

The Utilities, Safety & Environment Committee

held a meeting on Wednesday, December 14th, 2022 beginning at 6:00 P.M.

COMMITTEE MEMBERS PRESENT: Committee Chair Mitchell, Davis, Corbin, Oswald

OTHER COUNCIL MEMBERS PRESENT: Cerra and Schneider

OTHERS PRESENT: Law Director Deery, Engineer McKillips, Safety Dir Williams

1. Approval of the Utilities Committee Meeting Minutes ~ November 9th, 2022

Motion made by Mr. Oswald and seconded by Mrs. Davis to approve the 'said' minutes.

2. The matter of a Professional Services Agreement with Black & Veatch Corporation for services pertaining to Assessments of Water Transmission Mains.

Referred By: Engineer McKillips

Engineer McKillips said this is to request to enter into a professional service agreement with Black & Veatch for assessment of our water transmission mains. Water Team Leader Jacobs spoke on this project in his presentation. Black & Veatch will be looking at approximately 13 miles of transmission mains from the water plant in Lorain coming into Elyria. One of those mains is up to 120 years old, so, it's time that they be reviewed. Black & Veatch will look at the how we will go about doing it. They will look at locations of where they will do evasive inspections on the pipes and where we can actually do passive inspections on the pipes. They had a committee between Engineering and Water Pumping go through a quality base selection process. They had 2 firms provide presentations and then they selected Black & Veatch. They then received the scope of the work and the fee from them, which was reasonable and we would like to move forward with them for this first phase of the project. The second phase will be the actual inspection work itself. And they will come back to this committee later in 2023 after the initial phase is completed and when they're ready to move forward with the second phase.

That completed Engineer McKillip's presentation.

Mr. Oswald asked about previous contracts?

Engineer McKillips said this will be under \$300,000 and it's a totally different job. Black & Veatch is currently doing other jobs with the City. They are currently working on the Water and Waste Water Rate Study. They've been working at different phases and different reviews of the rate system over the last few years. This job will be totally different and the cost for this is \$275,110.00 for Phase One of this project.

Dir Deery said a sample ordinance was included in the packet. This does involve the same vendor, Black & Veatch, however, it's a different project. The sample was for reference only. The amount was appropriated in the 2022 budget and will have to be rolled over into the 2023 budget.

Mr. Oswald moved and Mrs. Davis seconded to recommend an ordinance authorizing the Mayor to enter into the 'said' agreement with Black & Veatch for 'said' professional services.

MOTION MADE

COMMITTEE REPORT WRITTEN

3. The matter of the continued Discussion of the Fireworks Issue.

Referred By: Ward 1 Councilman Lipian

Mr. Lipian said in anticipation with New Year's around the corner, there will be fireworks set off and it will continue to be an issue. When it was last discussed they were hashing out collaborative solutions to bring to the table. As a refresher, residents have complained not only about noise but debris falling on homes, cars, in yards at very late hours of the night. He placed forward a solution through a permit system and he understands that we're going to see what some other cities have done.

Law Dir Deery gave some background and where we are now based on what the State of Ohio allows and does not allow. She is aware as to what is common practice doesn't jive with what the law is currently and was previously. Ohio Law states that on certain dates throughout the year, citizens can discharge fireworks. The times specified by Ohio Law is from 4:00 P.M. until 11:00 P.M.

The State laws allow July 3rd, 4th and 5th, weekends proceeding and following the Fourth of July Holiday, Labor Day Weekend, which would be the Saturday and Sunday before the Labor Day Holiday. It also allows the holiday of Diwali, New Year's Eve from 4:00 P.M. until midnight and New Year's Day until 1:00 A.M., Chinese New Year, Cinco de Mayo, Memorial Day Weekend and Juneteenth. She said State Law does have restrictions as far as age, not allowed under 18 and cannot be within 150 feet where they are set off. There are many other limitations as how far to be from structures, animals, etc. Also distances from schools, hospitals, houses, railroads, apartment buildings. There are many restrictions that are already in effect under the State Law. There are also regulations as far as storage.

Should Council restrict but not outright ban firework usage within our city, the Chief would recommend the Fourth of July Holiday (proper) be a permissible date and also the weekend before and after, which would be a departure from State Law as far as not allowing the 3rd and 5th unless the holiday fell on a weekend, then those would be included.

Some of our neighboring communities have already defaulted to the State Law or have issued an outright ban. Those are options for the City.

Mrs. Mitchell asked what an outright ban would be?

Dir Deery said that it would be against the Law to shoot off any fireworks at any time. Going back to how the Law was before Ohio amended it.

If we would decide to differentiate from State Law and not do an outright ban, the times could be altered. The City of Lorain allows fireworks and have added times when it's allowed; New Year's Eve into New Year's Day until 1:00 A.M., Independence Day/4th of July, Juneteenth, Cinco de Mayo. They do not allow the days before or after those holidays. Those are the day that Lorain allows. The times allowed are from 4:00 P.M. to 11:00 P.M., except on New Year's Eve, they allow to 1:00 A.M.

Police Chief Pelko recommend that should Council restrict but not outright ban firework usage within the City, he recommends July 4th be a permissible date and also the weekend before and the weekend after, which would be a departure from State Law as far as not allowing the 3rd and 5th unless the holiday fell on a weekend then those dates would be included. State Law also allows Labor Day Weekend and also allows New Year's Eve and New Year's Day until 1:00 AM.

Dir Deery said there has been discussion with permitting and that is something that she would not recommend going forward at this time on that, not that it's viable, but there needs to be some talk with how we as a City would handle that internally.

Dir Williams said he thinks this is a conversation that will need to be had, there will be a lot of major and minor decision points within that. Who will be the person or department to receive the permit? It could be difficult to restrict the homeowner and that is what some of the considerations would be. Then we look at renters. There is a lot to decide with permits, who is eligible to pertain one. Often time permits would be attached to some type of liability, so, it's important it's the homeowner so they can declare there is insurance attached. The permit would mean that there is enforceability, because you have insurance coverage. So, it's not just about permission but who's held accountable and how is that enforced?

Mrs. Mitchell said Ohio had a complete ban and you could go to Phantom Fireworks and purchase as long as you say you're taking them out of state. But they were purchased and used here in Ohio and in Elyria. The problem is how will we enforce this? Next problem is you need a permit, will people really get a permit?? Maybe some will. This is great conversation.

Mr. Cerra said that any law-abiding citizen should not be penalized if they follow what we put forward. You're still going to have the ones that aren't going to follow any rules. And they'll continue to do it until they get caught. He said he is not in favor of permits.

He had a bag of a sample of debris that is cleaned up by a resident every time the neighbors put on a firework display. Mr. Cerra passed the bag around so everyone could see all that debris and some were pretty large pieces.

Mrs. Davis said residents in her ward light fireworks all the time and she never can catch them. They seem like they go the whole week before and after the Fourth of July. Maybe we should have the Fire Department here to have some insight on fires that were caused by fireworks. She feels this is a big problem in our city and they just do it anytime with no regard to their neighbors.

Mr. Lipian said when he developed this proposal he did have some conversation with the Fire Chief. He proposed that the cost for the permit would be split between The Fire Dept and Police Dept. They have their share of responding to firework complaints.

Dir Williams said there is a lot more discussion that they would want to have and share that information with this committee, regarding the permit process. Police response is probably more frequent than Fire, because they get the complaints. Whether there's a permit or not, there is a real public safety issue. Sometimes when we engage in ordinances and law, it could reduce that, but not going to eliminate it. It will reduce it. Further discussion and then how to mitigate that. Once this is put in place, we're now not just being passive, we have to assertively go out and enforce. It's not enforcement based on who complains, we must be proactive, and not wait for the response on the dates that are selected and we know that have to have the police available. If we have the permit in place and if someone is setting off fireworks, do they have a permit? Through the Law Dept and the Safety Departments, there's a lot more conversations to be had.

Mrs. Mitchell said she's concerned that on New Year's Day, way back when, folks would shoot guns off, and what goes up has to come down.

Do we address that as well? And we have a 0.5 income tax levy that comes up next year, if that doesn't pass we won't have police and fire to enforce anything.

Mr. Corbin's concern is, if we do nothing regarding this issue, Law Dir Deery said that anyone shooting off fireworks could go back to what the State has allowed and there would be no recrimination, in other words, the State has allowed the cities to make their decisions. He feels the City needs to put something down on paper, so we can tell our citizens that we have done something. Council needs to do something. And if possible, as soon as possible.

Chair Mitchell said they can't decide this evening because more information is needed regarding how the permit process will work.

Mr. Oswald mentioned about the debris that Mr. Cerra brought in, which is littering. We know this firework noise is very bad for our Veteran's and our pets. It all boils down that there has to be some kind of program of enforcement because, we can write laws, but if we don't enforce it, nothing will happen.

Law Dir Deery clarified her position, she would recommend that additional information be gathered with respect to a permitting process. She believes that it's at the desire of this committee that we as a City could legislate as far as certain dates and times if we wish to be restrictive. As far as when residents can shoot off fireworks within the City limits. It's important that even under the State Law, that if someone is out there shooting off fireworks, it's illegal. That should be brought to the resident's attention and some won't care, but there are certain dates and times. It's illegal to discharge fireworks towards buildings and persons. In addition to littering, it's a fire hazard. Though, enforcement will be an issue. Unlike tracking a speeding car, it's rather difficult for enforcement. And there are repeat offenders and there's exception to every rule. She appreciates that timing is of the essence. She suggested that legislation could be passed as far as restricting times and dates and then we could come back and discuss the permit process.

Mr. Lipian agreed with Dir Deery and he also echoed what Mr. Corbin said. And that we could establish some kind of restriction and guidelines and work on refining the process later.

Mr. Corbin said it's important that we get something on the books as was just pointed out that it's illegal to shoot off fireworks now with the State Law. He knows the enforcement will be difficult. If we have something on the books we can say we've enacted this ordinance and it would be on the books. Mr. Corbin asked Dir Deery, If we don't put anything on the books, would it revert back to the State?

Dir Deery said, yes, it would be under State law as far as when they are allowed, dates and times.

Mr. Cerra said he wouldn't have a problem if we do something like the City of Lorain did. That sounded like it's the simplest and quickest way to do something. If a resident took a video of someone shooting fireworks when they're not allowed, can that be used to cite these people?

Dir Deery said potentially, though there would be other factors that would come into play which would be something the police would into.. Ideally it helps if they are caught in the act.

Mr. Cerra asked what the penalty would be and do we have the ability to increase that or change it?

Dir Deery said the penalties would have a lot to do with the types of fireworks, what the infringement is. She would encourage the City from doing anything that is different from what the State does because there could be issues where civil actions could be taken against us. The penalties in Lorain are misdemeanors of the first degree, the highest level. A lot of the storage issues are felonies because they are hazardous material.

Chair Mitchell asked what is the penalties in Lorain?

Dir Deery said M1 would go to Municipal Court and if found guilty there could be a fine up to several hundred dollars or jail-time.

Mr. Oswald said that New Year's Eve is 3 weeks away and we should not rush this decision. We should do it right, do the research and everything.

Chair Mitchell reminded the committee that until we do something, Ohio Law is still in effect. If the police get called about a resident shooting off fireworks and the police get there and those folks are not doing anything and it's a waste of the Police Officer's time, because they can't do anything.

Former Councilman, Jack Baird spoke to the committee. He said that fireworks are an annoyance. Do we encourage it, everyone has fireworks on July 4th? That's good, he always supported the City fireworks. He thanked the Director for giving the information on the State Law, and what's in place already. He doesn't think we can ban it, which would be counterproductive because people would just do it anyway. But if the City has a law/ordinance in place which puts penalties, similar to what Lorain has done, it's something that everyone can work with. He thinks we're on the right track. He thinks the committee should continue to get more information and continue to discuss it and decide before the fireworks season, which would be coming up in the summer. That is just his thoughts.

Mr. Corbin said he agrees, we don't want to rush anything, but the documentation that he has goes back to September when this was brought up. When are we going to present something to Council?

Chair Mitchell said the Law Dept was gathering information and facts and that takes time.

Mr. Lipian said that he has spoken to some residents and they acknowledge that New Years fireworks are a little less intense than Fourth of July fireworks, and they're not as worried. He'll be getting some phone calls and he'll just have to explain that we're continuing to work through the pipeline. He's happy to wait and he feels the discussion is going in a good direction and if we come up with something we agree on to serve the residents.

Mrs. Davis suggested that we have dates and a timeline. She doesn't agree with the start time being 4:00 since it's not dark. She's not for the weekend before or the weekend after. She's strictly for the day of the holiday. When you start giving so much leeway, it defeats the purpose.

Chair Mitchell asked what is the pleasure of the Committee?

Mr. Oswald said we should put a proposal together and maybe have it ready in a month and then bring it to vote at that time.

Law Dir Deery said that her office does have a templet and now they need the input of this committee. Moving forward it's a matter of what does the committee want in order to move forward to full council. There may need to be some additional information

as far a permit and a permit process. If it's the desire of the committee not to have a permit, then we don't need to include that in the ordinance. She's not in the position to decide the appropriate dates and times, that's something that the committee needs to decide. That is where we're at.

Mrs. Davis is not in favor of having a permit. We need to decide what dates and the timelines. We could always amend as we move forward if changes need to be made.

Mr. Oswald asked if we can hash out those particulars?

Chair Mitchell said that meeting would be the 2nd Wednesday in January, January 11th.

Mrs. Davis said that date is too close, but as long as we have it finalized before summer.

Mr. Schneider said that he is not in favor of permits. He has concerns about complaints coming in from the western and southern wards where people are complaining because they hear fireworks and some of those could actually be coming from townships where they may not have any fireworks restrictions.

Chair Mitchell said if they are going to do some sort of legislation there has to be some kind of penalty. Dir Deery mentioned a first-degree misdemeanor fine could potentially be up to a thousand dollars, which is pretty steep.

Mr. Lipian said that some folks in the 1st Ward brought up the fact that there are a lot of small homes on small yards and they are so close to each other and the debris would naturally fall in the neighbor's yard. He thought maybe they could look at some restrictions based on square footage of yards may be something that might be considered.

Chair Mitchell said then who goes out and measures the yard? That is a topic for further discussion.

Chair Mitchell asked for a motion to adjourn The Utilities Safety & Environment Committee:

**Mr. Oswald moved, seconded by Mrs. Davis to Adjourn the Meeting at 7:55 P.M.
MOTION CARRIED**

Respectfully Submitted by,

Colleen Rosado, Secretary/Administrative Assistant

/CMR