

**VILLAGE OF SOUTH LEBANON
REGULAR MEETING MINUTES
JULY 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 – Absent Steve Riley – Absent
Jim Boerio – Present James Smith – Present
3. Mayor Lawhorn opened the floor to the public: No one approached.
4. Mayor Lawhorn presented the following minutes for approval:

Regular – June 5, 2014 – Motion to approve made by Smith, seconded by Allen, all yeas.

Workshop – June 5, 2014 – Motion to approve made by Allen, seconded by Smith, all yeas.

Regular – June 19, 2014 – Motion to approve made by Smith, seconded by Allen, all yeas.
5. Administrator Vidmar stated he added to the agenda a change order for Homestead. He said we signed the contract a year ago and there now is additional damage that has occurred. He said there are cracks opened up and the additional cost is \$1,131.00 on the total contract of \$175,655.00. He said the amount of money we received from First Financial still far exceeds the cost of the project so this will be money from what we received from them. A motion to approve the change order was made by Smith, seconded by Allen, all yeas.
6. Mayor Lawhorn presented a resolution as an emergency authorizing an application for Ohio Public Works Commission Infrastructure Grant. Vidmar said this was added to the agenda as well. He said we have been declared eligible to receive a loan from Ohio EPA for the waterline project across the river. He said we have an opportunity for grant money to pair with that loan. Gary said the deadline for the application is a week from Friday. A motion to suspend the reading rule was made by Smith, seconded by Allen, all yeas. A motion to adopt Resolution 2014-15 was made by Smith, seconded by Allen, all yeas.

7. Mayor Lawhorn stated at the last meeting there was discussion on the designated truck route and Zoar Road. He asked Bruce if he had a chance to read the decree and Bruce said he had. Bruce stated he did research on the issue and the decree does not mention Zoar Road but he went beyond that and did a lot of research because he is concerned about the village and truck routes given the litigation and liability this village has incurred historically. Bruce said he was involved with the township during that suit because the township did the same thing. Bruce said he was more concerned where the village adopted a resolution in 2000 that established a truck route and suit was filed by Jimmy Amburgy and Carl Oeder & Sons arguing that the truck route ordinance was unconstitutional. He said a judge in common pleas court in Warren County found it to be unconstitutional. He said in that case the village adopted a truck route for no trucks, but made allowance for delivery. He said the court found that unconstitutional. He said the interstate commerce is a fundamental right in this country. Bruce said when you have a fundamental right that a local government imposes a legislation that affects it, then the courts look at a higher standard of review. He explained the review process. Bruce said the administrator asked him a couple of questions and the first was, does the village have the authority to adopt legislation for a truck route and the answer is yes but subject to the legal standard I just described to you. The second question is are our engineers or some other expert in a position to give us an opinion that these overweight trucks are somehow specifically attributable to the deterioration of Zoar Road. He said Gary says the engineers can't find any standards, can't give that opinion, they went to the county engineer and ODOT and can't find any basis for that. Bruce said his advice to council is yes, you have the authority to do it but because compelling state interest and strict judicial scrutiny applies here, then you would need an expert to justify doing it. He said not good enough for you to sit in your capacity and say it makes sense to do that, given that higher standard of care, it would be my advice not to do it unless you have some expert to support that. He said that is not to say there is not more than one way to skin a cat, could be putting up barriers, making it one lane, detour, or signal the route. He said he is not saying you can't do those things but to establish a truck route he feels we need an expert. Mayor Lawhorn said when the village posted their route and the suit came up, I was at the township, we put no trucks and it was ruled we couldn't legally do that and we had to pay a fine and we went on the assumption they were tearing the roads up. Smith asked Bruce if he remembers what the settlement agreement was and Bruce said he was only involved in the township. Bruce said his recollection was the village's insurance paid \$650,000 and he does not know the deductible and Smith said \$5,000. Bruce said the township had to pay \$150,000 and he argued not to pay the co-pay with the insurance company. Bruce said in the Amburgy case there was an Ohio Supreme Court case that said the ordinance the village had was constitutional but that case was decided prior to the last one. Bruce said when passing the ordinance in 2000 there could have been a legal basis for it and then the court decisions evolved after that.

So he says it causes him great concern that we would do that. Boerio asked What happens if a truck drives down the street and that road slides down the hill and that truck is in transit there. Gary said we will get the emergency funding because then it will qualify for emergency. Boerio said what about the truck driver suing us. Bruce said that may be a reason to choose another option. He said down Grandin Road it got bad because of trucks trying to make the turn and tore all the guardrails out on the river. So he said Neil Tunison put the concrete barriers in the middle of the road and it is hard to get an SUV through there and it stops the trucks. Smith said there is a sign at Kings and Mayor Lawhorn said it does not say no trucks but says impassable for trucks. Bruce said maybe there are two ways to skin a cat. Bruce said you would do that on a temporary basis, he said that is temporary at Grandin but has been there a long time. Gary said the challenge we have is the bend in the road you can't see around. Smith said the key would be for the county engineer to say the bridge can no longer hold the weight. Gary said another option is to put barriers down the outside but then cars would swipe the barriers on a regular basis. Gary explained they keep repairing and put signage up. He said he will meet with Neil to see if he has any thoughts. Smith said the suit in 2000, council passed it to test it and did not enforce it.

8. Vidmar stated Tuesday night Kings School Board approved the TIF amendment. He said they have asked that council consider future CRA agreements and proposed a memorandum for the village to pass. He said they are asking that since we have one residential CRA and enabled them through tax savings, to do public improvements that for the future we consider this memo of understanding. Smith said other properties are included for the CRA and would allow them to do improvements to property should they want to take advantage of it. The school board is asking council to pass a memorandum of understanding that would regulate future CRA and have the developer give the school 35% out of the savings. Gary said they are asking for 35% and he says that is larger than he would suggest. He said he would recommend 15%. Boerio clarified that it would come from the developer and not the village and was told yes. Smith said he agrees with the lower percentage. Gary said you need to consider a higher percentage would be less attractive to businesses who may consider coming here. Bruce said the city of Mason has 35% but keep in mind the area in Kings is small. Bruce said it is really an agreement with Mason but he amended this one to be truly a memo of understanding. Gary said he is asking for approval for a MOU with the language proposed here and then what percentage you would like it to be. Allen made a motion to approve with the percentage at 15%, seconded by Smith, all yeas.
9. An invoice was presented for Bruce McGary in the amount of \$1,125.00. A motion to approve the payment was made by Smith, seconded by Boerio, all yeas.

10. The second reading of the ordinance establishing no parking on certain streets was held. Mayor Lawhorn said before the final reading we need to go through the streets listed, because he did look at High Street and the list is not correct. Gary said a letter was sent to all residents on the street inviting them to attend the meeting tonight and no one is here other than Mr. Teasdale. Gary said we intended to put the no parking signs on the light poles but there are only three light poles on that entire length of road and that is not sufficient to enforce no parking. He said he is afraid there will have to be at least two signs driven into somebody's yard. Discussed other places putting signs there and the mayor said we have to follow ODOT's Uniform Traffic Guidelines. Gary will talk to the engineer.

Gary said the swing set has been ordered.

11. Johnson said she sees we got the port o let and asked if anyone went to Fosters to check out the drinking fountain and Smith said he was there today and took pictures of it. He said he will try to email to council.
12. Smith stated on Dwire Road that is in Hamilton Township, if you could contact the township concerning two large potholes. He said in traveling he has seen communities that have signs share the road. He said like at the bike trail we need some signage. Mayor Lawhorn said the sign that came up, it needs to be a new sign. Gary said Little Miami Assoc. agreed to give us a map and Smith said make sure they have our places on there, they have in the past forgotten us. Gary said they will give us something for our community and then it can be encased. Mayor Lawhorn asked if they are going to give us something to encase it with and Gary said he doesn't know. Mayor Lawhorn said he wants something nice.
13. Allen said on Mary Ellen people walk late at night and the sidewalk is gone and they trip.
14. Bruce said the Pike Street easement has been recorded and so was 15 E. Broadway. He said the access grant from ODOT is now on record.
15. Gary said Woodknoll is making progress. He said the bank has stepped up to get this project done. He said the Pike/High intersection will be closed for two days next week. It will be closed on Monday and Tuesday with a detour. Smith said at the intersection there is a depression so whatever it is it needs to be fixed while they are there. Mayor Lawhorn asked him to contact Oeder so they know they will have only one route.

16. Sgt. Boylan said he is getting pricing on vehicles and they will need to replace one next year. Discussed different vehicles.
17. Mayor Lawhorn said there have been complaints of speeding on Pumkin Brown Hill. Sgt. Boylan said they have been sitting up there. Bruce said he had a case in court for running a stop sign and she wanted a deal. He said he explained we have had a lot of complaints and she said she knew she was one who complained. He said he told her then she is not getting a deal.

Mayor Lawhorn said to keep Randall in your prayers since he is in the hospital.
18. A motion was made to adjourn at 7:23 p.m. by Smith, seconded by Allen, all yeas.

Sharon Louallen, Fiscal Officer

Lionel Lawhorn, Mayor