

February 21,

2017

The Council of the Municipality of New Lebanon, Ohio, met in regular session on Tuesday, February 21, 2017 at 7:30 p.m. with Mayor Arriola presiding. Present were Law Director Ronald D. Keener, Police Chief Rick Daulton, Service Department Superintendent Scott Brock, Zoning Compliance Officer David Lunsford, Clerk of Council Sandy Wright and several visitors. Municipal Manager/Fire Chief George Markus and Chief Financial Officer Brenda Etter were absent.

ROLL CALL

The following members were present at the Call to Order: Raymond Arriola, Gale Joy, Glenna Madden, Carol Macmann, and Christopher Sands. Linda Green and Tom Simon were absent.

INVOCATION

Mayor Arriola gave the invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVAL OF MINUTES

Mayor Arriola stated next we have the approval of the February 7, 2017 Regular Meeting Minutes.

Mayor Arriola stated are there any corrections or additions that need to be made to these minutes. Nothing was heard.

Vice Mayor Madden stated on page 80 under roll call on the motion it reads 5 yes 0 no. It should read 4 yes 1 no as Council Member Joy voted no. On page 79 Linda Green was absent from the meeting.

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

VOICE VOTE ON ABOVE MOTION. MOTION CARRIED.

OLD BUSINESS

Mayor Arriola asked does anyone have any old business they would like to bring forward. Nothing was heard.

NEW BUSINESS

Mayor Arriola stated under new business we have nothing. Does anyone have any new business? Nothing was heard.

Mayor Arriola stated next is public comments or questions. If anybody has any comments or questions please come forward to the podium and state your name and address for the record.

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PUBLIC COMMENTS OR QUESTIONS

James Tietge stated I am here to address the Council.

Vice Mayor Madden stated Jim state your address for the record.

Mr. Tietge stated my address is 1066 N. Clayton Road, New Lebanon, Ohio 45345.

Vice Mayor Madden stated thank you.

Mr. Tietge stated before I start I have these to hand out to the Council. I am not sure who to give them to.

Vice Mayor Madden stated you can start with me.

Mr. Tietge stated Ron.

Law Director Ron Keener stated sure if you have enough of them.

Mayor Arriola stated if you don't have enough I can share with Ron.

Mr. Tietge stated I need to keep one to read I guess. My name is Jim Tietge and I am here to tell you about the injustice the administration of the village sidewalk and gutter repair. Last year I received a letter saying there was three (3) two (2) feet sections of curb at 425 Lufkin Drive that were in need of replacement. Those same three (3) sections were marked with spray paint on the curb. Rather than pay the village to do the work I decided to have an experienced concrete worker to help me repair the curb. This is a statement from Keith Treadwell saying that he helped me repair the curb. This is a statement from Christopher Smith saying he witnessed the repair. Later I got the same letter saying the areas that needed repaired to 26 feet, and then to 31 feet, and both letters dated June 30, 2016. These are those letters. Then without enough time to assess the new letters, I found out that the village tore out and replaced all 76 feet of curb in front of the property. I received a bill from the Village for \$4,411.80 for 76 feet of curb at \$58.05 per foot. I went to Griffith's Engineering at 350 Huls Drive in Englewood with Joseph Hartfelder and the person we spoke to said that the curb was already tore up by the Village's contractor before he got there to inspect it. There is a statement from Joe saying he heard the person at Griffith's say the curb was tore up before the inspection. The bottom line is that I tried to comply with the request from the village to fix the curb. Then the village tore up the curb without ever sending notice to me that it failed inspection because they never inspected it before tearing it up. Then I got a bill for 76 feet of curb replacement when the original notice I got said 6 feet. Even if you count the subsequent notices sent on June 30th no notice ever exceeded 31 feet. How can you tear up 76 feet when no notice was sent for 76 feet? Therefore, I request that the council vote to abandon any claim against the property at 425 Lufkin Drive concerning curb and gutter improvements. I tried to work with the Village Administrators and I had no progress or call from any of them and no letters. On the back page I have a picture of the curb center section. My grandson helped me tear it up and he took a picture with his telephone camera which I don't have and my son tried to get through it; there are three sections like that. I don't believe that totals up to any 76 feet. I did not get an estimate of what the Village was going to charge to repair the curb. There should have been an estimate sent to me. If I had known it would be \$58.00 a foot I would have paid for the six feet and I would not be here.

Law Director Keener stated Jim just to clarify a few things and Mr. Eppling and I have talked in my office back and forth. I don't know that all the Council members know

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what all has transpired but basically and correct me if I... (Law Director Keener asked can you hear me okay?) Mr. Tietge stated I can't hear you real good, no.

Law Director Keener stated I will be try to talk loud, and Scott correct me if I am wrong and anyone on Council can correct me if you hear me say anything that is incorrect and yourself, of course. From my understanding June 3rd you got a letter from the manager telling you that they are repaving Lufkin Drive and it is necessary to do some curb work in order to make the curb so that it is properly prepared for the roadbed and have a firm curb surface to do that. That is before anything was sent out other than the letter, right.

Mr. Tietge stated I did not receive it until the 16th of June. That only gave me 14 days to prepare.

Law Director Keener stated this was a letter, not the other item that actually marked the curb. It was the letter that went out ahead of time to tell you that this was coming. Then you got a notice advising you that certain areas of your curb needed to be replaced and that you had until June 30th to do that if you wanted to do it yourself or the village would then do it afterwards. It also said in that notice that if you feel that the notice was an error or you dispute any part of the inspection you are to call the village or contact Mr. Brock, right.

Mr. Tietge stated it was not inspected until after it was torn up.

Law Director Keener stated no the inspection to determine what areas needed to be replaced was done before you ever got a notice. That is how they determined what areas needed to be replaced. They went out and looked at all the curbs and inspected them and that is when they put the paint down and that notice told you that if you had any objection to that or dispute on what needed to be replaced you could call the office or contact Mr. Brock.

Mr. Tietge stated I did not have dispute with the 6 feet Ron.

Law Director Keener stated so there wasn't any dispute. That notice also said that you had the right to do the repairs yourself, but it was necessary for you to obtain a permit and arrange that whoever was doing to work could have it inspected, either as they were doing it or in stages; just like you build a house you put up the walls, you have an inspection; you put in the electric, you have an inspection; you had the right to get a permit and have that done as the work was being done, which is what the notice said. You did not do that, did you?

Mr. Tietge stated no because you were not open on Thursday night at 5:30 when my helper showed up. I went Monday morning to get one.

Law Director Keener stated you had plenty of time before that time to go to the village offices and take out the permit, get the specs on what the curb is supposed to be like and everything else. Nothing like that was done.

Mr. Tietge asked why did they tear the whole curb out when six (6) feet was marked? Why did they tear the whole curb up? That is my thing; I am willing to pay for the six feet.

Law Director Keener stated we will get to that.

The letter dated June 3rd said to pick up the permit by June 30th and I have got two notices that are dated June 30th. I have got one that shows 31 feet and Vice Mayor

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Madden stated it says June 17th. *Please pick up your New Lebanon concrete by June 17th and plan to have it done by June 30th.*

There is one that is dated June 30th that showed 31 feet at the bottom and then another one; it's the same one with the same writing, and it shows 26 feet for some reason.

Law Director Keener stated so you had somebody work on the curb before you ever got a permit.

Mr. Tietge stated yes I did.

Law Director Keener stated when they did that what was done?

Mr. Tietge stated it was chiseled out, pressure washed with 4,000 lb pressure washer and filled with hydraulic cement. The next day I went and painted it with sealer which protects it and slows the drying process and keeps the salt off of the concrete.

Law Director Keener stated when you painted it you painted the entire front of your house; the areas that you supposedly fixed and all the areas that weren't fixed.

Mr. Tietge stated yeah because I wanted to seal the whole thing up to keep the salt off of it for a few years.

Law Director Keener stated so all the markings that told what areas needed to be fixed were all obliterated.

Mr. Tietge stated no the paint was still in the grass. It was on their paperwork and they tore it out without checking. If that is on the estimate of a man 3 feet and 3 feet or 2 feet 2 feet and 2 feet, six feet total it don't matter whether it was painted at all period.

Law Director Keener stated if the Contractor can't tell where the 3 feet is how does he know what to tear out?

Mr. Tietge stated I think you need a new contractor.

Law Director Keener stated okay so I assume you are saying you disagree with that.

Mr. Tietge stated yes I disagree with that 100 percent. I tried to talk to Mr. Brock and he would not talk to me. I talked to what's his name?

Vice Mayor Madden remarked Markus.

Mr. Tietge stated Markus. I left my numbers, he has never called me back, never received a letter or anything. I just want to know why they tore the whole thing up when you have a bill in front of you with the paperwork that shows 425 Lufkin 2 feet in the center and 2 feet on the other end.

Law Director Keener stated Jim what I am told is the entire amount was torn up because the contractor could not tell what 2 feet here what 3 feet there, whatever. There were no markings left because you painted the whole thing.

Mr. Tietge stated Ron whether it is on one end or the other it is not 76 feet, my property is only 75 feet wide to start with. If is 6 feet from one end it should not have been 76 feet cut out.

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Unidentified man began talking away from microphone (not audible)

Law Director Keener stated I'm told the contractor could not tell where it was. You keep talking about 6 feet but the paperwork that you have has it marked in different areas; one section is 13 ft.

Mr. Tietge stated I don't have the original. I wrote on the back of it and I sent it to Markus and Mr. Brock that I repaired it. The original has my handwriting on the back. He needs to produce that.

Law Director Keener stated you sent it back on June 27th saying that it had been repaired. Right.

Mr. Tietge stated yes.

Law Director Keener stated you got a letter from Mr. Markus saying that you did not get a permit and he would have the work inspected and if it passed inspection it would be approved. You got that letter, right.

Mr. Tietge stated I don't have that letter do I?

Law Director Keener stated the letter was dated July 12th.

Mr. Tietge stated on July 12th I was not home. I was with my grandson in Hasban Acres riding motorcycles. I came home on Monday.

Law Director Keener stated my current point is that on July 12th Jim was told you did not get a permit, you allegedly did some work, we will send our inspector out to inspect that and if it passes the specifications we will approve it. If found to be within Municipal project specifications it will be approved.

Mr. Tietge stated I asked the inspector if he took a core sample. He said no I couldn't because when I got there the whole thing was already tore up between 6 feet and 76 feet is a long way. There was still paint in the grass where they marked it with paint spray and he had the paperwork with it showing 2 feet on each end and in the center almost 2 feet.

Law Director Keener stated Jim you did not talk to the gentleman who did the inspection after you did the work. Ken Griffith's and Scott Brock went out to the premises. They inspected the work. They sent an email to the Village Manager as requested which read as follows *myself and Scott Brock inspected the concrete curb repair work done at 425 Lufkin. It does not meet Municipal specifications.* After that was when it was torn out and after that was when the gentleman you talked to went out there and saw it torn out. I don't think you ever talked to Ken Griffith's, did you.

Mr. Tietge stated I think so.

Law Director Keener stated according to Mr. Griffith's I don't think you did.

Mr. Tietge stated I talked to Ken Griffith's and Joe Hartfelder was with me. I had to wait on the gentleman for about 10 or 15 minutes at his office. He was out. I asked him if he was the gentleman who inspected it. He said he did.

Law Director Keener stated he did but not the inspection you are talking about.

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Mr. Tietge stated how could he inspect it. Do they have x-ray vision to see underneath that concrete or above it.

Law Director Keener stated I am not an engineer.

Mr. Tietge stated you drill it, you take a core sample and you have it tested. Do you have e-ray vision to look under that concrete to see that I did not repair it right.

The unidentified man stated it we move beyond the inspection we have a notice for 31 feet and Mr. Keener has it as well and you billed for 76 feet.

Law Director Keener stated because the contractor could not determine where the thirty-one feet was because it had all been painted. The contractor had no option to do it other than to tear it all it out and repair it all.

The unidentified man stated another option would have been to have another inspection.

Vice Mayor Glenna Madden stated can you please state your name sir for the record.

My name is Aaron Epling and I represent Mr. Tietge.

Law Director Keener stated after it had already been resurfaced.

Mr. Tietge stated the 2 feet, 2 feet, 2 feet, the Contractor should have that paperwork in his truck. When he walked up to the property to inspect he should know where he is cutting, where he is tearing up, and where to repair.

Law Director Keener stated actually it does not say 2 feet, 2 feet, 2 feet. There is 13 feet, 2 feet, 4 feet, 2 feet, and 10 feet; The Contractor indicated that he had no ideal what to do; he is out there and has to get the work done; he can't just stop and not just do this property. It was painted over. That is why we painted on the curb so he knows what section needs to be repaired. I have already told you everything I know and if Scott has anything to add he can do it now. But Jim it is my understanding that all the work was done before any conversation took place.

Mr. Tietge asked do you the original one that I sent back with my signature on the back. I was down here to talk to them about paying for the curb permit and inspection fee and Mr. Brock did not know anything about it. He was over in Trotwood. I tried to call Mr. Markus. They said he could not be called because he was out on a fire call. so I left my number and have not heard from him since.

Law Director Keener stated Jim it is my understanding that all the work had been done before any conversations took place. That was after you did all the work.

Mr. Tietge stated yes. I wrote on my letter that the office was not open when I had a helper coming at 5:30 Thursday night and painted it Friday morning. I send the letter out Saturday morning which you should have received on Monday or Tuesday.

Vice Mayor Madden asked what day did you do the work?

Mr. Tietge stated the 28th Thursday of June. On Friday I went over about 2:00 o'clock and painted it a sealer and it happened to be white because I bought a 100 gallon can that I put on my patio. I did not know you were not allowed to use white paint. I have never seen any place that you can't use white paint on the curb. I see white and yellow

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on all kinds of curbs. I came to talk to Markus again brought a witness along and he said one in my office at a time. It is my privilege to bring a witness with me.

Mr. Epping stated we are doing everything we can to get the village to work with us.

Council Member Joy stated the date on this Sidewalk, Approach, and Curb Assessment is June 30, 2016. It says you may hire your own private contractor and make repairs by June 30th. Something isn't right there for sure.

Vice Mayor Madden stated Jim when you got the first letter saying whatever were you planning on repairing it yourself at that point?

Mr. Tietge stated Glenna if I had got an estimate; the city could have done it for \$58.05 but we did not get an estimate for the work which is illegal. This comes down to getting a permit. If he intended to do the work himself he should have gotten the permit. Why didn't he go get the permit; then he would have been covered on all of this. The pre-inspection would have been done, the post inspection would have been done and there would not be an argument over how much was done, because at this point it looks like his whole linear footage has been repaired.

Recording not audible (too many people talking)

Council Member Joy stated I think what he is saying is had he gotten an estimate on what this was going to cost, at that point he would have decided.

Mr. Tietge stated you are right sir. \$58.00 a ft is kind of expensive but I would have paid it. I told Markus the same thing. If I had got an estimate of \$360.00 I would have paid it and you would have not seen me here. But I did not get an estimate. Guess I will have to go around town to see if anyone else got an estimate. You don't do work without an estimate. City, county, state, or whatever; I don't do it and Ron does not do it.

Law Director Keener asked when you got the original notice did you go get an estimate as to what it was going to cost?

Mr. Tietge stated did I get an estimate. No. I hired a man to help me.

Law Director Keener asked how would you know what the village was going to charge was going to be good or bad, if you did not get an estimate.

Mr. Tietge stated I paid the man by the hour. I did not need an estimate Ron. I needed an estimate from the village as to what you are going to charge me to put in 6 feet of concrete.

Law Director Keener stated the letter explains how they arrived at the lesser amount.

Mr. Epping insists that another inspection is the only fair way to handle Mr. Tietge's case.

Law Director Keener stated another inspection would slow down the whole process. The contractor is there to do the work. Jim all you had to do was do what you were supposed to do, get your permit. (everyone talking at the same time) not audible

Law Director Keener stated because he altered it by painting it and the contractor was not able to see it. Another inspection slows down the whole project. He has painted it

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over so you make it that much more difficult to do an inspection and the contractor is there to do the work.

Mr. Tiegte stated thanks anyway.

Mayor Arriola asked are there any other public comments. Nothing was heard.

ADMINISTRATIVE STAFF COMMENTS

Mayor Arriola stated we will go to administrative staff comments.

Mayor Arriola stated Police Chief Daulton.

Police Chief Daulton stated I have nothing tonight sir.

Mayor Arriola stated Zoning Compliance Officer David.

Zoning Compliance Officer David Lunsford stated I have nothing tonight sir.

Mayor Arriola stated anyone have anything for David? Nothing was heard.

Mayor Arriola stated Chief Financial Officer.

Police Chief Daulton stated she has nothing tonight.

Mayor Arriola stated Service Department Superintendent Scott.

Service Department Superintendent Scott Brock stated I have nothing tonight sir.

Mayor Arriola stated anything for Scott. Nothing was heard.

Mayor Arriola stated Parks and Recreation Alex.

Alex stated it is good to be back.

MUNICIPAL MANAGER'S COMMENTS

Municipal Manager is absent this evening.

Mayor Arriola stated council member comments.

COUNCIL MEMBER COMMENTS

Mayor Arriola stated Chris.

Council Member Sands stated I have nothing.

Mayor Arriola stated Gale.

Council Member Joy stated I have nothing this evening.

Mayor Arriola stated Carol.

Council Member Macmann stated I have nothing.

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VICE MAYOR'S COMMENTS

Vice Mayor Madden stated I have nothing.

MAYOR'S COMMENTS

Mayor Arriola stated I have nothing either.

ADJOURNMENT

Mayor Arriola stated do I have a motion to adjourn.

Motion by Council Member Madden, second by Council Member Macmann to adjourn the meeting.

ROLL CALL ON ABOVE MOTION: Council Member Arriola, yes; Council Member Joy, Yes; Council Member Madden, yes; Council Member Macmann, yes; Council Member Sands, yes; 5 yes 0 no

ALL IN FAVOR. MOTION CARRIED.

Meeting was adjourned at 8:21 p.m.

Approved:

Mayor

Date

Clerk of Council

Date