

**V ILLAGE OF SOUTH LEBANON  
MINUTES  
REGULAR MEETING  
OCTOBER 21, 2010  
6:30 P.M.**

Randall Atkins – Present  
Sherri Carbo – Present  
Dean Evans –Present

Glenn Holloway – Present  
Bill Madison – Present  
Jeff Sturtevant – Absent

1. Mayor Smith opened the meeting at 6:30 p.m. with the Pledge.
2. Mayor Smith read the proclamation he gave to the Early Learning Center. He thanked council and administration for working with Larry Sargeant to make this project happen. He said if anyone has the opportunity to view the school you should because it is state of the art. Council member Madison said he would like to thank the mayor for entertaining the idea and reaching out to Larry Sargeant because it was quite an effort to discuss and help council with the decision to donate the ground and tap fees. I commend the mayor for reaching out and seeing it through. Mayor Smith said it was a pleasure and really was a joint effort of council to get it done and we should be proud.
3. Mayor Smith presented the following meeting minutes for approval:

Workshop – September 9, 2010 – motion to approve made by Atkins, seconded by Madison, all yeas except Evans – stated he was absent.

Regular – September 16, 2010 – motion to approve made by Carbo, seconded by Holloway, all yeas except Evans – stated he was absent.

Special – September 16, 2010 – motion to approve made by Holloway, seconded by Carbo, all yeas except Evans – stated he was absent.
4. Ordinance 2010-16 was presented to revise the flood plain. Administrator Craig stated this will be consistent with the maps and we are required to update it. Council member Madison asked if the people coming out of the flood plain could be notified. Bob said he could notify them and Bill said he thought that would be a good idea.

A motion to suspend the reading rule was made by Madison, seconded by Holloway, all yeas. A motion to adopt Ordinance 2010-16 was made by Atkins, seconded by Madison, all yeas.

5. Resolution 2010-11 was presented to allow the fiscal officer to transfer funds to make the appropriations solvent to the year end. A motion to suspend the reading rule was made by Holloway, seconded by Evans, all yeas. A motion to adopt Resolution 2010-11 was made by Holloway, seconded by Madison, all yeas.
6. Administrator Craig reviewed his memo. He stated 44 and 46 W. McKinley have filed a 12<sup>th</sup> District appeal. Keith said the appeal is to decide if the court decision will be upheld. He stated it could take up to six months and we will have to wait and see what happens.
7. Bob said that ODOT is looking at the exits from I71. He said actually the one that does not have a traffic light is darker. They will look at both.
8. Bob stated that a Little Miami team wishes to use the gym from November to March for a 5<sup>th</sup> grade team. He said they will pay the \$50.00 per hour. They are not allowed to use their gyms because of the school issues.
9. Bob Craig said the Lebanon Road storm water project will begin and they estimate 75 days to complete. He was asked if they located the spring and he said they have.
10. Solicitor Nixon said he met with First Financial, Ryan Homes, Bill Duning, who represented Ed Rogerson and Laura Hinegartner representing Rivers Bend. He said First Financial and Ryan Homes have committed to repair and to the removal of construction gate and installation of permanent gate when time. He said they have read the documents and do realize they are responsible. He said there will be 24/7 access for fire, EMS and police. He said they are prepared to do just that. He said there is no action necessary by this council because this is per an agreement four years ago with developers.

Bill Duning stated he is here because he asked to be here and not because he is representing anyone in this matter. He said historically this matter was with Ed Rogerson but stated he is no longer representing him. Bill said he asked to give his impression and memory of what was going on in 2005. He said when he first heard about everyone being here with concerns and said his first thought was, it is what it is and is public record filed with the recorder that show what was passed by council and what Rogerson and Hines agreed to and more than that the legislation what was approved in this room was a plat and a PUD plan. He said he asked Bob Craig to look at the plat because that is what we are all guided by. If it is on the plat that is what this council approved. Bill stated he doesn't think it is fare to ask the lawyers to tell you what it means because it is in black and white. I am happy to answer any questions from council but I am not working for you in this project and am only here because I was asked to be here. Everything I look at looks like it was negotiated and recorded and those developers made those agreements and it is what it is. I am here as a resource. Bill said in his view the issue is what is going to go on when the permanent gate goes up.

Laura Hinegartner – Vista Pointe HOA/Rivers Bend attorney – I was involved in the negotiations of the agreement as well as the proceedings that led up to them. She stated that it is a little helpful to know that how this came about was Vista Pointe residents purchased their homes with the understanding that at the end of the development would be a cul-de-sac. That there would be no traffic going through Vista Pointe ever. They found out later that an agreement was entered into between the village and Ed Rogerson in which the village would assist Mr. Rogerson's development up to and including taking property by eminent domain in order to make the connection between the two developments. The Vista Pointe residents had the legal right and objected to that connection. She stated Mr. Rogerson's development was actually not compliant with Ohio law and he had not developed in such a way that he would have the appropriate frontage for what he was planning. She stated the agreements were to try and accomplish what everyone wanted. She stated it is a safety issue and dangerous. She pointed out that had Ed Rogerson not gone bankrupt we would not be here tonight because the agreement would have been followed and the permanent gate would be in place. She said all the residents of Vista Pointe want is the agreement followed and I have spoke to the attorney for the bank and they are ready to go as soon as tomorrow. Laura stated for the record the Vista Pointe residents are not in any way waiving their rights to enforce that permanent gate and the other provisions in that agreement as well as the resolutions passed by the council and the plats and other documents that are recorded as record. We are here to get the construction gate in operation so it serves its purpose which is to exclude construction traffic and protect the residents from excessive traffic. Solicitor Nixon said Laura is correct that the bank is ready to proceed. The problem was not knowing who owned the property and now that has been determined and they have reviewed the documents are ready to fix the construction gate and move toward the final gate.

Jeff Reich – Vista Pointe – stated that at the time of the agreements Cochran Road was connected to the Homestead. Cochran Road was to eventually go and connect to Zoar but now it comes into Homestead and if the gate is up at Zoar it will become an issue again when the temporary gate comes down. So how is that addressed because there was no revision in the contract. Laura stated on behalf of the Vista Pointe residents our hope would be that the village would honor the agreement and it would be enforced that the current Cochran Road would be vacated and the new connection would be completed so those residents could take that route. There is time because the agreement states that the permanent gate does not come into play until the 80% build out of Homestead. Discussed timing of the road change and development progress as well as the need to vacate Cochran Road. Council member Madison said it would be tough to close that road without an alternate road. Mr. Reich stated that if the Cochran Road is not completed then the construction gate needs to stay in place or we will have the same problem. Madison said the main thing is everyone needs to have patience and hopefully the timing will work out. He stated we have made great strides. He

said he thinks the mayor and council have worked hard in participating in this discussion to move things forward and right now things are out of our control and if everyone is patient hopefully the three items we have talked about will come through. Mayor Smith tries to explain that First Financial will want to move forward and then multiple conversations are over riding each other and are not audible. Mayor Smith again instructs the audience that the public has a right to read what is said and they have to go to the microphone to be on record. Jeff Reich said his question is we have to have a percentage of homes done before the new connector would be done and Keith explained they could decide to go ahead and do it to develop the other 25 acres but it would all go before planning. Mayor Smith said planning has already required that the road be punched through there. Laura Hinegartner stated that First Financial has indicated that at the time the 25 acres is purchased that road would be punched through for construction purchases.

Shelly Zajacz – Vista Ridge – stated she has the same concern and think you should make a commitment and designate a date saying when this will be done. Expressed she is tired of the traffic and non concern for the development and is damaging to the whole entire neighborhood. Said she can't walk down the street without having to move over for cars coming down the street. Putting the gate up is important and South Lebanon needs to dedicate the effort to put lights on Zoar Road because I understand it is not a safe road to go down but this is your community and your area to development and not leaving it up to Vista Pointe to do that. I feel as a resident we have all been hit by the economy but as far as I'm concerned we all work and pay our property taxes and imagine they are higher than a lot of places and I think it is about time South Lebanon stand up and take some responsibility for the Zoar Road area and provide the proper area for the people to go through. The fact that we have no commitment here we are back to square one. Keith said the temporary gate will probably be in tomorrow and Shelly said that is great but what happens when the 80% comes and no one knows what to do. She the back hand deals that were made have created the issues that we are living with. Mayor Smith said the agreements were cut with the developers and that is where we are at today and we are trying to live with the agreements they cut. They allowed the agreement to go forward and the 80% is the key that the agreement ends there. This council only has a decision when Emerald is cut in to vacate Cochran Road and that is it in a nut shell. Shelly asked where are we then and Mayor Smith said the road is closed and it is over. Shelly said there are a lot of ifs and Mayor Smith said council would have to take action once the 80% is done and the gate is moved the attorneys after researching have told us we would make a decision on vacating Cochran and that means it is shut down and can no longer be traveled. The whole theory was to punch the other road in to allow those residents access to Montgomery Road and Zoar Road and Zoar is a county road and is in good shape. The turn radiuses were changed from 25 mile an hour radius to a 35 mile an hour radius. Shelly said she thinks hearing the Homestead residents shows there needs to be lighting. Mayor Smith said there are few homes on Zoar and some entrances to developments. He said

we have residents right out here that have 10,000 vehicles travel in front of their homes a day and we challenged it because of health and safety and lost in court. This council has worked hard to work through these problems and you are attacking this council. Shelly said for two years all she has done is fight these kinds of arguments. Mayor Smith said bottom line is this council has to make the decision to vacate the road and that is it. If the development builds at the current rate that gate will come down and the permanent gate goes up and that is the developers to maintain it, they made the deal and they have to live with the terms. Whoever they allowed to have access those are the terms, it is pretty clear. Laura stated that the residents to have access are listed and as the mayor said it is between the two developers and at the time the permanent gate is to go up the developers may decide to amend the agreement. Madison said he understands her frustration and appreciates her comments but again there is a written agreement that certain events triggers such as the 80%. He said if the economy was better we would probably be through this and spare us all this. He said in his opinion this council has went to great extremes to try and calm and soothe and the mayor and solicitor made efforts to locate all people involved and bring this forward.

Joanne Acomb – Fredericks Stand – asked how are they to get to their friends in Homestead when the permanent gate goes up. She said they are tax payers and said their tax money pays for those streets. She said if Zoar is to be their road then could maybe some lights be installed for safety. Mayor Smith said we will look into it.

Dennis Rees – Grants Grove – said he understands the safety issue because we too were sold a bill of goods and I would like to say we appreciate the time you have put into this. One thing we thought was we would always have access through Cochran. We were told the relocation of Cochran was to allow us access. Zoar Road is a good road but when it is 5 below zero it is a dangerous road and we are a number of elderly residents. He said we thought we would always have access to Vista Pointe and Cochran. I have heard a lot about Vista, Vista, Vista and my concern is Stone Brook because there a lot of kids and that would concern me more because I have not seen that many kids on Vista.

Mayor Smith said Cochran Road has been in existence from day one and is a one lane road but Emerald Drive approved by planning is to be at least 35 feet wide and intended to be a collector road. He said the development is going forward just slower than we anticipated. First Financial wants to market the development and then they will punch the road in. He restated that timing is the issue.

Lisa Wanstrath – stated on behalf of the HOA of Vista Ridge she wants to thank council for your time and our main priority was safety and thank you for understanding that. Madison said he feels obligated to thank her.

Ed Rickards – 5160 Williams Ridge – said he can appreciate why some people think they need a gate but cannot get my mind around how you can gate a public

street. Keith stated the gate now is temporary and will move to Zoar Road and that property is private. The temporary gate is okay because of the agreement between the developers. It was discussed the access for the gate being a key card. Madison stated that there was a cul-de-sac and the two developers opened the cul-de-sac and agreed to move the gate on the condition we had a by-pass for Zoar Road. He said we approved that and the Emerald Drive will take care of the thoroughfare and in fact we are improving the thoroughfare.

Kate Reich – asked how First Financial is going to close the gate – with pad lock and chain until it is repaired – Laura said they are going to repair the gate and put on a combination lock that is accessible for fire, police, village, Ryan Homes and residents named. Bob Craig stated if we are living up to agreement it states a key card access. Discussed original key card access being broken before. Stated this is for temporary gate only. Kate started to express how this started was property taken by eminent domain and Mayor Smith interrupted and said that never happened. Mayor Smith stated if you are having a conversation take it outside, you are supposed to be addressing the council. Kate started to express how long this has been an issue and that they have been patient and Mayor Smith said to be crystal clear we have established that the gate is going to be repaired. Mayor Smith said the attorneys have given their opinion and it is going to be fixed and now the only issue is how it will be accessed and as our manager brought up is for safety. The agreements have to happen and that is it.

Dave McClew – Grants Pass – said they have no problem with the gate but our concern is access to our neighbors. Stated not sure of weight limits on Zoar Road but every morning a solid line of those dump trucks at 6:00 a.m. Bob Craig explained the county engineer inspects the bridges and they set weight limits and weight is not an issue there.

Steve Wright – Fredericks Stand – would like to make a point that if there is a fire at Vista Pointe and if the emergency vehicles are on Montgomery Road and have to through Homestead and jump out of the truck to open the lock it could hold them up and there should be a faster way to access the gate.

Jeff Reich – Vista Pointe – we all agree a combo lock is not the best solution and I asked a neighbor is a fireman how we should best handle this and he agreed that it would not be the best and I will go on record that the residents of Vista Pointe would be happy to pay for a knock box that all emergency will have access and we can daisy chain it to First Financials lock so they can drop and go. Bob Craig said he has talked with the chief from Hamilton Township and they have a concern about the inconvenience of the gate operating and we need to have them on board.

Kate Reich – would like to thank you for your efforts and don't want residents of the other developments to think we are trying to exclude you. We just bought into the development assuming it was going to be a private residence. The neglect of

the residents of those other developments and I realize it is not all of them but they have abused it and that is what makes it very bad. We want to make sure our area is secure.

Mayor Smith closed the floor to the public.

20. A motion to adjourn the meeting was made at 7:36 p.m. by Carbo, seconded by Holloway, all yeas.

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Sharon Louallen – Fiscal Officer

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James D. Smith - Mayor