

**VILLAGE OF SOUTH LEBANON
REGULAR MEETING MINUTES
APRIL 3, 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 Tony Blizniak. He stated he is with The Friends of the Little Miami State Park. He said there has been a lot of dramatic improvements along the trail and that is because of a lot of volunteers. Tony stated they have tried to as much as they can with finances available to them. He said they helped get the bridges repaved and have worked to get the vegetation under control along the trail. Tony said they remove trees that fall across the trail and last year the wind storm took down twenty some trees and the volunteer cleared them in a day and a half. Tony said he would like to thank the village service department because they take good care of the area in the village. He said he spoke to Chris and he said he was the one cutting the grass because the State mows five or six times a year. Tony said they have developed a good relationship with the State. Tony said he wanted to introduce himself and wanted the village to have a contact point. He said they are interested in placing portable toilets along the trail and you have one of the parking areas and we would like one in your location. He asked if the village would be interested in helping provide the portable toilets. He said they have a relationship with Rumpke. Mayor Lawhorn stated it has been discussed and it is up to council and he thinks it is a good place for one. Discussed Rumpke taking full responsibility for the port-o-lets and the cost is between \$40 and \$50 a month. Tony asked if council will help pay for the toilets. Smith made a motion to fund 50% of the toilets and Mayor Lawhorn stated if it is only \$40 or \$50 dollars a month he thinks we could afford to fund the whole amount. Smith amended the motion to pay for one toilet, seconded by Atkins, all yeas. Smith stated in 1982, South Lebanon was the first community to step up and support the bike trail. Discussed how to pay and Tony said he would get back to us with that information. Tony said they would like to put signage up that shows access to the trail in South Lebanon and will work with the village later.

4. Mayor Lawhorn opened the floor to public and asked they state name and address.

John Moore – Fern Valley Way – stated amendment #18 in the resolution for the renewal of Mr. Vidmar’s employment is something the council needs to strongly look at or maybe put on back burner to see if any legal proceedings are going to take place over the actions done by Mr. Vidmar. He said he thinks before council enters into another year of employment that needs to be looked into.

Mayor Lawhorn stated he wants to address something in an email you sent yesterday and there are allegations against me. He said if you would check your records and find out when some of this was done, he was not on council, nor was mayor and these things were done prior to me taking office. Moore stated all the questions he emailed asking took place while Lawhorn was in office, the sign. Mayor Lawhorn said he agreed the sign should be fixed and the weather has been very bad and they have had other things to do. Moore stated they work for you and the mayor said they do but he does not see every day what they do. Mayor Lawhorn stated the grant for the pavement was gotten in 2011. Moore said his question is why did it start and end at the church property, and the mayor said that is where it was scheduled to stop and it is going to move on to Lebanon Road. Moore stated he understands that, but why were driveways paved along the side of the road that is not village property? Mayor Lawhorn stated that they are right of way. Moore said does that mean you are paving the right of way for everyone going down through there? Moore asked if he needed to measure the right of way where it was paved. Mayor Lawhorn stated he is answering and Moore should just listen to him. He said 2011 the grant happened for that pavement and he had nothing to do with it. Mayor Lawhorn stated the voting at the church he has nothing to do with either. He said the Board of Elections selects and this village council can’t do anything about it. Moore said when he called he was told there wasn’t ample parking at the Community Center or the Early Childhood Center and that is not right because they said they were told by the village there is not ample parking. Mayor Lawhorn said he was not mayor when that was done. Mayor Lawhorn said the Board of Elections moved there on their own and this village can’t do anything about it. Moore said he contacted them and asked for it to be changed and he also contacted the State. Mayor Lawhorn said if you can get that done, right now they decided where it will be done and five precincts from the township and village vote there. He said it was done long before he became mayor. Moore stated even though other suggestions were made and it was stated from this office it would not work, and Mayor Lawhorn said he was not here. Moore said he questioned it last year, why it wasn’t changed and sent a letter to the governor to ask why it was not changed. Mayor Lawhorn said this village council cannot get it changed. Moore said that is the excuse for everything, you had nothing to do

to do with it. Mayor Lawhorn said that is a different part of government and those things you brought up, I wasn't even here when the grant was gotten, I wasn't here when the engineer's decided what was going to be paved, I wasn't here when the Board of Elections decided to vote up there. Mayor Lawhorn said blaming me is getting far out there because I wasn't here. Moore said it is not far-fetched and we will see what the governor says about that. Moore said he is still waiting for answers from the last time he was here and Mayor Lawhorn stated, that is it, we are done. Moore said hopefully that is what is said when voting time comes, we are done with you people. Allen stated that is their choice.

Kelly Kairn – 313 Pike Street – stated last spring she approached council asking for port-o-lets for the park and a recycle bin. Smith asked what park and was told the Veterans Park. Mayor Lawhorn said it has been discussed and we can build one. Kelly said she does not encourage building one because with the drug problem we don't want a place for them to go get high or find someone overdosed in there. Mayor Lawhorn said we as council need to look into it. Kelly asked about a drinking fountain with a push button they can't steal. She said she was told a recycle bin would work because if someone puts trash in it then it is contaminated. Discussion about what is recyclable and Mayor Lawhorn said we will ask Rumpke to send out a list to residents again.

5. Mayor Lawhorn stated Resolution 2014-05 authorizing a contract with Rozzi for fireworks is presented for the third reading. A motion to adopt Resolution 2014-05 was made by Smith, seconded by Atkins, all yeas.
6. Mayor Lawhorn presented Ordinance 2014-03 was presented amending Ordinance 2014-01 to amend appropriations for 2014. A motion to suspend the reading rule was made by Smith, seconded by Boerio, all yeas. A motion to adopt Ordinance 2014-03 was made by Smith, seconded by Allen, all yeas.
7. Mayor Lawhorn stated a resolution is being presented for the first reading for the renewal of an employment agreement for Gary Vidmar from 3-31-14 to 3-31-15. Smith said he has a couple of questions on this one and asked if the agreement is for re-appointed too and Mayor Lawhorn stated it is a renewal. Smith said his position is the ORC spells out what the council's authority is, once the mayor appoints the administrator, then council confirms that, and the administrator is really an office until council would decide to remove him or her with five votes or the mayor and four votes. He said he would prefer to have the information for council, since council is the legislative authority, this is the cart before the horse. Smith said since the ORC spells out conflicts with our ordinance, as far as the job description, but if anything is contrary to the ordinance you would have to

change the ordinance to match the agreement. He said what it looks like is basically guarantees him compensation, if council chose down the road to make a termination during the term of this agreement, would we be obligated to pay funding. McGary said he would have to look at the contract, and Smith asked who wrote the contract and McGary said he wrote the contract. McGary said the ordinance just approves the contract that expired in one year. Smith asked if it is the pleasure of council, why do we need a contract. McGary said the contract sets forth what the requirements are, what the benefits are, and Smith said if the benefits are contrary to ordinances we have would this supersede it? McGary said if you think it is contrary to the ordinance, then it needs to be consistent with the ordinance. Smith said he needs that question answered, if council decides to do something down the road, will we be obligated to pay the term of this agreement. McGary said whatever the original agreement says. Atkins stated he agrees with Jim on part of it, on the job descriptions, it is duplicating another job description and to me that creates a problem. McGary asked specifically what he was referring to and Atkins said prepare and submit the budget. Atkins stated the Fiscal Officer's job description says she does the budget. McGary said he will look into it but believes the job description comes out of the ORC. Atkins said what do we do with the other job description, throw it away? McGary asked what other job description, and Atkins stated Sharon's. Smith said he is referring to what is in our ordinance and McGary said he will have to look at that. Atkins said that will create a problem if we don't fix it. Boerio said his understanding of Gary's situation is as follows. He has a job description which becomes part of his contract and the contract is part of an ordinance. McGary said the document passed last March of 2013, approved the contract and authorized the mayor and fiscal officer to approve the contract, which they did. McGary said the job description was compiled by him and I seriously doubt I adlibbed anything that wasn't in that wasn't in the statute for a village administrator. Boerio said his job description becomes a part of the contract and then the contract is approved by an ordinance. Smith said as long as it does not supersede the statute. Boerio said his understanding of the Fiscal Officer, if you look at the ORC, the fiscal officer performs the duties that used to be performed by the clerk and the treasurer. He said he does not believe it says anything there about preparing budgets. McGary said there are multiple sections and it does address duties of a treasurer and rolled over into the duties of fiscal officer. McGary said he would have to review the ordinance and have to review position descriptions and compare to those statutes. Boerio said it is not clear to him if an ordinance was passed where her job description was created. Smith said it is a statutory creature and bottom line is any budget that goes forward has to have the blessing of the fiscal officer and the same as the solicitor and his opinion, we have to listen to those opinions. Smith said we can appropriate here to the moon but if the fiscal officer says we don't have the funds, then her position is going to be the position. Boerio said was Sharon's job description acted on as part of an ordinance.

Smith said our manual and job descriptions were by ordinance. McGary said for the administrator you have a contract, and a specific job description that is a part of that contract, approved by council. Boerio asked was the same thing done for the fiscal officer's job. Atkins stated he thinks it needs some clarification.

8. Mayor Lawhorn presented the resolution for an easement located on Pike St. for the second reading. Gary said the current owner has the property under contract and intends to sell it. He said we can conduct the second reading and now have to conduct negotiations with the new owner. Gary said we will have to do another title search and list the lender. McGary said unless the amendment during the enactment process materially changes the provisions of the resolution three additional readings are not required. Bruce said if the new buyer does borrow money and there is a mortgage of record, we would have to have them sign a subordination agreement that their mortgage would be subordinate to our easement. He said the reason for that is if borrower defaulted then the lender could wipe out our easement and if we are paying for consideration for that, we don't want to pay for something twice the village engineer says we have to have. McGary said he recommends council move forward and once we find out if this closing takes place. Council discussed making it an emergency. Allen said it is supposed to be a cash sale and they have postponed three closing but it is to happen tomorrow. McGary said may be prudent to do that, because when lenders get involved. Smith made a motion to suspend the reading rule, seconded by Atkins, all yeas except Allen who abstained. A motion to adopt Resolution 2014-07 was made by Atkins, seconded by Smith, all yeas except Allen who abstained. Mayor Lawhorn stated Allen abstained because this is a family member.
9. Mayor Lawhorn presented a resolution for the second reading for an agreement with Contract Sweepers.
10. Mayor Lawhorn presented for a second reading a resolution for an amendment for wholesale water agreement. Allen said she had a lot of people call her this week over the water. She said they are saying we are putting an undue burden on the public by extending this contract ten years. She said she thinks no one at this table wants to do that. She stated the contract was signed in 2010 and is a legal binding contract and they do not have to open this up. She said the village administrator has talked to them and they are willing to talk to us. Allen said they do not have to do what we want them to do but are giving us a few options. She said contract itself is tied to Cincinnati City Council and it looks like in 2010 they raised it 3.0, 2011 did not raise, 2012 raised 2.5, 2013 it was raised 7.25 and in 2014 it was 5.0. She said had that been tied to the consumer pricing index, according to the past, the consumer price index in 2010 was 1.5, half of what it was, 2011 it was 3.5, 2012 it was 1.7,

2013 it was 1.5 and 2014 is 1.0 and it looks like it is going down. She said to do that would save a lot of money per usage. She said when we came into office we started with \$973,000 in 2010 and lost \$300,000 that year and in 2011 the balance was \$672,000 and we lost \$383,000 and Smith stated you used \$300,000 and the mayor stated Linda has the floor. Allen said we spent it on water, I agree, but we did not have the revenue to come in a zero, zero budget. She said we have to have residents because we were losing \$47,000 a month before we could stop the bleeding. She stated they went in and had to raise the water rates \$2.00 but we were so healthy in the sewer fund we decreased the sewer by \$2.00 so it balanced out. Linda said the first option we have, and this council has discussed this for two years, we can keep what we have and not change anything. To keep what we have and hope growth happens it takes time and the economy is slow. She said we are looking at crossing the Little Miami River and get it to Cedars, it will give us some relief. Allen said if we don't get the population to pay for this we are still going to pay take or pay penalties because they are in that contract. Allen said Greater Cincinnati Water Works does not have to let us out of it. She said the second option, they have agreed to give us the pricing index, which will give us that lower percentage on that usage. She said they agreed to lower the minimum usage along with that and for 2013 forward that will happen and in 2013 that is a saving of \$70,000. She said if anyone thinks Cincinnati Water Works is in the business to give us free service, we are all sadly mistaken. Allen said for option two, they have asked us to extend the contract and if we have the growth we hope for it might not have an impact. She said she would like to think we can meet that minimum usage during the growth of this village and if we meet that minimum that ten years won't mean anything because we won't have the take or pay penalty. She said we are not happy about extending that contract but it will save your dollars. She said she is looking forward to it if it saves your money but she does not like it. She said the only other option is to do nothing and pray for growth.

Smith said previous council make decisions based on growth at the time. He said it was said well at the last meeting, the administrator negotiated the terms with Cincinnati Water Works, we are going to meet the obligations, and if we don't grow that is out of our control. He said the housing going on, the businesses are going on and the other thing that prompted water usage was leaks. He said it required the village to clean up the leaks and I think it was at 23% was leaked and is now being stopped. He said they went back and made changes and it is working and I think the report indicates we will meet the needs and be off of this. He said when you pay two something a thousand and sell it for twenty seven there should be revenue. Smith said when you say lose, really when you spend for something

you spent it, no such thing as losing it. He said the only true loss of money

would be money that is leaking in the system that we pay for and it just goes out on the ground. He said the percentage is reduced in leakage. Smith said any council, this council, past council, and future council make the best decisions based on the data that is given from their engineers at the time. He said we have a revision, made changes and have to move forward.

11. Smith said the signage on the river for no fishing, boating, whatever, I received a lot of calls about it. He said in the future, before we do something like that, I would request that any restrictions the council has to vote on it. Mayor Lawhorn said when Tony told him about that he told him the insurance agent can't make that decision, it has to go before council. Smith said he talked to Morgan's and they were worried about the commerce and of course their business does about \$50,000 and we are well versed with commerce dealing with the village and township over the years. If administration did something and they came after us, we can't put a sign up without an ordinance. Mayor Lawhorn stated not without council approval. Mayor Lawhorn said Gary did contact the insurance and sent emails. Smith asked why we put it up and the mayor said Tony put it up and he was the one that went around with the insurance company. He said they recommended the signs and Smith asked Gary if he approved that and Gary stated no he did not. Gary said when he looked back at what the insurance agent recommended Tony misunderstood what they recommended. Smith said that was on the internet too. Mayor Lawhorn said the sign is down and Gary said it won't go back up unless council says for it to.
12. Atkins asked if council would consider putting swings at the Oeder Park. Discussion took place and will refer to the park committee.
13. Johnson asked if anyone discussed anymore about letters going out to those rentals to make sure everyone is paying a water bill. Mayor Lawhorn clarified the ones that have more than one unit on a meter and she said yes. Johnson said we discussed maybe sending out letters to these people. Mayor Lawhorn stated he talked to Ann about that and they go by how many meters are on the house and that is all they can say, if there are one or two meters then they charge for that meter. Discussion followed about solution to multiple units on one meter.
14. Solicitor McGary asked if the Community Center is ADA compliant and Mayor Lawhorn said some of the doors are but he does not think the restrooms are. McGary said the issue was brought up about polling places in this community and if it is not ADA compliant it would not be eligible.

15. A motion was made to adjourn at 7:37 p.m. by Smith, seconded by Allen, all yeas.

Sharon Louallen, Fiscal Officer

Lionel Lawhorn, Mayor