

VILLAGE OF SOUTH LEBANON
REGULAR MEETING MINUTES
APRIL 16, 2015
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:

Bennie Deaton – 404 Morrow Road – said his daughter lives at 349 Mary Lane Circle. He said there is a 16” to 18” plastic pipe from the apartments and it is not taking care of the water. Bennie said his daughter’s driveway is slanted and it gets halfway up her driveway. He said he is wondering if there was a mistake when they planned that because they only put one pipe. Bennie said it backs up and floods her driveway and the street and has happened three or four times. He asked if the village can contact the planner and have them do something with the water issue. Mayor Lawhorn stated he is the first complaint we have heard and maybe there is a problem there that wasn’t there before and we need to have it checked. Mr. Deaton said he had his car parked on the street and it got all the way into the engine and into the dash. Mayor Lawhorn said we will have it checked.

Scott Doughman – on behalf of Ryan Carmack, he is not able to be here at this time and will be here later to bring insurance for baseball and would like to be afforded instructions at that time tonight.

4. Mayor Lawhorn stated it is on the agenda for a third reading of a resolution concerning the sale of the Community Center. He said he asking council to table this until we have more information. He said council doesn’t have enough information to make a decision on this. A motion to table the resolution was made by Atkins, seconded by Boerio, all yeas.

5. Mayor Lawhorn presented for a third reading a resolution to enter into a contract with Contract Sweepers for 2015. A motion to adopt Resolution 2015-07 was made by Smith, seconded by Boerio, all yeas.

6. Mayor Lawhorn stated we have a resolution authorizing a consulting agreement with Gary Vidmar and declare an emergency. Mayor Lawhorn stated he thinks everything in here has been discussed in the past. Mayor Lawhorn asked for a motion and second declaring an emergency and waiving the rules. Motion made to waive the reading

rule by Boerio, seconded by Riley, Allen – yea, Atkins – nay, Boerio – yea, Johnson – yea, Riley – yea, Smith – nay. A motion to adopt Resolution 2015-8 was made by Boerio, seconded by Riley. Smith asked Bruce McGary if 4 out of 6 is the majority to suspend the rules, or does it take 5 and Bruce said 4. Vote was Allen – yea, Atkins – nay, Boerio – yea, Johnson – yea, Riley – yea, Smith – nay.

7. Administrator Jerry Haddix thanked council for the opportunity to fill this spot. He said it has been a busy week with tax season and council week as well and everyone in the offices have been great.

Jerry said Tony Ledford and the maintenance crew have done some patching on Zoar Road. He said hopefully it will hold until we get the Zoar Road hill project going. Jerry said the County Engineer is doing a salt cooperative purchasing program and they are bidding it out the first part of June. He said he going to try and get involved with that and save some money. He said the only other business he knows about is the open house for the comprehensive plan and it will be April 27th, here in council chambers.

Smith asked Jerry about the Pike Street contractor and where he saw them come in to do some work, he said the repairs are not being done correctly and asked him to study it to make sure they comply. Jerry said there is a CDBG project coming up this summer and that will be from Lebanon Road to High Street. Smith said if the compaction is not done properly then that would be good money going after bad.

8. Mayor Lawhorn said it is on the agenda for a first reading of the employees policy manual and under the advice of our solicitor, it should be tabled because of the things that came out in the hearing. Bruce said it is his recommendation that we bring forth all these text amendments, several comments that we need to change the policy, so he recommends that the personnel committee cover those before this comes forward to council. A motion to table the resolution concerning the policy manual was made by Atkins, seconded by Allen, all yeas.
9. Mayor Lawhorn asked council to take a few minutes and review the bill list for approval. Johnson asked about uniform invoice for the Sheriff's Dept. and stated one was on there last month too and how often do we do that. Sharon stated that council appropriates a certain amount and he orders as needed. A motion to approve the invoices for payment was made by Smith, seconded by Allen, all yeas.
10. Mayor Lawhorn presented an invoice for Bruce McGary in the amount of \$1,530.00 for approval. A motion to approve the invoice was made by Boerio, seconded by Riley, all yea.

11. Atkins welcomed Jerry.
12. Boerio welcomed Jerry. He stated he believes we made an error when we disciplined employee Rob Wilson. He said he moves that we modify the discipline that was applied to Rob Wilson and that the discipline consist of him being demoted one pay grade for a period of one year from the date of his last tardy, which is February 6, 2015. He said whereas they did not previously specify an ending date for the discipline that was applied. He moved that we do now specify an ending date, one year from the date of his last tardy, which is February 6, 2015. Mayor Lawhorn said that is the demotion in pay, what about the issue if he is late again he is terminated. Atkins said that is the problem, anyone can over sleep. Mayor Lawhorn said it needs to be in the record if you want to add that. Boerio stated that it was stated we would dismiss him if he were tardy again, period. He said now this motion would say, that discipline would last for one year, he would be dismissed if he were tardy again for one year from the date of his last tardiness, which was February 6, 2015. Mayor Lawhorn stated to be clear the motion is the demotion in pay and termination for tardiness is for one year from the date of the last tardy which is February 6, 2015. Boerio said he does not think Rob will have any trouble meeting that requirement, if you look at his performance lately, he has been going about one year between episodes and if something happens and he is going to be late, maybe he should just call in sick. Riley said where he works they have a progressive discipline, so after the year, he is late again, what do you do and Atkins said we go by the personnel manual. Bruce said that is one of the issues that was raised by council and the personnel committee should discuss and make recommendations to council. Allen stated that depending on the next personnel meeting and the recommendation to council if it happens again there will be something at that time to cover it. Riley said at his work they have a last chance agreement and the employee signs the agreement and they know it is their last chance. Smith said it is pretty clear that when he was tardy he was punished, he did his suspension three years ago. He said he has been late three times in three years, you gave a verbal warning and went straight to z. Smith said this is the most harsh thing, inappropriate to do this action to Mr. Wilson. He said he has been punished and served his time and he has improved 100%. Smith said to go from verbal warning straight to a demotion, nothing in between, you skipped every one of the steps in the manual, and he could honestly vote for nothing like that. He said council has been too harsh with him, he served his time and he thinks we should get off of it and return his pay to him. Riley said isn't it policy that when an employee gets disciplined that it gets brought to council. Atkins said it has not been done in the past. Riley said in the past when he was late it was never brought to council. Atkins said why wait three years to bring it to us. Riley said that was his question, it was never done right in the past so now they are asking us to take care of the problem that should have been fixed in the past. Atkins said he thinks they are asking us to punish him for something he did three

years ago and he has gotten better, he said he looked at all his timecards, and he thinks we made a mistake. Allen said she thinks that is why he made the motion to slim it down. Boerio said he thinks there were a lot of mistakes made here and he personally thinks this thing should have been brought to the personnel committee first and then the personnel committee should have had a chance to review this thing and make a recommendation to the council. He said he does not know if we have a document that says what the charge of the personnel committee is, but if we don't, he thinks we should develop it. Mayor Lawhorn said if they want to change that they need to change that before we change the personnel manual. A second to the motion was made by Allen, Allen – yea, Atkins – nay, he thinks it is too strong, anyone can oversleep, Boerio – yea, Johnson – yea, Riley – yea, Smith – nay.

13. Johnson said she has a few complaints about speeding going up the hill on Pike Street. She said they are requesting the police sit up there more and watch. She said they said sometimes they are going 45 mph up there. Atkins asked what time was the worst and she said in the morning. Sgt. Boylan said he has sat up there several times and never seen anyone close to 45 mph. Johnson said she comes out of there every night and every morning and she sees people going faster than 25 mph. She said if they could just patrol that a little more she would appreciate it.
14. Smith said he has something on the sale of the building, even though we tabled it, he said this thing needs to come to an end. He handed out packets to council. Smith said he contacted the Attorney General's Office concerning clarification on the process that we went through concerning the sale of this building. Smith said these things are concerning. He asked when council met to discuss and it says basically in the ordinance that there is no need for municipal purposes, when did we meet and discuss this. When did council act on this and Bruce said they did not. Smith asked how did we come up with the discussion that it had no purpose. Mayor Lawhorn said if it was done in executive session, he does not think council should respond to that or anything that was done in executive session because it is not public record. Smith said my view of it, the section that talks about executive session, it says must be presented by specific motion, second, roll call, motion should state the specific topic and when we went into executive session, it was the general rule of the statute 121.22 that was given but no specific topic. Smith said it says must always begin and end in open session. Smith said acceptable topics are listed as personnel, property, court action, collective bargaining, matters confidential by law. Smith said the property is spelled out as the purchase or sale. He said going in to discuss this, council first was not told what the topic was, the most damaging one, there can be no decision making in executive session, no voting including straw poles, non-permitted matters may not be discussed in executive session even if it is intertwined with permitted matters. Smith said the council has openly said that they have agreed to sell the building in executive session, they agreed to do surveys,

which is \$5,000 a piece in executive session, and the most aggravating piece of this whole thing, that sends chills up my spine, is we had a former administrator that when we had the executive session and were approached by an individual to purchase the building, he said in executive session, quote "I know how to get around the law to sell this building". Smith said that is not an appropriate discussion, should have never been said, you are behind closed doors from the public. Smith said executive session is only privileged for discussion based on Mr. DeWine's office, if notes are taken, papers are given, those are public record and he certainly was taking notes, so therefore I am going to ask for those notes to be submitted to me. Smith said he thinks this needs to stop completely. Smith read penalties for violating the open meetings act, fines, injunction, court costs, attorney fees, action and validating and removal from office. Smith stated council has, in their own words, in the record, said we agreed in executive session to do these things. Smith said tabling it is the first start and he thinks we need to terminate this process. Smith said the ramifications of this to the council is this, everything has to be done open to the public, whether we like it or if the public doesn't like it, it has to be open discussion. Smith is asking this council to not only table this motion but to terminate it. Mayor Lawhorn said he sat out here in a meeting when Smith was mayor and when he went into executive session, he stood up and said he was going into executive session, you never stated what it was for, what the law was and just walked out to executive session, period. Smith said we were taken to court and the village was successful. Mayor Lawhorn said now it is wrong but it was right when you did it. Smith said you cannot justify and the mayor said no, it was right when you did it, but it was wrong when it was something we did. Mayor Lawhorn said that is the kettle calling the pot black, that is what that is. Smith said the mayor can say all that he wants to and the mayor said he has witnesses to that, he was sitting with other people and as a matter of fact, he told them it was illegal. Smith said anytime we went to court under my term the village was successful, we won the case, hands down. Mayor Lawhorn said he is talking about going to executive sessions. Smith said that is what it was, over annexation and we followed the rules. Mayor Lawhorn said he didn't follow the rules that night and that Smith wants the rules followed for us but not for him and he said he was not saying they did anything wrong. Smith said it is in the record and everything speaks for itself. Smith said his last component is, he asked the mayor if met with the folks wanting to purchase this and you said no at the last meeting. Mayor Lawhorn said he has never met with anybody about that. Smith said it is on Facebook you met with them, the mayor said he doesn't go on Facebook because people put things on there they don't know what they are talking about. Smith said the point is, when someone goes to that extreme. Smith said he had a conversation with them and they confirmed that meeting. Smith said it needs to stop and we need to go forward from this and take care of our business. Mayor Lawhorn said it is tabled until more information is gotten and would recommend that is where it stays. Atkins stated that

in that meeting you are talking about in executive session there was nothing said to be done. He said the next thing we knew, they had it appraised, we did not agree to that in executive session. Atkins said it was discussed about possible sale and when we came we were told there would be more information gotten and brought to us. He said then they got the buildings appraised and we didn't know that until we got the bill. He said and then we got the resolution for it to be sold and that is all we have gotten. Smith said he is going to go back to the minutes where some council members and the administrator actually admitted that they had the authorization in executive, why would you say things like that and put it in the record that is now part of the record, anyone in this audience has a right to stop this and the evidence in the minutes is overwhelming. Atkins said he agrees he did say that several times and he disagreed with him when he said it. Smith said it was just said a few minutes ago, we can't say what is in executive session. Smith said you cannot come out with a decision and it was clear it was \$10,000 for those surveys. Mayor Lawhorn said he thought it was \$5,000. it was that a minute ago, now it is \$10,000. Smith asked Sharon the cost of the invoices for surveys and she said there were two at \$5,000 each. Smith said he is asking council to please not move forward with it.

15. Allen said today we were talking and what is going on at the corner of Mason-Morrow-Milgrove Road and Lebanon Road and said Tony was up up there striping today. Mayor Lawhorn said we discussed this last meeting and he is meeting with the owners, nothing is going on. He said it is to try and talk with the owners and work it out. He said Tony was marking the right-of-way of the road so we know where it is when I meet with her. Discussed past discussions. Mayor Lawhorn said he asked council if there was anything last meeting about curb and grass up there and there wasn't and that is one of the things I wanted to clarify. Atkins said our prior discussion was to meet with the businesses and try to work it out.

Allen said she sees that Bruce talked to First Financial about labor and materials for gate or something. Bruce said no, that is the HOA president came and saw him prior to that group coming last time and the issue at time was the temporary gate. Bruce said he was asked to look at our settlement agreement with First Financial and there was excess money left from the bond money they put up and we did the final course of asphalt. Bruce said pursuant to the agreement the money was to be held for a year and the question to him was, could that money be used for the removal of that temporary gate and he said his answer is no. Bruce said the agreement was specific for its use.

Allen said the electrical equipment that they were speaking of at the last meeting, it was determined they don't use and we were going to look at who, if any of our guys, could remove it. Mayor Lawhorn said he doesn't think we have anyone qualified to fool with electric to disconnect and there

has to be a meter. Riley said they mentioned the gate company was willing to come and take the gate as payment. Mayor Lawhorn said we don't want to pay them, they got paid to put it up. Mayor Lawhorn said someone said our workers could take it down and they can do that but he doesn't think they can do the electric. Discussed getting someone professional to disconnect. There were no objections to have the gate taken down.

16. Riley asked if we have an answer about beehives in the village. Bruce said he can't answer that, he will have to research.
17. Atkins said he would like to introduce Pastor Brian Deaton to South Lebanon. He said he is the new pastor at the Nazarene Church.
18. Atkins asked if the mayor reached out to Fischer Homes about Cochran Road and the mayor said he is researching, there was something said about an agreement they had, to do it in a certain time and he has not found anything. He said he is meeting with someone from Fischer Homes next week but they are not the ones he has talked to before. Discussed the issues again.
19. Sgt. Boylan asked for a time frame a.m. or p.m. for Pike Street and Johnson said going out both times.
20. Bruce said the cul-de-sac of Homestead Drive, the previous research even though it had to do with the gate, his research finds there seems to be it identifies six or seven properties that until that connection happens through that other section on to Zoar Road, that the gate, from Homestead on to Zoar Road would not be closed because that would be those folks access. He said there is either a resolution of the council or it is in the covenants or a plat. He said it seems to be a direct conflict with the plat we saw from those folks. Boerio said he does not think there is a conflict there, what these people are talking about is vacating Cochran Road, they are not talking about closing the Zoar Road gate. Bruce said, so the vacated portion would be far enough west that all those folks can still get out to Zoar Road. Mayor Lawhorn said the ones listed were along Zoar Road, the residents all the way down to Main St. and they were to have the ability to use the gate. Bruce said he will continue to look at that.
21. Mayor Lawhorn said council asked about the traffic light at Pike St. and Lebanon Road. He said an approximate cost is \$125,000 plus for the light, approximately \$9,000 for engineering, and he said he knows it was part of the deal on Rivers Crossing. He said he does not know if that was part of the TIF or what it was. Smith said Arik, our TIF attorney would be a great one to reach out to for an answer. Atkins

asked could he tell us if it should be TIF money and Smith said he should be able to tell us the trigger based on the development for the traffic light because it is hard to remember all the details.

22. Mayor Lawhorn said he passed out the information for the National Day of Prayer. He said Dickey's BBQ had their grand opening last Thursday.
23. Mayor Lawhorn said concerning the waterline under the bridge, he talked to Chris Rousch, who is over the water and sewer in the county and he wasn't inclined to release that but said we should talk to the commissioners. He said he and Jerry went on Tuesday and they were pretty absolute that they are not releasing that water. They said that was a permanent agreement and they are not going to release it. Smith said they need to give us a break as wholesale verses retail and the mayor said we are getting a break on that, we are making \$49,000 on that. Smith said when he remembers looking at it, the rate they are charging us is the same as all the customers and rate is built in to do repairs, so they need to give us a little better rate. Mayor Lawhorn said he does not know if we want to make them mad at us right now, they can hurt us a lot more than we can hurt them. Bruce said he came in after the fact, he questioned why the mayor was still not there, because they continued to debate it. He said it is probably an understatement to say that they were aggravated that this village is asking them whether or not that was a permanent arrangement and whether they would give up that territory. Bruce said maybe it's an overstatement to say that two of them were infuriated by it. He said they were also aggravated that as they had required, a written contract, there is not one. He said they have instructed the prosecutor's office to send a contract to the village for the council to sign an agreement consistent with what the arrangement was in 2005. Mayor Lawhorn said the two that he is talking about were original commissioners at the time. Mayor Lawhorn said he talked to the engineer and they said there is no need to increase the size of the line under the bridge, because we are providing plenty of water for our other customers and it would be a waste of money. Jerry asked Bruce about rejecting the bids and he said what ever the time frame, he knows they were opened. Bruce said the bids have maybe a thirty day period and Jerry should check on it.
24. Johnson asked if anybody has complained about the water pressure and the mayor said Cincinnati had an equipment problem this week.

25. A motion to adjourn the meeting was made at 7:35 p.m. by Boerio, seconded by Allen, all yeas.

Sharon Louallen, Fiscal Officer

Lionel Lawhorn, Mayor