

RECORD OF PROCEEDINGS

Lithopolis Village Council Meeting Minutes November 12, 2019

Council Members Present: Belek, Brown, Kidwell, Long, Wynkoop

Council Members Absent: Zircher.

Present: Ed Van Vickle - Village Administrator, Amanda Wolin- Fiscal Officer, W.J. Barton - Chief of Police, John Browning - Solicitor

Roll Call, Pledge of Allegiance, Moment of Silence

CALL TO ORDER –*Note: Belek as President Pro Temp called meeting to order and chaired the meeting in Mayor Taylor’s absent.*

Roll Call, Pledge of Allegiance, Moment of Silence

Meeting Minutes: October 8th and October 22nd

- Motion to approve 10/8/19 Meeting Minutes
 - Motion: Long
 - Second: Kidwell
 - Roll: All
- Motion to approve 10/22/19 Meeting Minutes
 - Motion: Long
 - Second: Kidwell
 - Roll: All

Public Comments:

A) Jon Stertz

- Thanks Eric for a good race.
- Stated that he had Contacted Attorney General’s Office and Ohio Ethics Committee for unspecified reasons.
- Stated that he is filing claim against Jon Browning for what he alleges was badgering Stertz at his open house.
- Asserted that he acquired Eric Sandine’s W-2s legally and that they were redacted
- Stated his opinion that Browning should be let go for violating Attorney Rules of Professional Conduct because “he doesn’t look out for best interest of the Village”.
- Claimed that an argument occurred between Van Vickle, Taylor and Mr. Stertz that Stertz believes should have been investigated before mediation

was approved and Stertzler believes Browning as Village Solicitor failed the Village by not taking this step.

- Stated his belief that under the sunshine law that all documents, including redacted W-2s are public records.
- Wynkoop: Suggests that Stertzler types up all the issues he wants Council to know about.
- Wolin: will add Stertzler to agenda for the next meeting so he can speak for longer than 5 minutes allotted to the general public

Mayors Comment:N/A

Old Business: N/A

New Business:

A) A Resolution renouncing the release of private tax records by an elected official.

- Jon Browning:
 - The night before the election in a public meeting Mr. Stertzler admitted he received W-2s from the Mayor and those W-2s belong to Eric Sandine. The next day, Mayor Taylor confirmed he released the W-2s, but wouldn't confirm that he redacted them. Mr. Stertzler said the Mayor did.
 - The concern that Browning raised is that even after blacking out private information like names and social security numbers from W-2s, releasing these documents is still a federal offense and a felony and such release also gives the owner of the personal documents the right to sue the Village, and the person who released such personal information.
 - Since 2010 the Village has had a record retention policy and it has been posted on the back wall for several years. The state of Ohio established a law requiring elected officials to attend public records training and Browning does not believe that that happened.
 - This is important to Council because if someone decides to sue the Village for releasing tax records and the Village Council stays quiet as opposed to acknowledging this is a bad thing, an argument could be made that the Council has passively agreed with the release of personal information.
 - The resolution states that Council does not agree with what happened, the Village does not agree with it, and the Village will take steps to ensure it never happens again.
 - Stertzler interrupts to claim that according to the sunshine law and according to the state attorney general, redacted W-2s are public record of all public officials and they can be given by anyone. (Not just the records keeper.)

- Long: (after protracted comments and challenges by Mr. Stertzer) States that Public comment is over so Council is going to move on.
- Stertzer begins to leave, inaudible comments made to Mayor Elect Eric Sandine on his way out.
- Sandine declares out loud that Stertzer threatened him.

- Recess requested per Council rules
 - Motion: Brown
 - Second: Long
 - Roll: All
 - 7:51pm
- Meeting recalled at 7:59
- Wynkoop asked, “How do I reconcile Mr. Stertzer’s statement that the Ohio Attorney General says that the W-2s are not public record?”
- Browning: It’s possible I am wrong, but I spent a week looking into public retention laws that we have, the Ohio Revised Code, and Federal Law. They all say releasing W-2s even if redacted are still private documents. Mr. Stertzer made a statement that the W-2s were redacted, but Browning has not heard that directly from Mayor Taylor.
- Legal advice of Jon Browning that Council renounce the release of private records and take some kind of action to make sure this never happens again.
- Council woman Brown: Did Mr. Taylor ever consult with you (Browning) or the records custodian?
 - Browning: After consulting with Wolin, it is Browning’s understanding that the Mayor did not consult with either Wolin or Browning prior to releasing Sandine’s W-2’s to Stertzer.
 - Wolin: I’ve emailed Mayor Taylor requesting copies of what was released and verbally asked him for copies. Can’t verify anything because Taylor has not responded.
 - Belek: Procedure is to go to the records custodian first?
 - Wolin: Yes, and I consult with Mr. Browning to make sure what is given out does not have personal information.
 - Browning: Any employee can release public documents. But there are procedures put in place so we don’t make mistakes. In this case, the Village can’t verify what was released. Mayor has told Browning that he kept records of what was released and Browning has asked to see them but has not seen them.

- Council woman Brown: Wants to read a paragraph from Ohio Attorney General’s Ohio Sunshine laws on income tax returns:

- “Generally, any information gained as a result of municipal and state income tax returns, investigations, hearings or verifications are confidential and may only be disclosed as permitted by law. Ohio’s municipal tax code provides that tax information may only be disclosed (1) in accordance with a judicial order; (2) in connection with the performance of official duties; or (3) in connection with authorized official business of the municipal corporation. One Attorney General Opinion found that W-2 federal tax forms prepared and maintained by a township as an employer are public records, but that W-2 forms filed as part of a municipal income tax return are confidential. Release of municipal income tax information to the Auditor of State is permissible for purposes of facilitation of an audit. Federal tax returns and ‘return information’ are also confidential.”
- Council woman Brown: That’s the only thing I could find released by the Attorney General’s office. Stertzler referenced that the sunshine law “Yellow Book”, published by Attorney General, is where he learned about “sunshine laws.”
- Van Vickle: Mr. Stertzler’s justification that it took too long to get them from the proper channels claim not accurate. The Village’s current administration has never been found to have been delinquent in releasing public records.
- Wynkoop: Motion to waive 2nd and 3rd readings of this resolution.
 - Long: Second
 - Roll: All
- Motion to approve: Long
 - Second: Wynkoop
 - Roll: All

OFFICER REPORTS:

Fiscal Officer –

Belek: Budget?

- Finance meeting at 6:00p before next council meeting on 11/26. The Village Administrator and Police Department are to send in their requests. The meeting is open to the public.

Village Administrator –

- Water plant screwed up, salt trucks messed up. Water line broke.
- Spent most of the weekend down at the pumps. Has pumps that he thinks are running well now.

- Red truck: we put salt spreader on to test it. Obviously we don't use it during the summer.
 - Hose blew up. Got a new one. Another hose blew up.
 - So we put the salt spreader on the green truck.
 - Only issue is green one uses a lot more salt than the red truck does.
- Friday and Saturday people at the top of the hill had issues with water pressure.
 - It's all based on equipment failures. Working on fixing it.
- Last comment, Amanda is going above and beyond as always, working overtime and too hard.
 - State law says the village administrator and police are supposed to submit their budget requests to the Mayor
 - State lawsays it is theMayor's job to take those requests and prepare the budget.

Police Chief –

A) Elder & St Rt. 674 updates.

- Ohio Department of Transportationcleared out sight lines. Much improved sight lines.
- Hoping this decreases the number of crashes at that intersection.

Village Solicitor

A) Training / Public Records

- Recommends all of Council participates in this training. Elected officials also are required by law to have said training.
 - Brown: With public officials, it's required one time during the elected term?
 - Wolin: Yes, and Council should be aware that the Village gets audited on this.

B) Brandon Roberts-former employee

- Received noticed requesting payment or explanation
- Feels entitled to set amount of money from 2017-2018.
- Has come back to Council several times. Has pestered the Village for some resolution.
- Latest update from the administration was that we were waiting on completion of a state audit.
- State Auditor sent a letter that State Audit has no role in paying or not paying Mr. Roberts.
- Roberts has been advised by theAuditor to retain an attorney.
- Long: Can we get the numbers as to what we have on this?
- Wolin: Yes, we can.
- Browning: It's not like Council has the authority to order that he be paid.
- Wynkoop: Didn't we discuss he owed the village money as well?
- Browning: Yes. Unsure what the setoff is there. But this is better resolved beforehand a court is involved.

- Long: this letter is addressed Mayor and council has anybody seen it, because I haven't?
 - Council members: no

C) Water Bill's

- Trying to get the Kuhn's water bills issue resolved.
- Belek: figured it out?
 - Wolin: yes, by usage

D) Minutes & recordings.

- Have to get completely caught up on minutes and stay caught up.

ROUND ROBIN

- Brown: Curious as to who all has access to the Village Facebook page? Meeting notices are not getting posted per the rules.
 - Wolin: Mayor Taylor and I have access to the Facebook page. I used to be an administrator. I tried to post the emergency meeting and the agenda you asked me to post today but my administrative privileges were not there and have been missing. Taylor gave them back.
- Kidwell: Thanks Van Vickle for fixing our water leak. He was about 6.5 feet deep in muddy water.
- Belek: Our employees down the line don't get enough credit for doing the grunt work.
- Long: N/A
- Wynkoop: Numbers on the resolution and ordinances be typed out not written out.
 - Wolin: Do you want to change the resolution because I followed the instructions on the resolution that I was given verbatim?
 - Browning: I agree with Wynkoop, let's put it out in a format that is more common. We will not change the resolution today.
- Belek: Utility bill and the newsletter that goes out with it. Thank you for doing it that way because it supplies information in a way people can understand.
- Sandine: I'm going to bring a budget to the finance committee meeting with some changes from the tax budget that specifically addresses the staffing changes you guys discussed in June or July.

ADJOURNMENT

- Motion: Long
- Second: Kidwell
- Roll: All
- Meeting adjourned at 8:29 pm EST.