the third reading. Atkins asked if we came up with a plan for the people that have no place to park. Mayor Lawhorn said we will have new signs that will say “No Parking” with no date so when they are up there is no parking. Atkins said what about the streets that have no place to park and the mayor said we can eliminate them from the contract. Allen said you can only go around them and Atkins said some got tickets too. Allen said her question is in front of her daughter’s house they never move the cars, they are tagged but they never move them. She asked how we are addressing the tickets because some get them and some don’t. Atkins said his concern is the ones that have no place to go. Discussed and the solicitor said all the tickets were dismissed last year. A motion to adopt Resolution 2014-07 was made by Smith, seconded by Allen, all yeas. Smith stated let the administration deal with that issue of parking.
6. Mayor Lawhorn presented Resolution 2014-08 for the third reading authorizing the agreement with Cincinnati Water. Allen said she believes with the growth that is coming the take or pay in a few years will not even be an issue. Mayor Lawhorn stated there is nothing we can do about this contract other than default. Discussion held concerning growth needed and changes in the agreement. A motion to adopt Resolution 2014-08 was made by Allen, seconded by Smith, all yeas.
7. Smith asked for a brief explanation on Section C of the East West waterline contract. Mayor Lawhorn said it is from Lebanon Road across the creek. The mayor said it went through the bidding process twice because the first time everyone was over. Mayor Lawhorn presented Resolution 2014-09 awarding the East West Waterline Replacement and explained the reason for an emergency is we have a grant with an end date and have to have the project completed. Atkins made a motion to suspend the reading rule, seconded by Smith, all yeas. A motion to adopt Resolution 2014-09 was made by Smith, seconded by Boerio, all yeas.

8. Mayor Lawhorn stated the administrator is not here tonight because he is in Africa.
9. Mayor Lawhorn held the second reading of a resolution authorizing an employment agreement for Gary Vidmar. Smith stated he reviewed the agreement and the agreement was terminated so how do you pay the administrator with no agreement in place now. Bruce McGary asked when it was terminated and Smith stated March 31st. Bruce stated will need to do an interim amendment that council could vote on your issue of how to pay him. Bruce said it is an amendment and if it is expired we may want to make a new agreement instead of an amendment. Smith said it would have been better if council had the information and just authorize to go forward with it in the time line, don't know why it took so long to go past the termination date. Smith said there is going to have to be some fixing done. Solicitor said he thinks no one knew when the termination date was, it was just overlooked. Smith said the auditor's are going to see it now. Atkins asked if Bruce looked at the job description and Bruce stated he looked at it and does not have an absolute conclusion but he can say that he looked at the original enabling ordinances for administrators but was only statutory not a job description. He said he looked at his job description and there lies the conflict. He said he looked at legislation from change to fiscal officer. He explained statutes. He said Ohio Municipal League says it is the duty of the fiscal officer and chief officer, which is the mayor and he has the right to delegate. Bruce said council needs to decide. He said he wants to check Title 57 as to submission of the budget to the county and I can tell you that as far as statutes the responsibility of submitting it to the county budget commission, is the fiscal officer. He said the village has the right to appeal that decision and the person to sign that appeal is the fiscal officer. Smith said going to the fiscal officer verses and elected position when council combined it was a wise choice. He said it takes out of the equation an election and look at Hamilton Township, they are fiscally destroyed because of the bookkeeping. Smith said when you hire someone, you hire qualified individuals to do the job. He said the fiscal officer signs for everything, historically you would have the mayor and chairman of the finance draft the budgets with who is responsible for the budget, if the fiscal officer tells us we don't have the money we can budget all the money in the world and if they say no then it is not going to happen. Smith said she does a good job and from what I have seen we have had great audits for this community. He said South Lebanon has one of the best audits in the State of Ohio so you should pat yourselves on the back, the whole community gets support for something like that. He said it is an easy fix, the fiscal officer is in charge of everything, I wouldn't want to have someone else doing something I had to sign for with the county, what issues do we have? The mayor said there are times when the administrator needs to do certain things to do his job in street, water and sewage that he has to budget. He said they need to

work together, Sharon tells him we have so much money and he has to budget it. Smith said we draft the budget, so he has the ability to spend the money within the budget, so just preparing the budget is what it is coming down to, is the people involved. The mayor said Gary should know the projects coming up and we need to budget that in. Smith said just email it. Atkins stated Gary needs to give Sharon those numbers and she can put it in the budget and I agree working together is the best way, but we need to clarify this so there is not a mess. Mayor Lawhorn said we do sit down together and I had one thing because of a property we want to purchase and Sharon had things and Gary had things. He said we just need to sit down and go over it not one person. Smith said council approves it. The mayor said there are certain things that Gary has to know about projects. Atkins said we need to clarify so there is no tugging when it comes budget time. Bruce said we are drafting a new contract for administrator so we can put that in the job description. He said from the checks and balances stand point, the thing you want to avoid is one person in control and that is the problem Hamilton Township had. He said they were not getting reports, just verbal reports. Bruce said audits are done two years in arrears and that was a problem for them, they had audits they couldn't even complete. Boerio said he appreciates the input on this and thinks Bruce answered most of the questions. He said one more question is was there an ordinance passed by South Lebanon Council, in which the budget preparation was assigned to the fiscal officer. Bruce said the legislation that adopted the administrator position was done by ordinance because the statute requires it be by ordinance. He said in 2003 the change to fiscal officer was done by resolution and was done appropriately. He said in 2006 there is resolution where the personnel policy was approved. He said you use the word ordinance and I don't think that has any bearing on anything, yes those positions were approved by resolution of council. He said one of those job descriptions was the fiscal officer and it specifically states to prepare a budget. Boerio said he agrees the notion that the fiscal officer and administrator work together on a budget, this seems appropriate to me.

10. Mayor Lawhorn said we need a motion and second to pay Gary until the end of May. Allen asked if he is receiving vacation pay now and was told yes. Allen made a motion to pay Gary until the end of May, seconded by Boerio, Smith abstained and all others yea.
11. Mayor Lawhorn presented an invoice for the solicitor in the amount \$1310.00. Smith asked about the training for the BZA. Bruce stated he was asked to do a training and he had recommended that two years ago. He said we have two new members and the hearing on the Mainstream Homes case started before I was here, and it was obvious

at that hearing the BZA had not had any guidance and did not know how to conduct a hearing. He reviewed the process that happened throughout that court case and said the flaws in the process warranted training. Bruce said he prepared a power point presentation and it was presented to all the BZA members and outlined statutes and zoning code as well as case laws concerning holding a hearing. He said he wrote a script to follow when holding a hearing to make sure the record is air tight if we have to go to court. Bruce said it was lengthy, the meeting lasted about fifteen minutes and the training took a couple of hours. Smith said usually we had a firm that handled the hearings and worked with the board, but you're assuming that role now and Bruce said yes that is part of his contract. He said he does not charge to attend the hearings, which is part of his job. Atkins said we had new guys come in and they really didn't know what to do. A motion to pay the invoice was made by Allen, seconded by Atkins, all yeas.

12. Boerio asked about the bridge construction and when that will start. He said unless those temporary lights are carefully sync with the existing light we are going to have a traffic bog. Mayor Lawhorn said that is an ODOT project and they are doing the work. Discussed reaching out to ODOT to inquire about that issue. Riley stated the temporary light pole is right in front of where the sign flashes that the light is going to change.
13. Atkins asked if anyone has thought about putting swings in the park and was told the park committee has not met.
14. Smith said he would like to make a motion to have the administrator work with Maryan to draft some language and come back to council for our review. Maryan said the check list she provided to council has to be completed. Bruce said we may want to look at that ordinance and what struck me, it appears to plucked from somebody and someone took a pen and struck through some things. Smith amended his motion to include reviewing the ordinance as well, seconded by Allen, all yeas.
15. Riley said getting back to something Jim said about our audits, he said our audits have been fine over the years, is that true. Mayor Lawhorn said you can go online and look at them. Smith said they come in and meet with us and go over everything. Bruce said there are no findings for recovery he is aware of and that is a bad thing. He said findings for recovery are against individual public officials. Bruce said it is common for audits to have findings in them that just requires correction. Smith said that is why you need to look at what we are doing with the administrator because even paying vacation could be an issue that needs to be addressed.
16. Bruce said he wants to bring up his contract and it expires at the end of the month. He said he asked to have the personnel committee start work on that. Smith said he does not know why it would be personnel, you work for

council. Mayor Lawhorn said he wanted the personnel committee to go over it and the committees are to recommend. Smith said they are to recommend but my personal opinion is since we all vote on a contract and asked if there is anything new in it. Bruce said yes he is asking for a pay increase. Bruce asked if that is honest enough for him.

17. Sgt. Boylan asked that a decision be made concerning the street sweeping issues and give the department some direction. He said they don't want to go around writing tickets and then have them thrown out.
18. Mayor Lawhorn said he received information from Catherine Cunningham. He said on April 11th she presented the sub facts and a motion for a summary of judgment.
19. Mayor Lawhorn said on May 6th voters will decide on Issue I and everything we do with Ohio Public Works comes through that. He said they are asking the Village of South Lebanon to pass a resolution supporting Issue I. A motion was made by Smith , seconded by Allen, all yeas.
20. Smith said someone dumped a bunch of tires and trash in the ditch line on Mason Morrow Milgrove on O.T. Bishop's property.
21. Atkins asked about Zoar Road and if Gary is still pursuing that. Mayor Lawhorn said they went to OPWC last night and we were told when it falls away, call us. He said they said when traffic is restricted then they will address it.
22. A motion was made to adjourn at 7:50 p.m. by Atkins, seconded by Allen, all yeas.

Sharon Louallen, Fiscal Officer

Lionel Lawhorn, Mayor