

June 7,

2022

The regular meeting of the Municipality of New Lebanon, Ohio was called to order on Tuesday, June 7, 2022 at 7:30 p.m. with Mayor Arriola presiding. Present were Municipal Manager Madden, Law Director Ronald Keener, Service Department Superintendent Scott Brock and Clerk of Council Sandy Wright. Police Chief Curtis Hensley, Fire Chief J.C. Keyser, Chief Financial Officer Philip Hinson, and Code Enforcement Administrator Melody Davis were absent.

INVOCATION/PLEDGE OF ALLEGIANCE

The invocation and Pledge of Allegiance was given by Pastor Mark Kirchofer from the New Lebanon Assembly of God.

ROLL CALL

A verbal roll call of Council Members present at meeting for the record. The following members present were, Nicole Adkins, Ray Arriola, Gale Joy, Tammy Loch, Carol Macmann, Christopher Sands. Lyndon Perkins was absent.

APPROVAL OF MINUTES

Mayor Arriola stated next is the approval of the May 17, 2022 Regular Council Minutes.

Mayor Arriola asked are there any corrections or changes that need to be made to these minutes?

Mayor Arriola stated all in favor of these minutes please signify by saying aye, all opposed same sign.

VOICE VOTE. ALL IN FAVOR. MOTION CARRIED.

OLD BUSINESS

Mayor Arriola stated we have no old business tonight. Anyone have any old business to bring forward? Nothing was heard.

NEW BUSINESS

Mayor Arriola stated we have Mr. Eric Patterson. Please step forward and state your name and address for the record.

Eric Patterson stated my wife Theresa and I reside at 1940 West Main Street. In August of 2020 we purchased 1953 West Main Street. It was a condemned property located across the street from us. It was an eyesore. My mother-in-law had suffered a stroke so the plan was to build a duplex and they would live in one side and we would rent the other half. We had some issues with the county so it took me about four (4) months but we finally got the house torn down in December and got the building pad in place and were then ready for my plumber. We set up a meeting with the village. Glenn met us there. We wanted to go through the protocol of what the village required in tying into the sanitary and water supply. So we started with the water supply. Glenn said quote Scott said to tap into the curb stop run to the first meter piggyback to the second meter and then into both houses. Then he said Scott said to do it exactly like we did 1970 West Main Street. We own it. It is a house just west of me. It is a three (3) unit apartment. It has a curb stop fed of a three quarter inch line to the first meter pit into the second meter pit where there are two meters. All three of those apartments were being

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fed by a three quarter tap and have had it 8 years and have never has one complaint from any of my tenants. Then I set the second meeting and the story changed because there is an addendum in the by-laws that states each apartment needs to be fed by a separate line. *Section 36 of the Rules and Regulations regarding water service states that: 'Whenever two or more dwellings are serviced by one tap, or where a single dwelling is made to accommodate more than one family, a meter will be installed for each user.'* This must be read in conduction with *Section 10* which states: *'No single service shall serve more than one meter.'* I understand regulations as I set on the school board here in New Lebanon, so I understand why they are in place. I get it. But the drafter of this regulation did put in there, *except in special cases which must be approved by the Village.* I paid the tap fees for the sanitary and water and contacted Ritter Plumbing and for me to dig into State Route 35, the cost would be \$10,500.00. So I hired a Mechanical Engineer and he did calculations on a one inch line feeding both apartments and I have a letter here that I can show you.

Municipal Manager Madden informed Mr. Patterson that they each have a copy of the letter.

Mr. Patterson stated the engineer states there is adequate service for that. The two questions I have are who makes that decision? Do you guys make it as a unit? My second question is what specifies a special case. Is it worded a special case? I am building two (2) handicapped accessible apartments. To me that is a special case so is there a written law somewhere in the regulations that states what a special case is?

Law Director Ronald Keener stated I don't think there are any special cases indentified as such. Everything stands on its own.

Mr. Patterson stated from my view point the solution I gave to this situation is first of all logical, sensible and it is functional. I win if I don't have to spend \$10,500.00 that I did not plan on and the Village wins because I am not cutting in to State Route 35 to create another patch in an already compromised West 35. That is what I have to say. Does anyone have any questions for me?

Council Member Joy stated if I understand all of what is in here you are willing to accept that there is potential for low pressure.

Mr. Patterson stated absolutely.

Council Member Joy stated your engineer says that he does not feel that your pressure will be significantly restricted.

Vice Mayor Macmann stated I have a question but it is not really directed at you if we say this is a special case how does it set us up in the future?

Law Director Ronald Keener stated that is what concerns me more than anything. Basically the special circumstances that you are presenting to us is the fact that you will have to spend more money. If the council, and I am not a voting member, but if the council decides that it is a special case and that they approve your request, then that sets a precedence so that if we have somebody come in that is going to build three (3) houses in Tarragon Estate they will only pay for one (1) tap and split it off three (3) ways much like you want to do and that is kind of precedence the council is stuck with. Unfortunately I think it goes even further than that. If council accepts costs as a reason for a special case then what if I want to build a house here in town and the regulations say the face of the house shall be 100 percent brick, but I want to use something else that is less expensive. That precedence expands far beyond just dealing with a water tap in the plumbing. If they have accepted that a special case is a matter of finance that

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is what bothers me and I think that is what bothered Jeff Starzman. I think you received a communication from Glenna stating that I concurred with the previous Law Director as far as his decision was concerned. What concerns me more than anything is it sets a precedence that the Village is going to be bound for in the future.

Council Member Adkins stated my main concern (*not audible others talking*). Has anybody talked to them to find out why that was done?

Municipal Manager Madden stated I did and according to the notes that was never said. If you read the notes on the second page of the hand out the notes state the conversation between Glenn and Nate from A & D Plumbing.

Mr. Patterson stated I can get a sworn affidavit from my plumber as to what was said. I remember it like it was yesterday.

Council Member Joy stated as I see it in any case a variance can be submitted. When we go through a variance we ask if it is going to be immoral or is it going to cause undue hardship. As I see it this will cause undue hardship as the water line is already there. To have to go back and put in an additional cost and I get your point Ron, but I am not doubting it, I wasn't there so I can't say, but if there was a statement made or implied that it was not needed, then I think that would be enough for a variance.

Vice Mayor Macmann stated I have another question. If there should be low water pressure it would only affect his duplex.

Mayor Arriola stated his engineer used a scientific proven calculation tool and stated there should be no problem with water pressure. Looking at variances and we have done variances before.

Council Member Macmann stated I just want to make sure it is put on record so if someone else comes in we have what was discussed on record.

Council Member Loch stated the ones who already have just the one, what happens when something happens to those locations where that tap is no longer good. Do they have to go to a two tap for the new dwellings or are they automatically going to be combining.

Law Director Ronald Keener stated I think it depends on the facts and circumstances that interrupted the service. I think if a tornado comes through and wipes out the house they are going to rebuild the house. They are going to build under the existing code and will run two (2) lines in but if we set the precedence it may be able to use one line. I don't know that is actually filed as a variance whether you can grant a variance that has not been requested. You requested council to modify and accept what you are asking for. In a variance other people in the area are notified of a request for a change or modification of the rules.

Municipal Manager Madden stated that goes through a different board.

Law Director Ronald Keener stated yes it is a different process. It can eventually get to the council but it goes through another process. I think it depends on what caused the interruption and how much of a rebuilding of the structure is necessary. If the roof came off then I don't think they would have to change the water line but if the whole property is gone I believe they do unless they come in and say it is going to cost us \$10,000.00 more to put in two (2) taps. You did this before so we are requesting that you do it again.

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Municipal Manager Madden stated we are not doing this as a variance. We are doing this as a special case.

Law Director Ronald Keener stated at the current time we are doing a special case.

Vice Mayor Macmann stated I have one more question. It sounds like you are not saying you want a special case because it is going to cost \$10,500.00 more. It is because when you started this process there was a misunderstanding so now you do have to do the \$10,500.00 and you had not planned on it.

Mr. Patterson stated I think that is not the important part of this. What I am saying is I have come up with a logic sensible solution that perfectly fits the project. We don't have to cut into 35 and the \$10,500.00; when I submit to you a situation that works and it works for the village and it works for me. It is just common sense. That is my argument because I understand redundancy with the curb stops. It makes sense you should have it. I agree with all of that.

Vice Mayor Macmann stated I just want to clarify that.

Mr. Patterson stated the most important thing to me is that it is a sensible logical solution and the by-product for me is not spending that much money and I don't think there is a single person in this room in the position I am in that wouldn't try to come up with some kind of solution to save that kind of money because we all know what is going on with inflation. It is a lot of money for a project.

Mayor Arriola stated if anyone had seen the house that was there it was an eyesore.

Council Member Sands stated he says his engineer liked the plan he has. Has our engineer reviewed it and said it would work?

Municipal Manager Madden stated our engineer.

Council Member Sands stated don't we have someone?

Municipal Manager Madden stated usually the county does that kind of work. Based on the code it does not fit a special case, therefore I went to Ron. It was more of a legal opinion which falls back on you guys to make it a special case. I will write a new letter stating it is a special case.

Mr. Patterson stated I will take you all to dinner. (laughter)

Council Member Joy asked Scott do you see that it would cause issues with the infrastructure if we go with what he is proposing?

Service Department Superintendent Brock stated I said it would. That has been my opinion from the beginning.

Mayor Arriola stated even though he has an apartment building right now with one line servicing three people.

Service Department Superintendent Brock stated yes.

Mr. Patterson stated I counted 7 units on the west end of town that are done the same way. So this not something that has not been done.

Municipal Manager Madden stated we understand that.

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Law Director Ronald Keener stated those cases is the reason why it was changed.

Mr. Patterson stated I understand that.

Law Director Ronald Keener stated I know you do. And I am not saying that your proposal does not make sense but I can attest to the fact that rules and laws and regulations do not always make sense.

Mr. Patterson asked how many projects like mine have been completed in the village over the last 10 years?

Municipal Manager Madden stated he is building a double on a single lot.

Council Member Loch stated if someone wants to do this again, how is it going to affect them.

Law Director Ronald Keener stated you did this for Mr. Patterson so you should do this for me.

Council Member Adkins asked Scott what problems do you see happening if we allow him to do this?

Service Department Superintendent Brock replied the west end has pressure issues already. If you start putting two dwellings on one line it is going to take away from one dwelling or the other.

Mr. Patterson asked are you an engineer?

Service Department Superintendent Brock replied no I am not.

Mayor Arriola stated he has a letter from his engineer saying it is not going to cause a problem.

Service Department Superintendent Brock stated I know my system.

Mr. Patterson stated I have not any complaints from any of my tenants. I have had that property 8 years.

Council Member Loch asked is this something we can have the county look into?

Mayor Arriola stated I think it would be a waste of time.

Council Member Adkins stated I think since his engineer has already looked at it I think they know what they are doing.

Mayor Arriola asked can we grant this or make it a special case? Or do we send it over to the zoning and have him apply for a variance?

Municipal Manager Madden stated it is not a variance issue. It is a special case issue. If you guys deem it a special case we can do a roll call on it.

Council Member Joy stated I make a recommendation that we allow this special case to happen and change the Code to read this is what you have to do from this point forward.

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Council Member Sands stated I agree that we just take out the sentence all together so that it does not confuse someone in the future.

(Too many talking at the same time)

Municipal Manager Madden stated at this point Council is requesting that I change the Ordinance removing the wording of special case in order to remove any ambiguity from this point going forward and then we will do a motion.

Mayor Arriola stated do I have a motion to grant Mr. Eric Patterson a Special Case to have one service line for the duplex he is constructing at 1953-1955 W. Main Street, New Lebanon, Ohio.

Motion by Council Member Adkins, second by Council Member Joy to grant Mr. Patterson a Special Case to have one service line for the duplex he is constructing at 1953 -1955 W. Main Street, New Lebanon, Ohio.

ROLL CALL ON ABOVE MOTION: Council Member Adkins, yes; Council Member Arriola, yes; Council Member Joy, yes; Council Member Loch, yes; Council Member Macmann, yes; Council Member Sands, yes: 6 yes 0 no.

ALL IN FAVOR. MOTION CARRIED.

Mayor Arriola stated next is the **FIRST READING ORDINANCE 2022-01. AN ORDINANCE AMENDING §92.02 POSSESSION, SALE, AND USE OF FIREWORKS OF THE CODE OF ORDINANCES OF THE MUNICIPALITY OF NEW LEBANON.**

Mayor Arriola stated any questions.

Council Member Loch stated I would like to make a motion to waive the three readings considering the holiday that is coming up.

Council Member Sands asked are there other people who would like to speak before we vote on it.

Municipal Manager Madden stated Shannon our current fireworks code is written that there are no fireworks allowed in the Village of New Lebanon at all. The State has changed their code therefore we are changing ours so that you can within the Village of New Lebanon discharge on holidays between the hours of sunset to 12:30 am on the allowed holidays.

Memorial Day Weekend (Friday, Saturday, and Sunday)

July 3, 4, 5

Labor Day Weekend (Friday, Saturday, and Sunday)

December 31 until 12:30 am January 1

All fireworks must be discharged on your own property.

Fireworks must not create an offensive or objectionable condition that interferes with the neighboring residence use and enjoyment of their property.

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The fireworks discharged, ignited, or exploded pursuant to this section shall not be considered a public exhibition. Public Exhibitions must be conducted by a licensed exhibitor of fireworks.

Municipal Manager Madden stated we are just adding that clause to it, giving folks the opportunity to set off fireworks, hopefully in a safe and friendly environment. 1.4G which are the ones you can buy. No homemade one and no grenades, Dave. We are requesting to waive the three reads in order to meet the deadline of July 4.

Council Member Adkins stated the only thing we are changing is allowing them to set off their fireworks.

Council Member Joy stated you know I am against waiving the three readings.

Municipal Manager Madden stated we know. You can always vote no on waiving the 3 reads.

Mayor Arriola stated do I have motion to waive the 3 readings of Ordinance 2022-01.

Motion by Council Member Loch, second by Council Member Sands to waive the 3 readings of Ordinance 2022-01.

ROLL CALL ON ABOVE MOTION: Council Member Arriola, yes; Council Member Joy, yes; Council Member Loch, yes; Council Member Macmann, yes; Council Member Sands, yes; Council Member Adkins, yes; 6 yes 0 no.

ALL IN FAVOR. MOTION CARRIED.

Mayor Arriola stated do I have a motion to adopt Ordinance 2022-01.

Motion by Council Member Sands, second by Council Member Joy to adopt Ordinance 2022-01.

ROLL CALL ON ABOVE MOTION: Council Member Joy, yes; Council Member Loch, yes; Council Member Macmann, yes; Council Member Sands, yes; Council Member Adkins, yes; Council Member Arriola, yes; 6 yes 0 no.

ALL IN FAVOR. MOTION CARRIED.

Public Comments or Questions

Mayor Arriola stated Shannon Bemis, 130 Bronwood Street, New Lebanon, Ohio.

Ms. Bemis stated the water tower looks amazing. I love the design on it. Excellent job on it.

I know that you clarified what I had said from the February Meeting last month. I have further clarification for the record. The question was why doesn't the medic carry narkan because the day of that incident we did not have narkan; we had to wait until Farmersville came out. I was told our medics don't carry narkan. That is why I asked the question. And then the reason for me calling the on duty officer was because literally when I was behind the car where the 2 people were overdosing while driving the officer drove right by me so it would be so much faster for me to directly call and she called it in versus me calling 911 which in emergency situations you get put on hold after you give them the 3 minute spill on this is where I am, this is what is happening and this is who I am, and this is my phone number. They then say old hold

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on, you are in New Lebanon, we have to transfer you to Englewood and then you are on hold. In an emergency situation I don't like that Englewood Dispatch because you have a time sensitive situation and they say hold on we have to transfer your call. That is why I called the officer.

Mayor Arriola stated thank you.

Ms. Bemis then said I have a couple of quick questions. Did we fill out a land and water conservation grant for the green area at Don Rusk Park?

Municipal Manager Madden stated like years ago.

Ms. Bemis stated since we have recently cut that down.

Municipal Manager Madden stated not recently. Years ago I think there was something.

Law Director Ronald Kenner stated when we purchased the land there was an agreement that when we cut it down that we stayed within guidelines of what we were supposed to do.

Municipal Manager Madden stated it requires that we keep it as a green space.

Ms. Bemis then said the park equipment. I now before you guy had set money aside to replace the playground equipment. On Facebook people have made comments about the condition of our playground equipment. Is that still in the plan? Is there money still set aside for it?

Municipal Manager Madden stated it is in the budget.

Ms. Bemis stated thank you and Goad is awesome.

ADMINISTRATIVE STAFF COMMENTS

Mayor Arriola stated Officer Goad.

Office Goad stated I have nothing this evening.

Mayor Arriola stated any questions for Office Goad.

Mayor Arriola stated anything from Fire Chief Keyser.

Municipal Manager Madden stated he has nothing.

Mayor Arriola stated any questions for Fire Chief Keyser. None voiced.

Mayor Arriola stated anything from Code Enforcement Administrator Melody.

Municipal Manager Madden stated she has nothing tonight.

Mayor Arriola stated any questions for Melody. None voiced.

Mayor Arriola stated anything from the Chief Financial Officer.

Municipal Manager stated nothing from Phil.

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Mayor Arriola stated Service Department Superintendent Scott Brock.

Service Department Superintendent Scott Brock stated I have nothing tonight.

Mayor Arriola stated thanks for filling the potholes.

Council Member Adkins stated what about the one that is on Main Street.

Municipal Manager Madden stated the one on Swanson that is partially filled. It partially filled because there is lot of traffic that goes through there. We have to let it settle so it can be cut and then asphalt it.

Mayor Arriola stated Municipal Managers comments.

MANAGER'S COMMENTS

Municipal Manager Madden stated the water tower is in the process of being painted. It does look awesome. I want to thank you guys because you left that design up to me and Scott. This is what we came up with.

Camp Connect starts next Monday.

The First Night Out in New Lebanon was a success even though it rained. There were Five (5) food trucks that showed up, some great music and everyone seemed to have a good time. The next one is June 24th. It is collaboration between our Parks Department and the Library and it is held at the Library.

Blosser Street Phase I residents on Blosser Street, Frankin Street and Sunset Street have had letters sent to them advising that we will be starting that project soon. It will probably start late summer or early fall. I do have a public meeting scheduled on June 13th at 6:30 pm for anyone who is interested and would like to come in to view the project ahead of time.

I have a request for an Executive Session pursuant to the Ohio Revised Code §121.11 (G) (1) and (G) (3) to discuss personnel matters and legal matters.

Mayor Arriola stated any questions for the Manager. None voiced.

Mayor Arriola stated we will go on to Council Member Comments.

COUNCIL MEMBER COMMENTS

Mayor Arriola stated Gale.

Council Member Joy stated please have the fire extinguishers and first aid kits available for the fireworks.

Mayor Arriola stated Chris.

Council Member Sands stated that goes with doing it respectfully, safely, and responsibly.

Mayor Arriola stated Tammy.

Council Member Loch stated I have nothing.

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Mayor Arriola stated Nicole.

Council Member Adkins stated I have nothing.

Mayor Arriola stated Vice Mayor.

VICE MAYOR'S COMMENTS

Vice Mayor Macmann stated I have nothing.

MAYOR'S COMMENTS

Mayor Arriola then thanked everyone for coming to the meeting. He then stated Council has a request for an Executive Session. No action will be taken following the Executive Session.

EXECUTIVE SESSION

Mayor Arriola stated I have a request for an Executive Session pursuant to the Ohio Revised Code §121.22 (G) (1) and (G) (3) to discuss personnel matters and legal matters.

Mayor Arriola stated do I have a motion to adjourn to Executive Session.

Motion by Council Member Joy, second by Council Member Sands to adjourn to Executive Session.

ROLL CALL ON ABOVE MOTION: Council Member Loch, yes; Council Member Macmann, yes; Council Member Sands, yes; Council Member Adkins, yes; Council Member Arriola, yes; Council Member Joy, yes; 6 yes 0 no.

ALL IN FAVOR. MOTION CARRIED.

Council retired to Executive Session at 8:11 p.m.

Motion by Council Member Loch, second by Council Member Adkins to return to regular Session.

ROLL CALL ON ABOVE MOTION: Council Member Macmann, yes; Council Member Sands, yes; Council Member Adkins, yes; Council Member Arriola, yes; Council Member Joy, yes; Council Member Loch, yes; 6 yes 0 no.

ALL IN FAVOR. MOTION CARRIED.

Council returned from Executive Session at 8:41 p.m.

ADJOURNMENT

Mayor Arriola stated do I have a motion to adjourn the meeting.

Motion by Council Member Loch, second by Council Member Adkins to adjourn the meeting.

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ROLL CALL ON ABOVE MOTION: Council Member Sands, yes; Council Member Adkins, yes; Council Member Arriola, yes; Council Member Joy, yes; Council Member Loch, Council Member Macmann, yes; 6 yes 0 no

ALL IN FAVOR. MOTION CARRIED.

Meeting was adjourned at 8:43 p.m.

Approved:

Raymond Arriola June 21, 2022

Mayor

Date

Sandra J. Wright June 21, 2022

Clerk of Council

Date