

**VILLAGE OF SOUTH LEBANON
REGULAR MEETING MINUTES
MARCH 20, 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:

Kimberly Flaugher – said she walks around town in the summer time walking her dogs and she comes across used needles. She asked if anyone else has experienced this and had a large response that people find used needles in parks, on McKinley, on Mary Lane and King Ave. Kimberly asked if anyone would meet with her to try and bring awareness to the community about the heroin/drug problem we have in the community, which everyone has. She said four met, herself, Sara Wilson, Krista Bray, and Samantha Wolf. She stated two of them are here tonight. Kimberly said they would like to start a clean up our streets campaign, which is just a start, but currently our focus is picking up the needles, spoons and things that could harm our residents. She said there are children walking around that could step on a needle. Kimberly said Saturday the 22nd they would like to meet here in front of the building and hold a walk. She said Family Food Mart said they will provide a box of garbage bags. She said the fire department said they will furnish safe containers for needles. Kimberly asked if the village would advertise this on the sign up front and the fire department said they will do the same as well as the Village Church. She said they will reach out for gloves, she said they are not asking the village for anything, they will reach out to the businesses. She said they think it is important to get the whole community involved. Kimberly said that covers this side of our town and if she remembers right, Kroger is in the village and she was told it is not in the village. Kimberly asked if the subdivisions on St. Rt. 48 in the village and the mayor said there are actually four different neighborhoods. Mayor Lawhorn said he knows it is a problem and he knows they are on Broadway and he received a call there was one laying in front of the Post Office that I went and got. He stated it is very hazardous for you to fool with them and Sgt. Boylan can tell you that. He said there are so many diseases you can get from these needles and you really have to be careful on who is doing this, I would hate to see one of you get pricked by those needles and get a deadly disease. Kimberly said she looked up Narcotics Anonymous on line and she said they meet within ten miles of the village and she is going to attend those meetings and asked if anyone else would want to attend to

understand better what we are looking for. She said they will go in groups and we will have gloves, if we do not have gloves we will not do it. She said she will contact the health department to find out what type of gloves do we have to have for people not to be at risk. Mayor Lawhorn said there are gloves, they are very expensive gloves, and you do not want kids doing this. He said he is all for it, it is a problem, and he and Linda were approached last Sunday by someone that said there was one in front of their house. He said it is a problem and he will do anything he can to help them. He said he can't buy those expensive gloves for them but will buy latex gloves. Kimberly said he could show up and help and he said he already has something scheduled. Kimberly said the weekend prior is Easter weekend and we figured that there would be an egg hunt. Mayor Lawhorn said we need to work something out for disposal, you just can't throw these things in the trash. Kimberly said the fire chief said he would give us what we needed and the mayor said they then have to go somewhere to be disposed of. Mayor Lawhorn said there are a lot of things to work out before you do that. Sara Wilson stated that they may get sponsors for four pair of the special gloves and that would be her hope. She said then the initiating women could use those to properly handle the needles. Mayor Lawhorn said he read the letter and we can do all that, but he can't be here on the 26th. He said he will buy them latex gloves. Atkins said there are gloves that are 11 mil for \$11.00 a box. Mayor Lawhorn said he will go and buy them and needs her phone number or address. Kimberly asked if the name was okay and the mayor said it is fine and we will put it on the sign. Gary said we can put it on the web site too. Smith said using the prongs to pick them up and it would alleviate the chance of pricking.

Maryan Harrison – Historical Society – stated she gave information about the preservation ordinance and the information about the next step we need to take. She stated we have money out there and I hope you take a close look at this so we can move forward with this and then next year we are applying for grant. She said money goes to the same city every year because nobody applies for them, so let's be one of them. Maryan said the state has someone that will come and do a workshop. Smith asked if there is any action needed to go forward and she stated the checklist. Maryan said the gentleman from the state had a question about the ordinance because the last two pages were marked out and he wanted to know why.

Scott Doughman – 260 E. Forrest Ave. – said he wanted to start out with fiscal discipline. He said as a legacy of twenty come years including my grandfather, Dick Doughman, who was Fiscal Officer as well as Sharon Louallen. He said one of his deciding factors to move to South Lebanon was the understanding of fiscal discipline that was a legacy of this town. He said that is a strong position to have, an excellent top of the line in fiscal discipline. Scott said the second point he wants to make was there was an invoice, that I have an email from my Ohio Public Records request,

stating that LANRM gave village administrator gave access to the tax drive allegedly without the fiscal officer knowing, which is not allowed. He said regardless of whether there was anything that happened, it begs a question as to if somebody went over somebody's head. Scott said also in the email suggests a State owned tax computer password request from everyone in the village without eliminating the tax computer two days prior to being removed from the special access to the tax drive. He said those are points he would like to make and have council follow up on. He said the question making sure we have fiscal discipline in this town. Doughman said he has a copy of the document if anyone would like one. Smith asked for a copy and others were given a copy as well.

John Moore – stated he spoke the last time about a few issues he had and he gave each council member a listing of all the questions I had. He said he won't touch on all of them because council can read. He stated the only concern he has. Mayor Lawhorn asked to interrupt and asked if he was going to go over Gary Vidmar's thing about the postage, the discipline and investigation again? Mayor Lawhorn said if you are, we are not going over it again and as far as that investigation, it is done and we are not going to discuss here anymore. Moore said the point he has is the public records request that he made the first part of February. He said the information he got was missing a document, that Mr. Doughman was able to get through a request he had. He wanted to know why the document was not released to him and if there was an alternative motive. He said administrator access to servers, he would like to know what the checks and balances are for someone to go and to edit, to delete, to move or to manipulate files that are on a server. He said his past IT experience is that when someone has administrative access, they have a key to the gateway to do anything they want. He said when you have individual passwords, then that opens another gateway because documents can be changed under someone else's name, documents can be deleted, things can be sent through an exchange server for email under someone else's title. John said the bad thing about that is with public records requests, documents disappear, we are not only liable to the State to find out why those documents have disappeared, but also have a retention we must keep as a village. He said with one person having such access and it is not monitored, and no one to double check what is changed, edited or deleted, all the information from the village can be altered at any time. He said it could have already been done or could be happening now and we have no way to find out. John said requesting public records and having two different sets of documents released, in the way things have gone, seems a little interesting that it seems to be happening. John said maybe that is something you need to check and see who monitors what is done, there are reports that can be run to find out who is changing what. John said it is important to me, as well as everyone in this village, because ultimately it changes what is available for proof, evidence and how things should be ran. Smith asked Bruce about the

document that was missing from his request and if there was a reason why. Bruce stated he does not recall specifically what this gentleman's public records request said other than the investigatory records of the investigation, which he was provided in totality. He said whether his request specifically said emails or not, he does not recall that. Bruce said what he is referring to and it is attached to your packet, is an email. He said his response to the records request was provided first and the second request he has produced was produced to Mr. Doughman. He said his records request was specifically for emails and he was provided over 1500 emails. Bruce said he believes the response to this gentleman's request was provided. He said he does not recall specifically if his request included emails, if it did, and it was an oversight, it would not have been in my possession at the time that it was provided to him. He stated that he was provided everything that I was provided with. John Moore said but the email was what was originally sent to the mayor from the employee, so therefore that is what started the investigation. He said that is like taking a car trip without turning on the engine. Smith asked if he wants that put in the record and John Moore said yes for the council and for further review if necessary for legal proceedings.

4. Mayor Lawhorn presented the following minutes for approval:

Regular Meeting – February 6, 2014 – motion to accept was made by Atkins, seconded by Allen, all yeas.

Workshop Meeting – February 6, 2014 – motion to accept made by Allen, seconded by Johnson, all yeas.

Regular Meeting – February 20, 2014 – motion to accept made by Allen, Seconded by Riley, all yeas.

5. Mayor Lawhorn stated this is the third reading of Resolution 2014-03 to allow the low deductible medical insurance for full time employees. Mayor Lawhorn said this has been through the personnel committee and he thinks thinks that all the employees have had a chance to look at it and be advised about it and everyone I have talked to thinks it is a good deal. Smith said he has one question on the insurance. He asked why would that be subject to personnel verses the council as a whole? He said so half the council has never seen anything. Atkins said the whole council has seen the insurance policy. Smith said but you just said you had a discussion within personnel. Allen said that is another issue that is further down. Atkins said insurance is for all of council to look at. Smith said just clarifying it wasn't in personnel. A motion to adopt Resolution 2014-03 was made by Allen, seconded by Atkins, all yeas. Smith stated now the question is are we going to pay the employees what they are owed. Mayor Lawhorn said that is coming up and that it has been to personnel committee and it will be in

in their report. Smith stated when council votes on something as far as anything to do with monetary, he thinks the whole body of council should discuss it and as far as taking action on an ordinance that already exists is really an oxymoron. Atkins said the only thing we took action now was new insurance. Smith said yes but you are saying now, I asked the question we should pay the employees what we owe them for the ordinance when council changed the insurance. Mayor Lawhorn said the personnel committee is going to make a recommendation to the full council and the full council will have an opportunity to vote on that tonight. Smith said we will see.

6. Administrator Vidmar stated in memorandum #13 he discussed an appeal that Kohl's has filed to reduce their property taxes at Rivers Crossing. He said last year we had a discussion where Kohl's had filed similarly for two years prior. He said the Board of Tax Appeals ruled against them and now they have filed again for the next tax period. He said what we did last time, we hired an independent appraiser to prepare an appraisal in order to defend the Warren County's tax assessment. He said this time the cost of the appraisal would be shared between the village, Warren County and Kings School District, all of which obviously will benefit from the higher tax value. Gary said this property is in a TIF and reduction would lower the TIF revenue.

Bruce McGary stated the most important thing that he did this time as well as draft a MOU, he asked the county auditor and they complied with a breakdown of what the consequences would be if Kohl's prevailed. Bruce said you can see that if we don't do this, what's the risk that we could incur. He said last time we were approached by Kings Local School District and we participated and this time it's the villages incline to do it again. He said he wanted to make sure council knew if we didn't do this what could happen. He said in the MOU he put some spread sheets that give an idea about what Kohl's is looking for in a reduction of \$574,760 and that is per year. He said Kings has filed a counter complaint seeking an increase of \$805,343. Smith asked if the firm we use out of Dayton for the TIF had any involvement in this and Bruce stated no, the only entity that has any standing in it beside the county is the school district. Bruce stated each side is well represented.

7. Mayor Lawhorn held the first reading of a resolution authorizing a ten foot easement at 230 Pike Street owned by Sable Allen and Mae Cole needed for the East West Pike Street Waterline Replacement Project.

8. Mayor Lawhorn held the first reading of a resolution allowing a contract with Contract Sweepers. Gary stated the bids were less this year. Atkins asked if we have the parking issues worked out and Gary said they are still working on that. Gary said they are studying the parking issues and what kind of legislation is required.
9. Mayor Lawhorn stated tonight is the first reading of a resolution to accept an amendment to the wholesale water agreement with Cincinnati Water. Gary stated we have had many weeks of discussion and at our last meeting we had representatives from Cincinnati Water Works explained their perspective of the agreement and the amendment. He said Bruce and he agree that Cincinnati Water Works have gone as far as they are willing to go. He said they are willing to reduce the take or pay requirements during the first four or five years to the point we won't have any take or pay penalties in the next four to five years. He said we are hoping through growth and any future amendment that we will fare much better with amendment than we did with the original agreement. Gary said in the original agreement it actually provides for us to meet with them yearly to review the agreement and growth rate. He said in the past the village chose not to conduct those meetings but it does provide the opportunity. He said it did not have to be in the amendment because it was already in the original agreement. He said that was a question Bruce had and suggested strongly that we at least have the opportunity to meet with them yearly. Atkins said the problem he has is we still have the take or pay that could cost us up to six million dollars in the long run and we are extending the contract ten years and they say they are in this to make money and we are giving them ten more years of commitment so they will be getting money. He said plus another 133,340 in four more payments and he feels we are paying a lot for infrastructure and it did not cost that much to bring infrastructure from Turtlecreek to South Lebanon. Atkins said we are paying for infrastructure, take or pay, extra money and giving them ten more years and that is a lot of money.
10. Mayor Lawhorn opened the floor to Atkins for a personnel committee report since he is the chairman. Atkins said the personnel committee met again this week and the recommendation of the committee is to give all employees will be given their deductible that we all thought they were going to get one half minus what was already put in their accounts for the H S A accounts. A motion to follow the personnel committee's recommendation as stated above was made by Atkins, seconded by Allen, all yeas. Smith stated that piece of legislation should have been to the whole body of council not a personnel committee. He asked what insurance has to do with personnel, it is a benefit and an expenditure and the full body of council should be privileged to a discussion like that. Allen said she agrees to some extent, but what really came to the personnel committee was complaints between personnel so that is why it started at

the personnel committee. Smith said you should have referred it back to the whole body of council, council needs to listen to everything, not a committee, where you could theoretically have a minority telling the council what to do. Allen said we only make the recommendations, you can turn it down. Smith said it is the right thing to do and all of us should be listening to the discussion. Mayor Lawhorn stated what good is having committees if they don't hear these things and report to council. Smith said you use it for the right thing and Allen said we thought we did.

11. Mayor Lawhorn presented for approval for Vikki Stickelman to attend a seminar in the spring and the cost is \$170 and the hotel is \$104 but will have taxes added. After discussion a motion was made to approve the seminar costs and hotel expenses not to exceed \$200 per night, seconded by Atkins, all yeas.
12. Mayor Lawhorn presented Ordinance 2014-02 to adopt the Ohio Basic Code as an emergency. A motion to suspend the reading rule was made by Smith, seconded by Atkins, all yeas. A motion to adopt Ordinance 2014-02 was made by Smith, seconded by Allen, all yeas.
13. Mayor Lawhorn held the second reading of a resolution authorizing a contract with Rozzi for July 4th fireworks. Gary said he has given council the scope of the fireworks you asked for and they gave more than usual.
14. An invoice for Solicitor McGary was presented for authorization in the amount of \$1270.00 through March 17th. A motion to authorize the invoice was made by Allen, seconded by Boerio, all yeas
15. Smith asked if an executive session was held at the personnel committee meeting and Bruce said yes they did. Smith asked that the rest of council get a report of what took place. Bruce said they are at liberty to discuss that with you and they can discuss that in an executive session with you if you want to adjourn into one. Smith asked what the statute says about the rest of council getting a report of it and Bruce said there is no provision in the statute that addresses it. Smith said he would prefer they send him a copy and Allen said she would.

Smith asked about the Rob Wilson issue, what has taken place with Mr. Wilson and Mayor Lawhorn said we will go into executive session on that matter tonight. Smith asked if Mr. Wilson had been interviewed and the mayor replied he had. Smith asked who interviewed him and the mayor stated Tony, his supervisor as per the personnel manual. Smith asked if the personnel committee interviewed him and the mayor stated no. Mayor Lawhorn said the investigation is ongoing, and we are going into personnel and he was not going to discuss it anymore until we get in there. Smith

said going into executive is the council's privilege it doesn't stop us from discussing any issue and the mayor replied he was not going to discuss it out here. Smith replied he does not have to but I have some questions. Smith said so it is an ongoing investigation and the mayor said yes and Smith asked who is investigating it and the mayor said Tony, his supervisor. Smith asked if the personnel committee has had any discussions on this matter and the mayor said no he didn't think so but did not know he is not a member. Smith asked if the personnel committee made any recommendations for Mr. Wilson and Atkins stated not personnel, it was before council when we discussed it wasn't it? Mayor Lawhorn said it has not been talked about with council and Smith stated not to his knowledge. Atkins stated no it was personnel. Mayor Lawhorn said it is being investigated. Atkins said it was discussed in personnel but we did not talk to him and Mayor Lawhorn said we are going to have to go to executive, he stated he could tell them that it is being investigated and that is what personnel manual says you have to be advised and you are being advised tonight it is being investigated. Smith said he wants to make sure procedures are followed so he stated he put together a couple of things for council to look at.

Smith said first of all he spoke about personnel before and recommendations from committees should only come back as recommendations not make decisions in a committee meeting. Atkins said that is what they did, make a recommendation to council. Smith said he is stating some opinions. He said the complaint procedure you see on the first page, talks about the five days, and I have looked at what has been going on and this five day rule in my opinion has been misinterpreted and the complaint procedure that you have in any organization would be differences among the employees regarding interpretation of rules or other problems in which they seek resolution of such differences. He said theoretically, this is a grievance procedure for the employees. He said the five day rule everyone is referring to is any employee having a complaint may lodge his or her complaint verbally with his or her department head in order to have complaint recognized and must be filed within five working days. He said it is not if you do something in five days you get out of jail free card. He said if you commit and it is not discovered in five days you don't get a free pass. Smith said in this last investigation the five day rule does not apply it simply if the village does something to the employees they have five days to lodge a complaint to us about it. He said the next section under reporting the violation of a law finding of employer or fellow employee. He said a couple of different areas in this, when you do something that is that disruptive or could do harm to someone you have to take diligence in to reporting something and might take some time. He said if you do report it and your wrong then the person reporting the information could be subject to the law for reporting something false. He said he has heard the amount of time reporting incidence and you should read this carefully and I think it spells it out that diligence has been met in reporting stuff.

Smith said he attached Chapter 1 of home rule. He stated South Lebanon is a home rule, it is not a charter form of government, it is not a township, it is a home rule. He said there are some questions and answers that council needs to take a look at. Smith said first it seems to be that the village is trying to give powers and duties from one department to the other. He said now the question was asked can the village council pass an ordinance defining the duties of a village office which are different from the establishment of the ORC and the answer is only if the village has adopted a charter, period. So we cannot give this power of council away to any committee, this council is by statute, we are a statutory animal, so we have to rule that way. He said the mayor can't give duties away, the solicitor, the village administrator and so on. He said this is just a question and answer for the council, so just take a look at it and it is out of the Village Officers Handbook. He said it is published from the State from the auditor's office. Smith said he put a couple copies of the job descriptions of the administrator and the fiscal officer to kind of show you what is in the statute and contrary to stuff we are putting in the handbook that would be violating the statute, which is unconstitutional. Mayor Lawhorn said he wondered about that too, us passing ordinances that override the Ohio Revised Code but because of this Rob investigation, I think I should be doing it but the handbook says his supervisor is to do it. Smith said if there is a conflict there, then I agree it could be unconstitutional. Smith stated the company that put these rules in for this municipality is a legal firm. Smith says it gives us the right to pass to pass these ordinances and Smith said it does not give us the right to supersede things. Mayor Lawhorn said he is not sure about that because he is not an attorney. Bruce stated he will respond to the five day rule, among other things, there has been ongoing discussion about that. He said what happened before you were on council, Clemans Nelson reviewed and recommended updates and council took action on them. He said he opted not to participate in that review because that is their specialty and as far as I was concerned, I was duplicating a service. He said a number of things in our manual that are concerning and came up during the investigation you are referring to and that discussion has been had by the personnel committee. Bruce said he made multiple tries to reach the attorney who drafted those amendments, as well as drafted the original and seek some clarification and I have yet to get a response. Smith stated we should have Clemans Nelson come here. Bruce said his recommendation to personnel committee and to council is we do go through it again. Smith stated he would prefer the manual be the entire body of council not a committee. He said you get second hand information and if changes are made every council member should be aware and when we make changes everybody should be on the same page. Mayor Lawhorn said before this last one was done every member of council got a copy before it was voted on. Smith said there is nothing like having a discussion and the mayor said no one had a discussion. Atkins said personnel committee's recommendation is that the personnel manual be reviewed because there are a lot of discrepancies and Smith said by full

full body of council and Atkins said he does not care who does it. Smith said put it on for us to look at. Discussed procedure done when passed. Smith said they make their changes and then council has changes they can insert. Bruce said the firm gave draft of review and each member of council received a copy and each member of council, if they had recommendations, were given an opportunity and then the personnel committee reviewed it.

Smith said the sign across the river that has plexiglas missing and it depicts the village and it needs to be repaired, it looks bad. He said the Harrison's built it and donated it to the village many years ago.

16. Allen asked if there was a number assigned to the insurance ordinance and was numbered as 2014-03.
17. Riley said he has had a few people come to him about barking dogs and asked if we have an ordinance. Smith said he thinks you are only allowed three dogs unless you have a kennel. Sgt. Boylan said it is addressed in our noise ordinance. Bruce said there is an ordinance in the Basic Code called loud dogs and is number 9026.
18. Mayor Lawhorn said opening day for the Wolf Pack is April 5th at 10:30 a.m.
19. A motion was made to adjourn at 7:36 p.m. by Allen, seconded by Riley, all yeas.

Sharon Louallen, Fiscal Officer

Lionel Lawhorn, Mayor