

VILLAGE OF SOUTH LEBANON
REGULAR MEETING MINUTES
AUGUST 1, 2019
6:30 P.M.

1. Mayor Smith opened the meeting at 6:30 p.m. with the Pledge.

2. ATTENDANCE

Linda Allen – Present
Jim Boerio – Present
Linda Burke – Present

Bryan Corcoran - Present
Bill Madison – Present
Rolin Spicer - Present

3. Guest: Dean Spoor, Thompson Hine LLP – discussed the three pieces of legislation presented for Council’s consideration. Resolution 2019-35 is a resolution of necessity concerning a petition for special assessments for Special Energy Improvement Projects. Mr. Spoor stated that the Village is being asked to participate in a special financing program in Warren County which helps facilitate energy efficient improvements using special assessments. The second piece of legislation, Ordinance 2019-14, is levying the special assessments and Ordinance 2019-15 relates to the participation in the Warren County Energy Special Improvement District. Mr. Spoor said he has reviewed this legislation along with the accompanying documents and has been in touch with the attorneys for the improvement district and there are no issues with the legislation or accompanying documents. The reason that the legislation is not up for adoption tonight is that there are a few changes to the numbers in the documents, which will be fixed in the next couple of weeks. It will come back to Council on August 15, 2019 to vote and approve the documents.

Chris Jones, Bricker & Eckler – stated that he has been involved in Property Assessed Clean Energy Programs (PACE) in the Cincinnati area for approximately six years. In addition to the Village, the City of Lebanon, and Turtlecreek Township are members of the Energy Special Improvement District (ESID). Mr. Jones stated that there is really no liability to the Village regarding the special assessment the Village is approving for the one property owner. The project is the new construction on 722 Corwin Nixon Blvd and the PACE amount is a little over \$400,000. On a new construction build, the private PACE lenders will allow up to twenty percent of the “as completed” value of the property. The amount goes up to thirty percent on an existing building. The term can continue as long as the useful life of the improvements. In this case, the property owner has selected the envelope or shell of the building and per Ohio ESID Law, thirty years is the maximum. These projects require a two-step approval process by the ESID board and the local government board authorizing the special assessment. Mayor Smith asked Mr. Jones what obligation the Village has for the accounting of the special assessments. Mr. Jones stated after the approval of the documents the special assessment gets certified to Warren County for collection and there is

nothing further. Mayor Smith asked if this would be handled through the Fiscal Officer. Mr. Jones said yes. The funds come from Warren County to the Village and then go to the PACE lender. Mr. Spoor stated that the closest analogy would be the Tax Increment Financing (TIF) funds. Mayor Smith clarified this is for GE Credit Union and asked if they are trying to capture special financing because they are building an energy efficient facility. Mr. Jones said the Ohio ESID PACE Law requires the efficiency of the improvement to be above current building code. Madison asked the benefit of the PACE loan. Mr. Jones said the benefit for new construction is a lower interest rate for the property owner/developer and the term of the loan. Mayor Smith asked if this is the first project in Warren County. Mr. Jones said we have two pilot projects in Warren County, but this is the first real project. Mayor Smith asked if the areas need to be contiguous. Mr. Jones said yes in order to join the ESID. Corcoran asked if there are any drawbacks to the Village. Mr. Spoor said from a legal perspective there really are no drawbacks, but the records need to be maintained by the Village when the special assessments come in. Mr. Spoor stressed that there is no liability to any party because the Village is acting at the request of the petitioner for the special assessment. Corcoran asked Mr. Jones the number of hours it will take to maintain these records in his experience. Mr. Jones said twice a year the Village will receive the funds and will need to reconcile them and send them back out to the PACE lender and he thinks it should be minimal time. Administrator Haddix stated if the property owner would change the special assessment stays with the property. Madison asked, from the perspective of the Village, if this would be providing an incentive to help business growth in our community. Mr. Jones said that is fair statement and it is what we have seen. Allen asked if a portion of the special assessment collected goes to the school district. Mr. Spoor said no because with any special assessment it is an amount on top of your tax bill so effectively the property owner is paying for some improvement on that property, or in this case, the energy improvement of the facility. Allen said there is no tax burden to the school district. Mr. Spoor said correct. Boerio asked about the wording of the legislation which refers to public improvement but stated this is a private improvement unless you consider that the energy savings as a public improvement. Mr. Spoor said from a legal perspective the authorizing legislation that permits the PACE financing considers that there is a public purpose behind the energy efficiency improvement. It's not a public improvement in the sense of a dedicated public street or sewer but it is a public improvement in the sense that it improves the overall energy grid or network which is considered for public purpose. Mr. Jones stated that the origins of the Ohio PACE Law is that Ohio was one of the first states in 2009 – 2010 to enact PACE and the approach taken was to use the special improvement district laws which have been around for decades and put the energy efficiency with it. This is where the public good language comes into it, even though, yes, it is a private improvement, but the public portion is the energy savings part. Boerio said this project is supposed to be an energy efficient project but we haven't been given anything as to how they will achieve the energy efficiency. Mr. Jones stated with the PACE funded improvement to the building envelope, the building is five percent above the

standard building code. During the normal energy permitting process, there is an energy certificate that is produced by the architect which verifies that it is. Boerio said a summary for Council and Administration of how this energy savings is going to be achieved would be good to have. Mr. Spoor said the reason we are doing an introduction now and bringing it back for your vote consideration later is because if there are any questions or additional issues we have time to investigate but also because this is new for the Village. Mr. Spoor stated that we are seeing this type of financing increasingly in this area and it's becoming very popular with new developments. Mr. Jones mentioned that Ohio is #2 in the country in PACE financing behind California. Haddix said there are two members needed on the ESID board. The Mayor is automatically on the board and Council appoints one other person. Mr. Spoor stated he believes that is correct. Burke asked if we will be doing three readings on this legislation. She stated that she would prefer that since we just received this material yesterday and are working our way through it. Madison asked if there is a deadline. Mr. Spoor said the deadline for putting on a special assessment for the next year is September, but we are looking at approving this on August 15, 2019. Haddix said we are having a special meeting on August 22, 2019 for a public hearing so we can do the third reading at that time. Mayor Smith said if we have the first reading tonight then that would work. Mr. Spoor said from our point of view it would work as long as it is in the month of August. Mr. Spoor said that the legislation has been presented on an emergency basis due to the referendum period and when the special assessment can be levied. It is more important to consider it on an emergency basis rather than if there are two or three readings. Solicitor Revelson said we can have three readings and still handle it as an emergency so that it is effective immediately. Solicitor suggested to Council that the legislation be handled as a first reading tonight.

4. RESOLUTION 2019-35 FIRST READING: A RESOLUTION APPROVING THE PETITION FOR ASSESSMENTS FOR SPECIAL ENERGY IMPROVEMENT PROJECTS AND AFFIDAVIT UNDER OHIO REVISED CODE CHAPTER 1710 AND APPROVING THE NECESSITY OF ACQUIRING, INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE VILLAGE OF SOUTH LEBANON, OHIO IN COOPERATION WITH THE WARREN COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT (STATE ROUTE 48 PROJECT)
5. ORDINANCE 2019-14 FIRST READING: AN ORDINANCE DETERMINING TO PROCEED WITH THE ACQUISITION, INSTALLATION, EQUIPMENT, AND IMPROVEMENT OF CERTAIN PUBLIC IMPROVEMENTS IN THE VILLAGE OF SOUTH LEBANON, OHIO IN COOPERATION WITH THE WARREN COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT; AND DECLARING AN EMERGENCY (STATE ROUTE 48 PROJECT)
6. ORDINANCE 2019-15 FIRST READING: AN ORDINANCE LEVYING SPECIAL ASSESSMENTS FOR THE PURPOSE OF ACQUIRING,

INSTALLING, EQUIPPING, AND IMPROVING CERTAIN PUBLIC IMPROVEMENTS IN THE VILLAGE OF SOUTH LEBANON, OHIO IN COOPERATION WITH THE WARREN COUNTY ENERGY SPECIAL IMPROVEMENT DISTRICT; AUTHORIZING THE MAYOR AND FISCAL OFFICER/CLERK TO ENTER INTO AN ENERGY PROJECT COOPERATIVE AGREEMENT AND A SPECIAL ASSESSMENT AGREEMENT; AND DECLARING AN EMERGENCY (STATE ROUTE 48 PROJECT)

7. Mayor Smith opened the floor to the public.

Mayor Smith closed the floor to the public.

8. ORDINANCE 2019-16 FIRST READING: AN ORDINANCE ADOPTING ZONING REGULATIONS TEXT AMENDMENT RELATING TO A CHANGE TO THE FENCE HEIGHT FOR PRIVATE SWIMMING POOLS
9. ORDINANCE 2019-17 AN ORDINANCE FIXING RESIDENTIAL RATES FOR SOLID WASTE REMOVAL EFFECTIVE SEPTEMBER 1, 2019, AND DECLARING AN EMERGENCY

A motion to waive the three reading rule was made by Madison, seconded by Burke, all yeas. By title only, Ordinance 2019-17, a motion to adopt was made by Madison, seconded by Corcoran, all yeas.

10. RESOLUTION 2019-36 A RESOLUTION ESTABLISHING A CAPITAL PROJECTS FUND FOR THE MASON-MORROW-MILLGROVE ROAD PHASE 1 PROJECT, AND DECLARING AN EMERGENCY

A motion to waive the three reading rule was made by Madison, seconded by Boerio, all yeas. By title only, Resolution 2019-36, a motion to adopt was made by Allen, seconded by Burke, all yeas.

11. RESOLUTION 2019-37 A RESOLUTION ESTABLISHING A SPECIAL REVENUE FUND FOR THE RIVERSIDE OFF-SITE ROAD IMPROVEMENTS, AND DECLARING AN EMERGENCY
12. A motion to waive the three reading rule was made Corcoran, seconded by Madison, all yeas. By title only, Resolution 2019-37, a motion to adopt was made by Boerio, seconded by Burke, all yeas.
13. AUTHORIZATION FOR FISCAL OFFICER TO SEND AN AMENDED CERTIFICATE TO THE WARREN COUNTY AUDITOR

A motion was made by Boerio, seconded by Madison, all yeas.

14. AUTHORIZATION OF INVOICES

A motion to authorize the invoices was made by Boerio, seconded by Burke, all yeas.

15. Solicitor Revelson stated at the last meeting on July 18, 2019, Ordinance 2019-11 was tabled. Solicitor Revelson said that he reached out to the Health Continuum representative to see if she intended to proceed with the lease based on the changes Council made from the original proposal. Solicitor Revelson said that the representative indicated to him on July 23, 2019 that the Health Continuum did not wish to pursue renting the space. He stated that he reached out to the Health Continuum for further clarification, however, he never heard back from her. Solicitor Revelson said as this point, he assumes that the negotiation is finished and as a result we should not vote on Ordinance 2019-11. Allen asked Solicitor Revelson if we are going to reach out to the Kings Local Food Pantry. Solicitor Revelson stated that they are the second highest bidder and he would need a motion from Council to reach out to them to negotiate an agreement. The issue is that it is only for a portion of the space. Solicitor Revelson stated that Haddix mentioned the Food Pantry representative is planning on being here on Monday and either he or Haddix will see if they would like to rent two-thirds of the space. Solicitor Revelson said if the Food Pantry is not interested in renting the space it will probably involve rebidding the property based on what was newly proposed which was renting one-third and two-thirds, splitting it into two units, and to follow the Ohio Revised Code (ORC) by renting to the highest bidder. Mayor Smith asked Solicitor Revelson if we will know something on Monday. Solicitor Revelson said hopefully, although the original bid was for the entire space and they may not want two-thirds. Audience comments to Council not made at the podium are not part of the record. Madison said he would like to reject all bids except the one. Solicitor Revelson said at the beginning if you didn't like any of the bids then you could have rejected them, however, you still need to rent to the highest bidder. Mayor Smith said we should know something on Monday. Solicitor Revelson said it will be presented to them on Monday. Solicitor Revelson said if the Food Pantry wants to rent the two-thirds, then he can bring back to Council the lease at the next meeting. Allen asked Solicitor Revelson if a motion is needed to allow him to negotiate with the Food Pantry. Solicitor Revelson said yes.

A motion to allow Solicitor Revelson to negotiate with the Kings Local Food Pantry was made by Allen, seconded by Madison. Vote: 5 – yeas (Allen, Boerio, Burke, Corcoran, Madison) 1 – abstain (Spicer).

16. A motion to table Ordinance 2019-12 was made by Allen, seconded by Boerio. Vote: 5 – yeas (Allen, Boerio, Burke, Corcoran, Madison) 1 – abstain (Spicer).

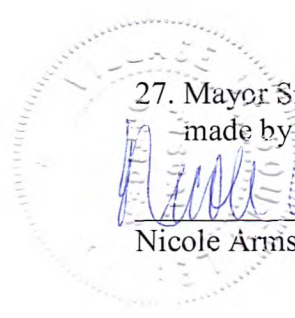
Corcoran asked Mayor Smith if we know something on Monday is there anything Council can do to help facilitate this matter. Mayor Smith said that we can have a

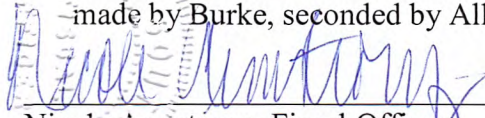
special meeting. Corcoran asked if there are any objections to this by Councilmembers. No objections from Councilmembers.

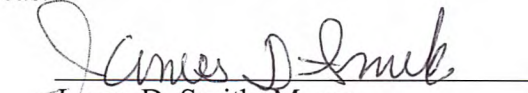
17. Mayor Smith thanked Council, and everyone involved for the helping to host the officials at this building yesterday prior to the recognition of Peters Cartridge Factory by the U.S. and State Environmental Protection Agency (EPA).
18. Mayor Smith read information from local historian, Willard Spicer, about the Peters Cartridge Factory dating back from 1877.
19. Haddix reported on the Mason-Morrow-Millgrove Road Phase I Project, which will start in September. There will be a twelve-week road closure for this project. Haddix stated that related to this project, he provided to Council in their packet information about eleven utility poles that Duke Energy needs to move. Eight of the poles are in the right-of-way and three are on private easements. The cost to do this is just under \$32,000 and Council approval is needed. Haddix said the bid was roughly \$50,000 less than the estimate so there is enough money in the budget to allow for this.

A motion to allow the expenditure was made by Burke, seconded by Madison, all yeas.
20. Haddix stated to Council that the Warren County Municipal League meeting and dinner is on Wednesday, August 21, 2019 at Miami Valley Gaming.
21. Mayor Smith reported that we had Siteworx out to Lebanon Road (Punkin Brown Hill) again and apparently there is some warranty work that they are going to fix at no charge.
22. Corcoran said that someone mentioned today that they have a difficult time understanding what is being said at the table and he asked that all to speak up and provide more details for a better understanding by everyone.
23. Burke said thank you for working on Lebanon Road.
24. Allen stated that it has been mentioned before about the visibility issue turning left on Shawhan Road and she personally experienced this just the other day. We need a convex mirror to help with this issue. Haddix said that the Warren County Engineer is studying the issue.
25. Boerio asked Haddix about the complaint we received on a portion of the street in front of the Union Township Firehouse that sunk and inquired on the status. Mayor Smith said it was fixed.
26. Spicer asked the status of the building at the ball field. Mayor Smith said that we are working to get to it.

27. Mayor Smith asked for a motion to adjourn the meeting at 7:29 p.m. A motion made by Burke, seconded by Allen, all yeas.




Nicole Armstrong, Fiscal Officer


James D. Smith, Mayor