

City of Springdale Council

November 4, 2020

President of Council Vanover called Council to order on November 4, 2020

The governmental body and those in attendance recited the Pledge of Allegiance.

Mrs. McNear took roll call. Council members Anderson, Emerson, Ghantous, Hawkins, Ramirez, Sullivan-Wisecup, and Vanover were present.

The minutes of the October 21, 2020 meeting were considered. Mrs. Ghantous made a motion to accept the minutes; Mrs. Emerson seconded. The minutes were approved with six affirmative votes and one abstention (Mr. Ramirez).

Communications	-	None
Communications from the Audience	-	None

Ordinances and Resolutions

Ordinance No. 36-2020

AN ORDINANCE AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH CT CONSULTANTS, FOR STAGE 1 DESIGN ENGINEERING SERVICES NECESSARY FOR THE NORTHLAND BOULEVARD RECONSTRUCTION PROJECT AND DECLARING AN EMERGENCY

Mrs. Sullivan-Wisecup made a motion to adopt Ordinance No. 36-2020; Mrs. Emerson seconded.

Mr. Hawkins: Just looking at page six of the packet from CT (Consultants), under the "Assumptions and Exclusions", Number 4 where it's talking about "Groundwater Observation Well Installation. Monitoring and Reporting can be performed for an, If Authorized fee of \$2,200. Are they indicating that would be an additional \$2,200 if that was deemed to be needed, or if we, for some reason, felt that was necessary, that would be \$2,200 in addition to what we would be doing for the \$478,188? On page six, number four.

Mr. Braun: I'll let Don (Shveg zda) speak as to the utility of it, but I think what they're saying is "for an additional \$2,200, if authorized", they'll do that. So, I just don't know. Don (Shveg zda) can probably explain whether it would be necessary.

Mr. Shveg zda: That is correct. It's one of those items that probably won't be necessary, but they put that in there just in case it would become an issue.

Mr. Hawkins: So, is that upon them finding some kind of problem, or something that we may decide as an elective that is necessary to do?

Mr. Shveg zda: If it's found that there is substantial groundwater in that location, then that would be something that would have to be done just to determine what an issue that it really is there.

Mr. Hawkins: Okay. Thank you.

Mayor Webster: I've asked Jeff Agricola to attend this evening just in case you had some questions, especially regarding the water feature, the median strip, and so forth and I'm sure he could answer any questions that you have regarding that. That's a lot of money. A big contract.

Ordinance No. 36-2020 passes with seven affirmative votes.

City of Springdale Council

November 4, 2020

Ordinance No. 37-2020

AN ORDINANCE AMENDING ORDINANCE NO. 7-2019 AND CONVERTING THE ADVANCE FROM THE GENERAL FUND (010) TO THE CAPITAL IMPROVEMENTS FUND (090) INTO A TRANSFER FROM THE GENERAL FUND (010) TO THE CAPITAL IMPROVEMENTS FUND (090) FOR THE CITY OF SPRINGDALE, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020

Mrs. Ghantous made a motion to adopt Ordinance No. 37-2020; Mr. Hawkins seconded.

Ordinance No. 37-2020 passes with seven affirmative votes.

Ordinance No. 38-2020

AN ORDINANCE AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH JUSTIN BARTLETT TO SERVE AS MAYOR'S COURT MAGISTRATE FOR THE CITY OF SPRINGDALE, OHIO, AND DECLARING AN EMERGENCY

Mr. Hawkins made a motion to adopt Ordinance No. 38-2020; Mrs. Sullivan-Wisecup seconded.

Mayor Webster: I'd like to speak to the next three ordinances while I have the floor here. These are for our Mayor's Court participants, our Magistrate, Mr. Bartlett, the second one is our Prosecutor, Seth Tieger, and our third one is Daryle Tibbs, our Public Defender. I'm pretty proud of our court. They do a great job, very well respected, and the terms and conditions are the same as they have been. No increase; haven't made any increase in several years. I would ask for your support of all three of these.

Ordinance No. 38-2020 passes with seven affirmative votes.

Ordinance No. 39-2020

AN ORDINANCE AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH SETH S. TIEGER FOR PROSECUTION SERVICES FOR THE CITY OF SPRINGDALE, OHIO, AND DECLARING AN EMERGENCY

Mr. Hawkins: Just a question real quick. Do we annually check on malpractice insurance or automotive insurance that's in there as part of the agreement? Is that something that gets looked at?

Mayor Webster: To my knowledge, we do not.

Mr. Jones: When we first hire them, we make them provide that and we ask them to keep that up, but, to my knowledge, we have not checked that this year to make sure that's in place.

Mr. Hawkins: Thank you.

Mr. Hawkins made a motion to adopt Ordinance No. 39-2020; Mrs. Emerson seconded.

Ordinance No. 39-2020 passes with seven affirmative votes.

Ordinance No. 40-2020

AN ORDINANCE AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH DARYLE C. TIBBS FOR PUBLIC DEFENDER SERVICES FOR THE CITY OF SPRINGDALE, OHIO, AND DECLARING AN EMERGENCY

Mrs. Sullivan-Wisecup made a motion to adopt Ordinance No. 40-2020; Mrs. Ghantous seconded.

Mr. Hawkins: On the agreement for Ms. Tibbs, where it is talking about, I understand the idea of her not taking on any civil cases against the City of Springdale, but is that also,

City of Springdale Council

November 4, 2020

Mr. Hawkins (continued): basically indicating that if she was retained on a case where our law enforcement officers had stopped somebody that she can't do that either? The State of Ohio vs John Doe that has got a Springdale Police Officer that made that stop, and it goes downtown, she's unable to do that?

Mr. Braun: If you look in Paragraph Three, it talks that Daryle Tibbs agrees not to engage in any other legal services in Springdale which create a conflict with regard to their responsibilities to the City. So, it would make her ineligible.

Mr. Hawkins: And, I understand from like a civil standpoint, but, I mean, she's doing that same exact thing here. That's why I was trying to clarify if that prohibits her from doing the same job that she's doing right now, downtown, if she got retained on a case where it was a stop, and Springdale or it was a felony or something like that that wasn't going to be handled here in Mayor's Court. Again, it's Ms. Tibbs thing to negotiate through, but I understand 100% if there was a civil action, but I didn't know if that intent was to keep her from being able to do any kind of criminal defense.

Mr. Braun: I think it is pretty clear to not engage in any other legal services, I think, civil or criminal, she would be prohibited against the City.

Mr. Hawkins: That's what I'm reading, I'm just trying to clarify that's what the intent is.

Mr. Braun: That's how we would interpret it.

Mr. Hawkins: That's the same thing she's already doing for us, but that's for here to negotiate, I guess.

Ordinance No. 40-2020 passes with seven affirmative votes.

President Vanover: Next up, we have a first reading of Ordinance No. 41-2020.

Ordinance No. 41-2020

AN ORDINANCE AMENDING CHAPTER 123 OF THE CODIFIED ORDINANCES OF THE CITY OF SPRINGDALE, OHIO RELATING TO THE ISSUANCE OF RENTAL PERMITS AND CONDITIONAL RENTAL PERMITS

President Vanover: This is a first reading. Is there any discussion this evening?

Mr. Hawkins: With regard to Section 123.04, in terms of inspection, subsection (B). Am I correct that the idea is that inspection of inside the residence is supposed to be not mandated?

Mr. Braun: Yes. If you would like, I can quickly go through the changes and kind of maybe explain it to you. The way it is now set up, there is a rental permit, and there will be a conditional rental permit. Everyone in the City is required to get a permit, whether it be a full rental permit, or a conditional rental permit under this ordinance. The failure to do that could result in a violation being filed against you. The inspection is not required. If you want a rental permit, meaning there's two different types, if you want a rental permit, you have to agree to the inspection. If you don't agree to the inspection, you get the conditional rental permit. The only difference between the two permits is that a conditional rental permit will certify that the exterior only was inspected. A rental permit will certify that both inside and outside were inspected. And, there's no penalty for getting one versus the other. The only penalty is if you don't apply and receive a permit with the City. But, you're not required not under these changes to consent or agree to any kind of inspection.

Mr. Hawkins: So, what's the rationale for why would even have the difference between the two if it's all optional?

Mr. Braun: Carl Lamping is not here this evening, but one of the things he indicated to me is that currently, our compliance with this ordinance is significant. There's only a small amount of rental owners that are not complying with it. He did indicate to me that he felt it was important that the City either certify, "yes", we went into the dwelling, we determined it had all the Local, State, and Federal safety requirements that are in there, and we inspected the exterior and this

City of Springdale Council

November 4, 2020

Mr. Braun (continued): rental permit will basically be a way that you can show your Lessees this has been inspected by the City and, of course, it's permitted. What he didn't want to have happen is people not consent to a search and get the same rental permit and then those tenants think that it had been inspected by the City when it had not. So, we created the second classification called a Conditional Rental Permit which is essentially stating to those tenants the City came, they only inspected the exterior, visual inspection if you will, they did not come inside and then we changed penalty section to, in my mind, more comply with what I think was the spirit of this all along, which is there is not penalty, whether you agree or not, to an inspection. The only penalty is if you don't get the permit.

Mr. Hawkins: So, what is the purpose for us having the inspection then for the residents? The way this reads is it says the landlord would need to notify the City upon it being occupied within two weeks, if they've already gone through and completed an inspection to get the rental permit, what's the idea behind having that done and the City is getting notified of the occupancy within two weeks if somebody getting into the residence that are renting?

Mr. Braun: If I understand your question. So, you're question, I think what you're really saying is if they have one of these two permits, why do we need to be notified when someone moves in? Is that your question?

Mr. Hawkins: Well, I mean, the real question is why do we need to go into the residence? But, we're getting notified afterwards. The secondary question is that because the City is going to go and notify the renter of the circumstances that this landlord is in whether they have a conditional permit or what have you. I'm trying to understand if there's a process that's linked to that to say, "Hey, we want to be notified so we can let the tenant know if we think there's any issues, or if we haven't had a full inspection". If some of this is to be left for when we have everybody here, I'm happy to do it, but I that's more of a process, administrative question for why are we doing what we're doing in the ordinance. It doesn't necessarily have to be you. It can be anybody who's with the Administration.

Mr. Braun: The only thing I'll say, from a legal perspective, is I think that's a policy question. Because, what you're really asking is why are we conducting these inspections.

Mr. Hawkins: It is a policy question.

Mr. Braun: So, I'll leave that to you to decide the merits of whether or not you conduct the inspections. I can tell you that the reason the City would want to know when someone moves in, could be for a variety of reasons. It might be so that we then know it's active, and when it expires, we check. It could be for other reasons so that the City has a roll of who's in the City and whether they're filing things they're supposed to file. But, as far as the policy question goes, I don't get involved in policy.

Mr. Anderson: My first question is along those same lines. Mr. Braun mentioned the spirit of the ordinance. This ordinance precedes me by a term, so I don't have the same background some might have, so, would it be possible for someone from Administration to give me an idea of what we're trying to accomplish. I've seen several changes to this ordinance, but I don't know what we're trying to solve. I can tell you I did a lot of research on other community's inspection ordinances, and it's a very hot topic. I know Cincinnati recently changed theirs and targeted it very differently than what we have here. So, I'm trying to understand why we have this at all first before we get into the details of did we accomplish that goal.

Mayor Webster: I'm not sure when we first adopted this, but, let me just start by saying this. I think that this is probably where I differ with Mr. Hawkins and anybody else for that matter. If you live in a house, that's your home, that's your castle. It's none of the City's business what you do inside that home. If you wanted to pass an ordinance to inspect inside that home, I would lay down in front of that and meet an inspector at my front door with a shotgun in my hand. That's how strongly I would feel if we're going to invade someone's home, but, the minute I vacate that, and I put a "For Rent" sign up, then, all of the sudden, I've created a business. I think that any other business in this City is regulated to some degree with permits, inspections, and everything else. I think that you voluntarily vacated your "castle" and you created a business to make money; pure and simple. So, I think the City has

City of Springdale Council

November 4, 2020

Mayor Webster (continued): an obligation to do that. Now, maybe in your neighborhood, Mr. Anderson, maybe you don't have any rentals, and you don't see the need for it. But, I think if you move in other sections of the town, out of District 4, I think you would see a tremendous need for that and Mr. Vanover's subdivision is in excess of 25% rental units. I think the City has a duty to try and make sure that those businesses, those 25% businesses are properly inspected and maintained inside and out, if at all possible. Now, granted the law is laid down in front of us and says, "you can't just arbitrarily make us allow you to go in and inspect our business" so, we've modified it to the point that okay, we can mandate that you have a permit to run that business, and if you don't apply for a permit, then there's a penalty clause that kicks in. But, we've modified it to take the inspection out of the penalty clause. So, the relief there, as far as the City is concerned, is okay, we're going to give you a permit, and you're going to pay the same price, regardless of which permit you get, but this one is going to say that you have declined to have the City inspect your property inside. So, if something happens, God forbid, inside that unit, at least the City has a record that the owner of the property declined to have the City enter his business and do the inspection.

Mr. Anderson: I appreciate that. That gives me some of the background. For what it's worth, my parents do live in Heritage Hill and I'm over there every other day. I'm familiar with other aspects of Springdale. My parents live in Heritage Hill where I grew up. I've been in other areas and I've seen the changes and the tendency in how rentals have had some impacts on different areas. I'm not fighting that idea, I'm just trying to understand how this ordinance solves those problems. So, you mentioned the inspection aspect. You described the sanctity of a castle; the person who owns the house. If a renter is going in there or has gone in there, they should have some of those same protections as well. I know other communities have updated their ordinances to include protections for their tenants that would be subject to these rental inspections. I didn't find those in our ordinance. Where there are notification requirements, and fair warning, and timelines, where, if an inspection were going to happen, the tenant would also get those protections as well. So, I'm concerned that that's not been included here. I'm also concerned that we're blanketing all of our businesses as presumptively dangerous. The Cincinnati ordinance that was updated only is a pilot program and it only targets these rental properties that have had outstanding tax delinquencies, a history or code violations, or other issues that have been going on that have been unresolved. That's a case where now they're targeting the places where there's problems. The way this is written, it feels like the presumption is anyone who wants to use their personal property for some gain, because they're not a business, we may want to treat them like that, but they're still personally liable for what happens in that agreement. They're not a business. The rules are different for individuals renting their houses. We don't have those same protections in ours and, should we have some of those added, while we're updating it.

Mayor Webster: So, let me see if I understand what you're saying here. You're saying that we should be more strict with this than what we are?

Mr. Anderson: I'm saying we should target it on offenders or issues where the homes would have problems where there is a presumption or a history of issues. This is hitting anyone who wants to use a piece of property that they have for some of that income as a personal choice. What they do with their personal property.

Mayor Webster: How are we going to know that? How are we going to know which ones need a permit and which ones don't? Or which ones need an inspection and which ones don't? How are we going to know that?

Mr. Anderson: So, I would argue that the way that Cincinnati has done it is effective. Where there's an ordinance to require a residency list as being maintained. So, when a rental occurs, they maintain a list of renters that gets to the city. That solves part of the problem you're describing for now we know there's somebody there. So, the person who is renting out their personal property does have a burden to us so we can work together to make sure that it's policed correctly, that we know there's new residents coming in, so, we have the opportunity to welcome the new renters that come in, which is something we've talked about here before. There are more of them now in Springdale than there used to be. We should have that notice so we can reach out to them and let them know what services they're eligible for. The community center, activities. So, a renter list would solve that problem without it being a permit and a conditional permit because I don't want you to come into my personal house and inspect

City of Springdale Council

November 4, 2020

Mr. Anderson (continued): my personal property, which feels a little weird, because we don't do that with other homes in Springdale. We don't require every house sale to get inspected by Springdale.

Mayor Webster: But you're not making a profit off of it. Whether you want to call it a business or not, I think the City doesn't have any choice; it is a business. It's a money making operation.

Mr. Anderson: So, anyone who rents their house has to have a State business license? Is that what you're saying?

Mayor Webster: No. Not a business license. It's residential so you have to get a rental permit.

Mr. Anderson: From the State? Who is deciding that they are a business?

Mayor Webster: The City has the permit. I don't think that you have to go with the State.

Mr. Anderson: So who has determined that a person renting out their personal property has become a business? I'm trying to understand that piece because I think that's important from what you're describing. What makes it a business? Is there a portion of the Code that makes a house that is being rented out a business? If I rent my lawnmower to my neighbor because his is broken, am I a business now? Where does it become a business?

President Vanover: Well, you are reporting income off of that. You'll be taxed on that income.

Mr. Anderson: Personal income, not business income. It's not a Schedule C opportunity.

President Vanover: Well, it could be. I'm self-employed and I split my personal and the business, but, I'm still running deductions, and all of that through, which, the IRS gives us those options to do. As a matter of fact, I'm sure if your insurance carrier.

Mr. Anderson: Personal insurance carrier, not business insurance.

President Vanover: Your insurance carrier would come in and find out that you're renting the property, they would want, potentially, additional premium on that. They're saying that, "Hey, this has changed." The risk has changed from a liability standpoint, both on property liability and also personal injury. Now, I, likewise reached out to Cincinnati Metropolitan Housing and this is not Section 8. Those properties are required a mandatory, once a year inspection. They are required an inspection when the occupants or tenants change and also there is a react inspection that is a problem is brought out, they go in and inspect.

Mr. Anderson: And those are for commercial properties through that department. Cincinnati has a separate ordinance for residential retail inspection. Which is a different program. I'm not questioning the commercial inspection side. The question I have is more treating this as a business. I'm asking, I'm not telling you. I'm wondering is that appropriate and at what point does it become appropriate that we're deciding for these individuals using their houses that you're now a business because, if they are a business, there's probably other things we need to do with them than have a rental inspection program. My first question was what are we trying to solve, because those are real concerns. The renters moving in is important. We've talked about community building here and I want to make sure we have the opportunity to capture those people, which is why I like the notification to the City of a renter and the address, and the move in dates so we can help them be a part of the community, because there's a lot more of the renters here than there used to be. So, I'm fine with that. Where I'm struggling is the fact that the current ordinance as written feels like an inspection program for personal property and it doesn't feel right and I want to make sure we can fix it so that people can be comfortable with what we're doing, and the motivations for why we're doing it to help the residents become a part of the community and have a safe opportunity to live in

City of Springdale Council

November 4, 2020

Mr. Anderson (continued): one of these houses. If the inspection is valuable from a safety standpoint, that's something we should offer all of our residents, not just the renters. Right now, when I bought my house in Springdale, I had to pay \$200 or \$250 to a home inspector and he came in and inspected the property before I bought it and told me about what I'm going to have to fix later. He found some code things and he told me about those. Well, can I, as a purchaser, ask for an inspection too so I can get that benefit?

Mr. Braun: Two things I might argue. This ordinance is not converting rental property to a business. I think the Mayor is arguing by analogy and what he's saying is, from a policy perspective, it's a business, not a residence and as a result, it needs some level of regulation. Nowhere in this ordinance does it rezone or reclassify this as a business. However, I think the Mayor's point is that it's being operated like a business and so, that would underlie the policy implications for it. I will tell you, you brought up two points; number one, there is not a notification of the tenant in the current version of this. That's certainly something that could be added if that's the pleasure of Council. I can tell you that Mr. Lamping and Administration when we talked about this, that was not something we talked about. That can certainly be added. The second thing you talked about was the City of Cincinnati having the targeted ordinance. If you look in Section 123.04 (C) of this, we actually did address that. It does provide in there that if there is an open property maintenance case, or an ongoing property maintenance case on a particular unit, that they are required to agree to an inspection, under the property maintenance code and if they don't, then, and that's where this again, is still voluntary, Mr. Lamping would have the ability to assess the situation and go through the administrative search warrant process. It doesn't say that they have to. It says that they are required to, but it doesn't have a penalty for not doing it. At that point, due process kicks in and we would have that discretion, but that lies with Mr. Lamping.

Mr. Anderson: So, independent of this ordinance, we have the ability to inspect problem locations; a problem house where there's known issues or issues that have been raised by a renter where, you know, I've got code violations in this house where there may be mold, or unsatisfactory wiring that's a hazard. Without this ordinance, we already have the opportunity for those residents to notify the Building Department and they could go through the existing building code to do an Administrative Warrant and take care of that safety issue. We don't need this to solve that problem. Is that right?

Mr. Braun: I would argue there's a multitude of ways that we could get an administrative search warrant for a variety of things. The policy implications of this are that rental units, as the Mayor pointed out, are a business and are being treated differently, if you will, or subjected to a level of scrutiny because of the business itself, or, I'm sorry, because of the use itself, which is rental. So, just as, for instance, if I decide I'm going to be a short order cook and open a diner, I would be subjected to fire inspections. If I said, "No, you can't come in", the Fire Department could go get an Administrative Search Warrant. So, there are mechanisms in place for a whole multitude of reasons. The Health Department, if someone has an infectious disease can go get an Administrative Search Warrant. There are various types. To answer your question directly, yes, there are other mechanisms. This is just one more.

Mr. Anderson: Which is why I was back to my first question. What are we trying to solve with this additional ordinance if we're trying to identify residents that are coming in. There's ways to do that that don't require an inspection. If the intent is to make sure that all the properties in Springdale are safe, I'd want to make sure that opportunity is available to for everyone, and I would question if that's really an ordinance at this point, as opposed to an administrative option in the same way that the Fire Department and the Police Department are willing to do safety inspections. I know when we became foster parents for the County, The Springdale Fire Department came out and did a safety inspection at our request and gave us a certificate for that. So, there's ways to do that that don't involve, what feels like to me, an invasion of personal property. Even if it's being used to gain some personal income. I do agree that there should be some oversight, which is why notification is important, but I think I'm trying to solve a different problem which is knowing and building community. This to me feels like we want to inspect some properties and it feels punitive. But, that's my view. Thank you.

Mayor Webster: I singled out Mr. Vanover's district, District Four. Going around this City, which I've done a number of times, I think this is the number one problem that's identified to me with the City is the number of rental properties. I think that fortunately, or unfortunately, we have

City of Springdale Council

November 4, 2020

Mayor Webster (continued): a lot of starter homes in this City. That's what brought my wife and I here. We had a \$16,000 home, on Whallon Court, still there today. I think if you go around to the other districts, District Council people, everyone, except you, Mr. Anderson, probably has a goodly number of rentals. I think the people that own their homes, and live in them, to a lot of them, it's the largest investment that they've got in their lives and they need to protect that. I think that the more you flood the City with rentals, the more likelihood you are that you're going to undermine the value of those homes. I think that anything the City can do to help those homeowners maintain their values, we ought to do it. Now, having said that, yes, it's got to be legal, it's got to be constitutional, and I think that this version here was arrived at by sitting down with Carl (Lamping), hearing his problems and concerns, with the Law Director after he reviewed other cases, and every case that Joe (Braun) could find, we tried to apply what we're proposing here, and, as a layman, I think we did that and I think that there's a good reason for everything we're doing here, but the underlying reason is to maintain the property values and the standard of living. The other thing you get from the City, is you get, based on the size of your house, you get a certificate, or letter if you will, telling you how many adults, how many children that house is approved for. I think that's terribly important when you get some cultures. You rent a house, come on in; bring the cousins, the aunts and the uncles, and the grandparents, then, all of the sudden, now you've got six families living in a two or three bedroom home. I think that's the thing that, if we've inspected it, we know the size of the house, how many bedrooms and so forth that we're in a position to issue that rental permit and this is what it's approved for. Now, does that mean we're going to go knocking on their door every night to see how many people are sleeping there? Hell no, we're not going to do that. But, if you live next door to this house, and all of the sudden there's six families living there when one moved in last month, then, yes, you call the Building Department and we go knocking on their door and we'll say, "Hey, we know that this house is zoned or built for three bedrooms or whatever, and how many people are living here?" I think that's just one reason that I think this is terribly important to this City. Maybe to some other communities it's not that important. Maybe they don't have any starter homes in their community. Maybe they don't have any rentals. There's not that many rentals in Oxford or Beacon Hills. Not to keep picking on your area.

Mr. Anderson: Again, my parents live in Heritage Hill and I'm there most weeks. Would you say that the intent of this, you mentioned something I want to make sure I understood and didn't read into the comment too much. I asked about the intent of the ordinance and what we're trying to solve. Is one of the goals, as this is being proposed, to discourage rental properties in the community? Are we telling people that in Springdale we don't want that kind of use for our homes and we're telling people we want to make it more difficult for them to use their property that way? Is that a goal that we have with this?

Mayor Webster: As long as the property is properly maintained, and is not overcrowded. Overcrowded is not just people, it's the cars, and the comings and goings and the parties, and all that kind of stuff. There's a lot of other things that go along with that. So, if every rental house could end up with ten people in it, then, yes, I think we don't want any more of those. We'd have to get rid of the ones we have. We've got a rental where the landlord and the tenant take care of it, fine. I don't have a problem with that. I don't have a crusade to drive out the renters of this City. But, I do have a crusade to try and maintain the property values for everybody in this City.

Mr. Anderson: I think you'll find everyone on this dais has that same desire.

Mr. Hawkins: When we had this discussion however many years ago, the two issues that are at odds with each other are one, the City obviously would love to have the opportunity to be able to see what's going on inside a residence. I can't tell you how many times through BZA we got the converted garage that we find out about because someone has to come through to get a permit to do one thing or another and we can address those things. So, I get that side of it. The other side of it is, we've got to make sure that folks are not having constitutional rights violated and so the fourth amendment part of it, and possibly 14th amendment in terms of due process, but definitely the search part of it is critical and that's where all these cases are coming from and came from four to five years ago with regard to it comes from the inspection part of it. So, the inspection part is what I'm most concerned about. You go into it, it is important to state what the intent is or the reason why. Mr. Braun, I think would agree with this that if you get into a governmental action that may be tantamount

City of Springdale Council

November 4, 2020

Mr. Hawkins (continued): to a taking, which I would argue definitely if you're mandating an inspection it is. But, even the difference of saying a "rental permit" versus a "conditional rental permit", one appears to be more attractive than the other. So, one could argue that's essentially a taking if I don't succumb to this interior inspection and so that becomes an issue in terms of fourth amendment issues. So, when you get to the "what is the reason why", it is critical. Because, if we get sued, and they're going through "what's the reason why", the first thing they're going to sit there and go is are they going to use the highest form of scrutiny and analysis, which will be strict scrutiny, where they're going to sit there and say, "we've got to have a compelling interest" and our actions have to be narrowly tailored to meet that, which I think that's probably going to happen to us, or, at the lowest level, you've got irrational basis for whatever we're doing. I think, you know, we're talking about concerns about houses being damaged, property values, too many people living there, crowds, those are all very legitimate things and very legitimate concerns that impact all the residents in the City. I don't know that that reaches a compelling governmental interest. There's a rational basis for a concern for that for the government. I agree 100%. But, if it doesn't reach it being a compelling interest, and we're getting into a fourth amendment taking, I think we have a problem in terms of us potentially losing. But, that's why the reason why is so critical. Now here's what I'd come down to in the end. If the issue is truly we're worried about the folks that are renting these properties and making sure that they have the opportunity to be in a safe environment, then the notification part of it is critical. Now, we started down that path in this document in terms of saying the landlord needs to let the City know within two weeks of a person occupying the place. That's why I asked the question because the next step is, it doesn't sound like it was part of it is that tenant needs to be notified that they can contact the City and the City will come through at free of charge, and inspect that property and we'll let them know if anything is an issue that needs to be fixed, corrected, or what have you. That is an action in an ordinance that is truly protecting the people that are renting the property. At that point, someone's opened the door for us. So, my concern is really the inspection part of this and we've come from a distance from where we were four years ago, six years ago, however long it was when it was basically mandating folks we're coming into the house. But, as it is right now, as it sits here, it's a misdemeanor of the fourth degree if you're not in compliance, which makes it seem not as voluntary, but I think if the issue truly is that, that we want to make sure the place is safe, then, we go through the process and say, "Hey, landlord, you have to let us know, as a City, within two weeks when you get a tenant in there." As the City, we notify that individual, hey look, we will come in free of charge, inspect this place and make sure there's no issues there. Because, everything else that's referenced we can go through with an Administrative Warrant and do. All the other stuff we can do with an Administrative Warrant and deal with and we don't put ourselves in the position where we're teetering on the brink of trying to tap dance around any kind of fourth amendment issue that comes up. So, that's my thing is it's the inspection. I understand, I'd love to be able to go through and make sure every house is as you'd like it to be, but, playing devil's advocate, I also don't want to put the City in a position where Mr. Braun has to go down to Hamilton County, creatively argue from any and every angle that he can why this is not a constitutional violation. Why not avoid that. We know we can get in there with an Administrative Warrant and we can let the tenants know, "hey, you let us know when you come in there, we will come through and inspect it, and if there's issues", then we will deal with the landlord on those.

Mayor Webster: Whose constitutional rights are you worried about here? The owner, or the tenant?

Mr. Hawkins: Everybody's.

Mayor Webster: Whose?

Mr. Hawkins: Everybody's. But, you're dealing with the owner of the property when you're talking about, if I own the property, it's my rights that are being violated and that's the issue.

Mayor Webster: That's where you and I disagree and we'll never agree with that because once you move out, or you buy the property, you never live in it and you just put a "For Rent" sign up, you've created a business. You're operating a profit-making operation and I think this City has an obligation to protect the other homeowners, and the tenant that moves in there to any degree possible.

Mr. Hawkins: But, Mr. Mayor, you've had rental property before.

City of Springdale Council

November 4, 2020

Mayor Webster: Hm?

Mr. Hawkins: Have you had rental property before?

Mayor Webster: I can't understand you.

Mr. Hawkins: Have you had rental property before?

Mayor Webster: I've had tons of rental properties.

Mr. Hawkins: That's what I thought. If a City said we're coming into your rental property without your permission and without the tenant's permission, you'd have a problem with that. I would. Anybody would. You can't just come in for no reason. So, all I'm saying is all the things that you've stated, I agree are legitimate things that we want to make sure we can curb. But, I'm also saying we can't say that the ends justifies the means. If we have evidence of some of those things that are problems, we can get an administrative order and we can get in there and we are avoiding the potential for a problem with this. That's what I'm saying. The tenant gets protected if we put the notice requirement in there and we give them information and we will come and check the place out. In terms of the landlord not having a safe place or not having a place that is commensurate or friendly to everybody else that lives in the community because they have ten people living in there and they have cars parked up and down the street, those are things that we may be able to address through an administrative search warrant, but I'm just saying that when we go to the step of saying we're going to put this inspection part of it in here, it gets dicey. I'm just saying we don't need to do that to accomplish some of the other goals we have. That's my point. Mr. Braun, and folks have done a commensurate job of trying to navigate through these issues, but I'm saying why go sailing through the icebergs when we don't have to. We don't have to do that.

Mayor Webster: To answer your question, yes, I've had rental properties and I've had the authorities of the City of Covington go in my property, unbeknownst to me, because a tenant called and instead of electing to call me with the problem, decided to call the Housing Department. So, I get a letter from the Housing Department saying you've got to do this, this, and this as a result of our inspection. Well, I never felt that my constitutional rights were violated. They didn't come into my home, they came into my business.

Mr. Hawkins: You should have called me. Mr. Mayor, I understand. That's my thought on it.

Mayor Webster: Mr. Braun, could you explain to me and Council here what's involved in getting an Administrative Search Warrant.

Mr. Braun: To get an Administrative Search Warrant, you've got to go down to a judge, present evidence to the judge that you think there's a serious health, safety, or environmental concern down there and it's very similar to getting a search warrant, but it's not the same standard to Mr. Hawkins point. He's correct, there's a criminal standard, and there's an administrative standard. But, you have to be able to demonstrate to a judge that it's more likely than not there is some kind of a serious health or safety condition in there and then a judge, after reviewing ex parte, meaning in chambers, that he would sign off on it and he would give you permission to enter that home without their consent. So, that's the due process. That due process exists. The Fire Department, the Police Department, our Health Department, they have those for various things. So, it is an involved process. I would also point out again, and I want to emphasize this that with the revisions that we're proposing, that it is absolutely crystal clear that an inspection is not required. If Mr. Lamping were here tonight, and he's not, he would tell you that he was not comfortable signing off on a permit that might lead people to think the City had been in there and had inspected it so that if something happened, he could sleep at night and the City can rest assured that we had not been in there. So we created these two classifications of a permit, if you will, and we made it clear that no one, and there is case law out there on this, but, no one will fear that this is not voluntary because there is no fear of a criminal penalty related to the inspection, only to not getting the permit.

City of Springdale Council

November 4, 2020

Mayor Webster: Let me reiterate a little bit about my rental property experience. I had Section 8 housing. I didn't have any choice; if I wanted to have Section 8 housing, I had to get the unit prepared, have the inspector come out, make sure everything is in order, and get a certificate before I could even think about renting to someone. Then, they also came out and told me how much rent I could charge. If I didn't like that then I had to say, "forget it" so I didn't rent it to Section 8, but, if I agreed and it passed inspection, then fine, but then annually, as the contract expired, there was nothing automatic about it, I got a notice that your contract expires on a certain, certain date. The inspector will be here at a certain time and date to re-inspect it. No choice. If anything was found in disrepair, or out of order, then I had so many days to correct it and then I think now they even attach a charge for a second trip. But, not one time did I ever think that my rights were being violated here. They weren't. It was a choice. A choice if I wanted to rent it, and somebody help pay the rent for this tenant, then I had to resign myself to that.

Mr. Hawkins: I think that's the point. Some of the case law would say that that was unconstitutional. Before, saying you don't have a choice; that was a problem. That's what started the discussion on this being changed. So, I understand you personally were saying, "Hey, this is just part of the cost of doing business as a landlord", but what I'm saying is courts have deemed that a City or government that is saying you have to let us in, is unconstitutional. I understand how you're saying you didn't feel violated, but I'm just saying there is case law that is saying that that's a problem. So, again, my thing is this. I understand and as a City official, on the one hand, let's check out everything and make sure that it's the best it can be for the City of Springdale. On the other hand, for the people that live here, and they are owning property, we've got be mindful of their rights. This whole thing started based on case law that came out that said, "This is a problem to mandate an in-home inspection". So, that's coming from courts that are saying that. So, now what we're doing is we're trying to figure out a way to carve an ordinance that's going to be constitutional moving forward and that's why it's important to talk about. What are we trying to accomplish so that we can see is there a way that we can accomplish that without mandating an inspection. I think that's the question. We may agree or disagree on if we can do that, or if we cannot do that or if there are better ways to go about doing it, but, my suggestion is we have a means to get inside if we need to, through an Administrative Search Warrant. I know Mr. Braun just described that process. I'm just telling you, a couple of things that he went through and said, probable cause, is not that high of a standard, more likely than not. Ex parte, meaning the other side is not even there. That's like him hitting a t-ball, a 90 mile per hour fast ball coming at him. He's making an argument, nobody is arguing against him. If he's got evidence, more likely than not, there's this problem here, then you get the Administrative Search Warrant. So, it's a step, but that step is there to help protect people's rights. It's not a major feat that he has to go through or we have to go through as a City to go through and do that. The balancing part is, is it worth us doing that versus putting an inspection requirement in here that may subject us; maybe it doesn't, maybe no one ever challenges that for the next 100 years. But, why do it?

Mayor Webster: You're telling me that every Section 8 in this country; that's unconstitutional for the government to go in and inspect those units?

Mr. Hawkins: It's a little bit different situation because you have Federal tax dollars that are going towards the payment of those and so, as a result of someone making a choice to say, "hey, I want to rent and get Federal money back", the Federal government is saying, "we're going to make sure we manage that is 'up to snuff'" so to speak. We're not in the business of the City of Springdale is going to pay this person's rent or a portion thereof through some kind of subsidies. It's not quite the same thing. I understand what you're saying, but those are two different things. So, again, it comes down to what are we trying to accomplish? I want to accomplish what the City is trying to accomplish. The question is can we do it in a way that is least likely to end up with us going to Hamilton County?

Mayor Webster: So you're saying we never go in to inspect a house unless we get an Administrative Search Warrant. That's the only vehicle we can use to get in?

City of Springdale Council

November 4, 2020

Mr. Hawkins: No, I'm saying the other part of it, which is critical for it that we've been talking about is for the renters to feel a sense of security that if they want to have the place inspected, the City would come in and inspect it. At that point, it's not a violation because that's the person who lives there and they are saying, "Hey, I want you to come into my home and make sure it's safe". So, you have the opportunity to make sure that the people that are there have no issues. That they're in a safe environment. But they're the persons who are going to initiate that, but we add this next step. When I read it, I thought that this must be procedurally what the Administration is thinking they're going to do next. Right? Because you say we have to be notified within two weeks. Why else be notified, unless we're going to take an action to connect with that renter to say, "Hey, if you'd like us to come in, we're happy to come in. Check and make sure everything is as it should be". The document that was created, what Administration has done, you took major steps towards, I think, an easy path of going inside to a residence, but it's up to the tenant, and notifying them that we're here to help make sure that you have a safe environment to live in.

Mrs. Emerson: I say we take it back to our attorney that we hired who drew this ordinance up. He's clearly said on several occasions that this is a volunteer inspection and we hire him to lead us in the right direction, so, I'll revert it back to Mr. Braun and all the argument. Is this safe the way that it is written.

Mr. Braun: I think to answer your question, when Administration was looking at these changes, I advised them of the cases that Mr. Hawkins has referenced. There's five of them that I've located that were out there all in Federal court. Some of them are very close to our community that have been challenged. I feel that all of the issues that have been raised in those five cases, we've addressed in this policy. To the point that was made earlier, are there other ways to attack a program like this? I'm sure there are. I'm sure there will be in the future and we will address those as they come down the pike, but based on the current case law, I've addressed each of the issues that Judge Dlott, Judge Barrett, and the Federal courts have raised in their cases that are binding on us here in the sixth circuit in Federal court and I'm not aware of any other cases, but just as the original case came down in 2015, we're now in 2020. There's been five cases since then. That's a short period of time, so when the next case comes down, if it does, we'll revise this program if it needs to be. So, to answer your question, I do feel comfortable that this meets the current standards that are out there. I can't address future issues because they haven't been presented yet. But, I do feel it addresses the current ones.

Mr. Anderson: So I understand that, and it feels like we're trying to modify the existing that's gone through several revisions, and I feel that's causing some confusion too even as we read through, did we catch all the variance to catch the case law. I guess my question is, as I listened to Mr. Hawkins describe the program that he was hoping would have been in here, and I compare that to what I heard the Mayor describe as the goals, I guess I'm trying to understand what wouldn't the program Mr. Hawkins described not address avoiding all of these concerns that we've raised several times about the inspection portion. So, can somebody, from Administration, that is closer to this, explain why wouldn't we just remove the ordinance as is now, and replace it with the program that Mr. Hawkins is describing that solves those problems without the appearance or even risk of a forced inspection depending on whose standard you want to use. So, why wouldn't we want do that? What doesn't that solve? Because it sounds like it's the golden bullet. It cuts the knot right in half, it solves our problem for understanding what renters are coming in; we can build community off of that. We avoid inspection or the appearance of forced inspection and we avoid all of those challenges. So why not do that?

Mr. Jones: Mr. Anderson, I appreciate your questions. I think those are good questions that Mr. Lamping, our Building Official would be happy to address at the upcoming meeting, prior to the next decision making on the reading. He has some very strong points and points of view as a Building Official. He does training throughout the State of Ohio as part of his resume, and, in fact, one of the reasons why we were very attracted to him as a candidate for this position. And, he has some major discomfort about signing off on permits that he had not physically had he or his staff inspected. I think he could better articulate those points and would probably much better at engaging this Council and answering their questions than myself and he apologized he couldn't be here this evening, but he will definitely be at the next meeting.

City of Springdale Council

November 4, 2020

Mr. Hawkins: Based on that, I'll withhold from any other discussion until we have our next meeting. But, I do want to the point of Mrs. Emerson. This is important. And I think this goes to our previous Law Counsel as well. Mr. Braun answered that question exactly how he should have. He answered that question exactly how a lawyer should answer that question. Mr. Braun is an excellent attorney-at-law. As a lawyer, you're going to try to do what your client wants you to do. You may tell your client there's a better way you can go about doing that. If your client says, "No. I want A, B, and C", your lawyer may say, "A, B, and D might be a better option to doing that". "No, I want A, B, and C", then your lawyer is going to see how can I go about constructing that to give you A, B, and C as best as I can, as safely as I can, as lawfully as I can? I have no doubt Mr. Braun has spent great effort and with Mr. Lamping, to construct this as Administration has asked him to do. But, the question becomes policy-wise, what are we trying to do? What are we trying to accomplish? The question is not, Mr. Braun, is this going to pass legal muster, because I have no doubt neither he, nor Mr. Forbes who came before him would sit here and present something to us and say, "There is no way. This is going to be a huge problem". They're not going to go and do that. They're going to say, "I'm going to do everything I can to put this forth and to address all the issues that I know of that are potentially a problem". But the question is, is there another way we can go about this that gets us to a place where we even have less opportunity for liability. That comes back to the policy of what are we trying to accomplish? So, that's why that is a critical question between all the elected officials, between Mayor Webster, between the City Council, and saying, "What's the goal?" And then, from that, we try to address that goal. But, it's not just about "Do I think this is going to pass legal muster?" Because, you may go through and try to attack every or address every Federal case that is out there right now or even cases that might be sitting there in Common Pleas Court, but that's not necessarily the question. So, I think we need to make sure we're clear on the policy that we're trying to accomplish and with Mr. Lamping here next meeting, we can go through that. Thank you.

Mrs. Emerson: I agree to some extent of what you said Mr. Hawkins, but Mr. Braun holds licensures he is responsible to uphold that, we also hired him to represent the City, so I don't believe that he was going to draw up any draft or ordinance that would in any way take any chance of putting us into any bad situations. Now obviously, he can't predict the future. We can't know what's going to come forward, but from this standpoint now, as he stated, he believes he took care of everything that needs to be taken care of. Like I said, we hired him to represent us and that's all I have to say.

President Vanover: So, as I'm summarizing, I guess, all this stuff, or absorbing what's going on, basically, Mr. Hawkins, Mr. Anderson, you're looking to do away with the inspection.

Mr. Anderson: With an unrequested inspection. A mandated inspection by the municipality on personal property without notification or request, which the current ordinance today and the proposed ordinance we're looking at still don't satisfy those requirements. There's no notice to the person who is living there when these happen. I think those are flaws that we need to address. But, yes, to answer your question, the required or appearance of required inspection that's being mandated by the City on personal property.

President Vanover: Agreed Mr. Hawkins?

Mr. Hawkins: Yes. That's the issue for me is that inspections section and so if you want to give somebody a "heads up" that hey, we think there's issues, we're going to seek an Administrative Search Warrant, and I would take what the Administration has done so far, one step forward to say, "Hey, with that within two-weeks' notice of residency, whether we put it in here or not, we need to have a procedure to notify the tenant so the tenant can contact the City to inspect the property.

Mr. Anderson: I want to go back to how this discussion today started. There was discussion about Mr. Braun providing us good advice, which I agree; I'm not questioning that. I want to remind everyone that the reason we're looking at this again right now was, I believe due to due diligence by the Law Director reviewing our existing code several months ago, who brought this to Administration's attention that as it is currently written today, we have questions that it might not meet the current case law that was just described. I have concern about that today, right now, we've been talking about this for months and listening to the discussion today, I feel like there's going to be more revisions, or additional program being presented. Right now,

City of Springdale Council

November 4, 2020

Mr. Anderson (continued): we have, what I've heard is substantial compliance with this program, but not complete. I'm concerned that what is on our books today doesn't meet muster, which is why prior to the meeting, I'd requested an additional ordinance or an option that we could read in tonight to remove the existing law while we figure out what is the right rental inspection program so that we're not in the position right now to have something that would create legal liability for the City. So, I'm asking, are people concerned about what's on the books right now. Because, what we're talking about is additional weeks or months of revisions. There's no emergency clause on these changes, and the existing code has problems that were identified by our Law Director already.

Mrs. Sullivan-Wisecup: Mr. Braun my question is, right now, with what is existing, right now, is what Mr. Anderson said correct? Is it not going to pass muster? Is it not legally sound?

Mr. Braun: So, first I want to correct Mr. Anderson. It was actually Mr. Lamping that raised the concerns. Mr. Lamping, when he came into his new position said he was not comfortable enforcing the program as it was written. As a result, I took a look at it and began to indicate that based on Mr. Lamping's interpretation of the language, that we could be more clear in stating that this is voluntary and I felt we could add language that would make it clear that it was voluntary. That's the genesis of how this came to be, which is the same, it's just a little bit different there. Your question about whether or not as it was written, would it pass muster? I had not looked. What I can tell you is that in the other court decisions, it was very clear from other courts that, and I think Mr. Hawkins actually made this point in his discussion that it's not enough to just say that it's not compulsory, it has to be non-compulsory. So, I felt that the language that we are proposing in this ordinance is crystal clear that it's non-compulsory. I can't tell you what a judge would do with that prior language as Mr. Hawkins pointed out, but what I can tell you is I feel very comfortable about the language that I drafted, that I put my signature on, and I feel that that does comply because I took the time to read all those cases and analyze all those cases and I feel comfortable I have a good understanding of them. I don't know what your previous counsel did. I don't know if he went to that extent when analyzing this program, and quite frankly I didn't read it from that light. I read it and I'm prepared to talk about what I put in the program. Are there things that could have been worded more artfully? Of course. And the answer to that is, of course, because Mr. Lamping had trouble with it. So that what's raised this issue. I don't think that there's any fundamental flaw in the way that it's worded right now. The three things that the 2015 decision criticized was it required you to apply for a permit, submit to an inspection, and pay a fee. We don't require anyone to submit to an inspection in the wording that I have proposed. In the wording that exists now, I think that it's not artfully worded. So, I'm obviously recommending that we revise that wording. I can also tell you that, and Mr. Jones just pointed this out to me to make sure I made that point, he can certainly address it if you questions about it, as we sit here today, Mr. Lamping is not conducting inspections under this program or enforcing that provision. So, you can rest assured that's not being done, just as a precaution, based on the things he mentioned earlier, because Mr. Lamping didn't feel comfortable. I would encourage you, maybe, to bring him here and ask him why he didn't feel comfortable, but I'm not prepared to tell you why because that was not in my charge.

Mrs. Sullivan-Wisecup: I did want to comment because I was quiet throughout as they were making their thing. The only thing that I did not feel comfortable with when I was reading the original was the misdemeanor part of it because that was included with the inspection, but with what I'm reading now, that is not part of the inspection; that is solely on the rental agreement part, the \$50 fee, and I feel more comfortable with that because I did not feel comfortable with the way that I read it before sounding as if you don't let us inspect, we're coming after you with a misdemeanor. That, I felt, was not artfully worded, in your own words. I didn't feel that was pretty at all and I do appreciate the changes that were made and when I read through this, I felt a lot more comfortable. There were a few issues, but I think that you've hit a lot of them and I do look forward to hearing Mr. Lamping's take on it, and thank you for all your hard work. Because, like I said, this was night and day from what we had before.

Mayor Webster: Mrs. Sullivan-Wisecup, last time that we had a serious in depth discussion of this ordinance pre-dates Mr. Braun. I asked Jeff Forbes, point blank, "Mr. Forbes, if we got sued, would you feel comfortable defending, could you go into court and

City of Springdale Council

November 4, 2020

Mayor Webster (continued): defend this?" He thought for a minute, and he said, "Yes I could." That's all I needed to hear. Now, does that make it perfect; no. As Mr. Braun indicates, there has been five other challenges to these types of legislation over the years, so now we're going back and looking at those and incorporating those in there, and changing the penalty section, and make sure it's clear that we're not penalizing you for the lack of inspection. The only reason we're going to penalize you is because you didn't apply for a rental permit.

Mrs. Sullivan-Wisecup: I appreciate that change. Like I said, that was something that I liked seeing in this. Before, it looked as if you were being punished if you didn't go along with this, so this looks a lot better.

Mayor Webster: In all the years I have been Mayor, I don't think we've ever levied a fine for anybody for not getting a permit or an inspection.

Mrs. Sullivan-Wisecup: Thank you.

Mr. Hawkins: I had the same concerns that Mr. Anderson had raised in terms of the status quo right now and I think I referenced that a month or so ago and said we need to have it fixed or just have something to take it off the books. In speaking with Mr. Jones via telephone and indicated my concern with regard to it not being used right now and Mr. Jones indicated that Administration is committed to not using this ordinance right now. From that standpoint, I feel comfortable. I take Administration at their word that they're not going to apply this and therefore have any potential for litigation. If there were some question with regard to that going forward, then I would be with Mr. Anderson in terms of saying let's vote to take this off the books completely until we get it changed. Just piggybacking on what the Mayor said and what Mrs. Emerson said, again, I may not be communicating what I'm saying clearly. An attorney's job is to do what their client wants them to do within the bounds of the law. To do that and to make it something that is arguable and defensible, the question is not, "Is this something that is defensible?" because there is no way Mr. Braun would present something that would not be defensible. The question is, is this the best way to achieve our goal? The first part of that is, what is our goal? So, those are two very different things. If we're resting on the idea that it's defensible, then I can go defend a lot of stuff. But, is that the best way to go about it? That's the question. Again, before that, we've got to say, "What are we trying to achieve?" So, I look forward to Mr. Lamping being here and having some more discussion. Thank you.

Mr. Ramirez: I'd like to get on record. It's been quite a long conversation and I thought other than two members giving their opinion that I would give mine as well. I'm totally okay with what Mr. Braun brought forward. Just like Mrs. Emerson said, he is hired by the City and I have full trust in whatever he brings before us, but also, something else being said, I have high regard for Mr. Hawkins. Mr. Hawkins is the only one of our Council people that is in the law business. So, he brings some things to light that I really believe we need to pay attention to. With that being said, even though I would be fine with the ordinance as Mr. Braun put forward, I would also like to hear Mr. Lamping and see how we might modify this to get it closer to Mr. Hawkins' opinions without any forced inspections. That's all I have to say. I just wanted to be on record. Thank you.

President Vanover: Well, Mayor Webster had referenced my neighborhood and the rental properties over there. I did a poll a while back. I have 472 single family dwellings in my neighborhood. Of that 472, there are 123 rental properties. That's 26.05 percent. A quarter of the housing stock is rental property. The bulk of those property owners do not reside in Springdale, and, actually, we're going to see, because I've seen it there, the big box rental companies are coming in because, as the Mayor alluded to, we, by our strength and our weakness, that market is there to be taken advantage of, to be used, whatever. These companies, it blew me away a couple of years back when my kids come back from Vegas what rents are being charged and it's not cheap by any measure of the word. But, of that, I still have the majority of the people over there have invested a huge amount of money into property that is theirs and they deserve some protection because we had a fire just last year on a structure near your parents (referring to Mr. Anderson), and not only was that structure damaged, but the adjacent structure was damaged. It's one of those things, and we've talked, and I've said they mentioned about parking on the street. I have talked to the Administration about a couple because I've had neighbors come to me and complain. I have experienced, I call it the "dive move" there, where literally, we've got two big, well Mr. Agricola was in on one of the

City of Springdale Council

November 4, 2020

President Vanover (continued): discussions, I've got two big kind of "S" curves that there's a topographical change that they've become blind, depending upon the number of vehicles on the street, and I've had the Police accident reports pulled. Luckily, as my grandmother would say, "There but for the grace of God we go", because they haven't been serious, but I've seen it. My wife, my neighbors, several neighbors have all, and this is that spin off of what's happening and I don't think "A", because there's nothing we can do to stop an increase in that percentage legally. I can only speak for mine. I know Mrs. Sullivan-Wisecup has probably witnessed it, because I know there are rentals there. Mrs. Emerson, the other three gentlemen probably don't see as much in that neighborhood, but I won't say that there's not because it does go on. And, we've got to balance, we've got to protect our property owners, the tenants that are in there, and that property owner that has invested money in, and I agree with the Mayor, a business. They're in the rental business. So, we can't see over the horizon. We have no idea. Tomorrow there may be a flash on the horizon and it's going to completely change case law. It's kind of like going back to my time in the insurance industry. I can't underwrite every risk. Because if you did, an insurance policy wouldn't be written because there's always that "what if" that the crazy stuff can happen. So, as long as we are current and, I've got a legal expertise that has sign off in saying, "We're good", I'm going to yield to him because "A", I'm paying him to protect me, and we have his professional errors and omissions that we can go against if he doesn't. So, I think we've beat this horse and I'm going to shut up. We'll wait for Mr. Lamping to join us for this next reading. We'll move on.

President Vanover: Before we jump into Resolution No. R21-2020, this is the point where we have to vacancies on the Charter Revision Committee. One of them is Mr. Ed Knox has asked to be removed effective immediately. So, at this point, I will open the floor for nominations for the replacement of Mr. Knox.

Mrs. Ghantous: I would like to nominate Michelle Gilmore to replace Mr. Knox on the Charter Revision Committee. I've got some information about her here. Michelle Gilmore and her husband Blaine Gilmore have been residents of Springdale since November 2000. She has two children, Isabella, a freshman at Princeton High School and Alex who is a freshman at Northern Kentucky University (NKU). Mrs. Gilmore has been employed by Princeton City Schools for the last nine years and is currently the cook at Lincoln Heights Elementary. Prior to that, she worked for the Hamilton County Job and Family Services for 17 years. Mrs. Gilmore served as the PTA President and Springdale Elementary for several years and she currently volunteers with the Springdale Senior Club as well as the Senior Ministry at Quinn Chapel AME. I happen to know Michelle Gilmore because when she was the President of the PTA, I was doing various different things on the PTA for four or five years. I find her to be well suited for this job. So, for what that's worth, she would have my vote to replace Mr. Knox.

President Vanover: We have a nomination. Do I have a second?

Mrs. Sullivan-Wisecup: I'd like to second.

President Vanover: Is there any other names to bring forward? (None) Then, by acclamation Mrs. McNear will you read Resolution No. R21-2020.

Resolution No. R21-2020

A RESOLUTION APPOINTING MICHELLE GILMORE AS A MEMBER OF THE CHARTER REVISION COMMITTEE TO FILL THE POSITION VACATED BY ED KNOX

Mr. Anderson made a motion to adopt Resolution No. R21-2020; Mrs. Sullivan-Wisecup seconded.

Mr. Anderson: If you could indulge me for a second. I wanted to add to Mrs. Gilmore's accolades. I know it's not contentious, but she'll read these minutes and I want to make sure I'm on the record confirming that I think her and her family are a delight to have in Springdale. I've known them for years. Her kids have the honor of being one of the pictures on our refrigerator that we get frequently updated. They're a great family and an asset to have. If there's other opportunities for Michelle to help with the City, I think she's somebody that we should always look to. They're great. They're good people. Thank you.

City of Springdale Council

November 4, 2020

Resolution No. R21-2020 passes with seven affirmative votes.

President Vanover: We are looking for a nominee for that.

Mrs. Ghantous: I would like to nominate Marci Haungs to fill Sheila Seiter's seat. Here's a little bit of information about Marci. Marci Jo Haungs has lived in Springdale her entire life. Grew up in Beacon Hills and attended Springdale Elementary. She was a member of the Springdale Swim Team. She played soccer, softball, and volleyball at the Rec Center. Continued on to attend Princeton Junior High School and graduated from Princeton High School. A member of the golf team, the bowling team, the softball team, the pep band, the marching band, the key club, and she's a thespian. Also, extremely involved with the St. Rita's Haunted House in Evendale. After she graduated high school, Marci went to Wright State University, member of the rugby team, and the pep band. She graduated in 2012 with a degree in organizational leadership with a minor in psychology. She went on to complete an AIT and to become a nursing home administrator. She's now been an administrator for seven years. She lives on Neuss Avenue with her husband Scott and their three kids George, Alice, and Louie. George goes to Springdale Elementary. Her big claim to fame is she's the Easter Bunny, so I'm sure that the Charter Revision Committee would benefit from having the Easter Bunny as a member. I also happen to know Marci very well, and she runs a very large nursing home in Forest Park. She's just done very well for herself. She's in a very responsible position. I think that she would make a wonderful addition to the Charter Revision Committee.

President Vanover: Alright, we've had a motion.

Mrs. Sullivan-Wisecup: Second.

President Vanover: Are there any other names to bring in? (None) Then by acclamation, Mrs. McNear will you read Resolution No. R22-2020 with Marci Haungs' name.

Resolution No. R22-2020

A RESOLUTION APPOINTING MARCI HAUNGS AS A MEMBER OF THE CHARTER REVISION COMMITTEE TO FILL THE POSITION VACATED BY SHEILA SEITER

Mrs. Sullivan-Wisecup made a motion to adopt Resolution No. R22-2020; Mr. Hawkins seconded.

Resolution No. R22-2020 passes with seven affirmative votes.

Old Business - None

New Business

Mrs. McNear: Council, you have on your dais today a liquor license request, which is a new request for ORA Springdale LLC, doing business as Home2Suites Cincinnati at 325 Pictoria Drive. This, again, as I mentioned is a new license and this is a D5A, which is "for hotel or motel with 50 or more rooms for transient guests". Are there any concerns with approving this particular request?

President Vanover: Council? (None)

Mrs. McNear: Seeing none, okay, we'll take care of having the paperwork filed. Thank you.

President Vanover: Our Economic Development Director has a quick show for us.

Mr. Kuchta: I know the official Comprehensive Plan Update is at the second meeting of the month, but I was asked to provide a very brief glimpse to the Council tonight. So, if you would turn your attention to the screen. That is our logo that we've worked with the consultants on that will be used throughout the plan. It's going to be the basis of the website design, which we will hope to show you next week a preview of at least part of the website. It's intentional, so all those icons have a meaning. Starting on the left, the first one is Economic Development.

City of Springdale Council

November 4, 2020

Mr. Kuchta (continued): Those buildings are meant to represent businesses of all sorts in the City, industrial, commercial, retail. Then, next over is “shaking hands”. That represents working together so it’s going to be information on committees, volunteer opportunities, calendar meetings so, residents that want to get involved, they’ll be able to click on these icons on the website and then various sections of the reports are going to include those icons as well and color schemes. Next one over is Parks and Recreation. Obviously, that’s going to be a major topic that we’re going to focus on. Next over is Transportation and Connectivity, and the last one on the right is Housing. So, we expect these are going to be some of the main focus areas for the plan. There may be others that come up, so we know that these are kind of standard things that we’re going to need to look at and have citizens providing input on and do some research on. So, that’s a preview of the look and feel of the document, at least setting the tone for that. At the next Council meeting, hope to have a website preview and then in December we’re going to have an article in the resident newsletter on the first page that’s going to talk about the plan and it’s going to have the PlanSpringdale.org website and encourage residents to go to fill out the first survey to get initial input from the residents on their thoughts on the City and what do they love, what do they not love, if there’s one thing they could change, so kind of some open-ended questions. We’ve got a preview of what those questions are going to look like, and it may surface other focus areas that we’re going to want to look at throughout the process. So, we’re just getting started, but I think we’re going to be off to a very strong start and come January, we’re going to have a lot of activity going on. Thank you.

Mr. Anderson: Would it be alright to ask a question while you’re providing information. Thank you. So, you’re going to start polling residents for some of this information through the site. When we were doing contract review before we started, there was discussion about how do we ensure we get enough diversity in the answers. In diversity, we talked about not just ethnic/cultural, but also socio/economic diversity. Has that been part of the discussions that you have been having during formation, especially as you start reaching out? Will you be capturing who’s responding so that we can get some reports to make sure we’re getting right breadth of responses.

Mr. Kuchta: We haven’t gotten into the details of how we’re going to ask for the demographics of people that are responding to various surveys or participating. We’re going to have those discussions over the coming weeks as we develop the first survey and part of that is going to be a balance of how invasive do we want to be with the questions that where people become uncomfortable with providing information and how much information do we want to capture on who is actually responding and participating. So, I’m sure our consultants are going to have some guidance on that as we move forward and we’ll have a better answer for you in the upcoming weeks.

Mr. Anderson: Thank you.

President Vanover: You’re good. Thank you.

Meetings and Announcements

Mrs. Emerson: The Board of Health meets on November 12th at 7:00 in these chambers.

Mrs. Sullivan-Wisecup: Tuesday, November 10th at 7:00 p.m. Planning Commission will be meeting in these chambers.

Mayor Webster: I’d just like to remind everyone that we will have our Annual Veteran’s Day Ceremony next Wednesday at 1:00 p.m., weather-permitting down at the Veteran’s Memorial. If there is inclement weather, it will be in these chambers. I’d like to ask all of you to take time out of your busy day to pay homage to our Veterans. Thank you.

Communications from the Audience

Ms. Morgan: Great evening everyone. I guess this is a good time to get up. I’ve been absent for a while. Got new employment that has caused me not to be in attendance as often as I’d like to. Today has been a great day to listen to everything. My son was here at the last meeting, so some of the stuff that I’ve been hearing all of you speaking about permits and

City of Springdale Council

November 4, 2020

Ms. Morgan (continued): everything, my son has been parking his trailer on the street, due to a Building inspection. Someone came up and hit his truck and the trailer causing him to lose both vehicles. Now, being a homeowner, and he is a homeowner, the accident happened in front of my house, so it was caught on camera and the person was just in court and was fined, but here it is my son is without both of his vehicles and I think that, as a homeowner, you should be able to park on your own property. Now, I'm listening to everything that's being said, my question would be where does the homeowner stand being that his vehicle was damaged, and the person who damaged his vehicle does not have insurance, so who's responsible for this being that the Building Inspector came and threatened my son, telling him he had to park his car, his vehicles on the street. That's my question. Being that I'm a resident, my son has been a resident for 29 years. I think it's unfair for you all to tell us what to do when I pay taxes, he pays taxes, and then there's nothing done for the situation that has just occurred. So now, with the permits that you're talking about, it's okay. But, you're violating homeowner's integrity or homeowner's rights by telling them that they have to park their vehicles on the street. I need some answers for that and where does he stand when he has asked the City and you all haven't given him the information that is needed to even help him with the person who hit his vehicle. So, being that you're the lawyer, and I'm saying to my son, "Well, hey, the City should be responsible for what then happened." He was told he had to park his vehicles on the street. Where do you all fit at that and taking care of that situation being that he has a driveway. A two-car driveway. I have a long driveway that he could have parked his vehicle in my driveway, but that's not the point. I just want to know what's going to be done about that if you're out here telling people what they can and can't do, then you are making this an unfriendly place to live. I don't get that to be satisfactory information with what he's been given. So, I'm here. I wasn't even going to say nothing, because I was just here because I wanted to be here because I have a big concern with the City. But, now, since all of this has gone into a whole conversation, I'm like, "Oh, great time to be here". So, can you give me some feedback to where does my son sit? Since he has lost a trailer, and a truck, and the person was fined, but guess who gets the money; the City. My son don't get nothing, so help me to understand.

Mayor Webster: I think that the Rules and Laws Committee had a meeting before Council to talk about whether they need to amend that ordinance or not, but the ordinance that your son was in violation of, was parking a truck with an attached trailer in his driveway. In the present ordinance, that is illegal. You can't do that; you have to park it on the street. Now, as far as his personal vehicle, I can't imagine their inspector told your son that he couldn't have his own personal vehicle parked in the driveway.

Ms. Morgan: His truck.

Mayor Webster: His truck was with an attached trailer, that's different than just his individual vehicle.

Ms. Morgan: So, you're saying the trailer cannot be parked in his driveway?

Mayor Webster: With it attached to the vehicle, that is my understanding of the ordinance.

Ms. Morgan: So, if the trailer was just sitting on the side of the truck, it would have been okay?

Mayor Webster: I don't know. I'm not an inspector, and I couldn't begin to answer that question for you. Mr. Braun could you?

Mr. Braun: Under forthcoming legislation, I planned to give a report on behalf of the rules and Laws Committee which is coming up. Under the current Code, and again, I don't know the specifics of your son's situation, I didn't know it was your son, but I did hear the gentleman that spoke at the last meeting and, as a result, there was a special Rules and Laws Committee meeting at 6:00 tonight. We did address the concerns of your son. I can tell you that part of forthcoming legislation I plan to report to Council, will be an amendment to that code that would allow for a non-recreational trailer to be parked in an individual side or rear yard whereas, it can't be parked in the driveway in the front yard still, but the amendment would allow it to be parked just like a recreational trailer in the side yard, or in the back yard.

City of Springdale Council

November 4, 2020

Ms. Morgan: Okay, so it was parked on the side of his house, and the Building Manager told him he could not park it on the side of his house.

Mr. Braun: And, under the current law, that is still, in fact, the case. Council is going to change the law to allow him to do that.

Ms. Morgan: After the fact that it's torn up.

Mr. Braun: Yes. The other thing I would point out is obviously, there is a legal matter between your son and the other individual that the City can't be involved in, but, the City can be punitive to an individual who would hit your son's vehicle, but, as far as recovery, that's left to the insurance company or to the civil courts.

Ms. Morgan: Yes, she wasn't insured. But, like I said, she went to court here and she was fined \$165 dollars period. Okay. Like I said, when all of this conversation is going on with permits and everything, and I just thought this would be a great time to stand up. He wasn't here because he did just tell me what happened so he's gone to pursue this matter further. Because, you know, his trailer is damaged, she tore up the whole frame of the truck. And it happened right in front of my house, so, like I said, it's on camera, but no driver's license, nothing, so, I just thought I needed to ask that question with everything that's going on. So, when the ordinance has been passed, it is beside the point that his truck and trailer is gone. So, I just needed to make that known.

Mr. Anderson: Ms. Morgan, I appreciate you coming in and sharing that. I was actually planning to stop by later this week. It's tough with the pandemic to do that, so, I was going to leave a note so we could have a chance to talk. I wanted to make sure you understood when your son came in and explained the situation, it was great that he did that, because it gave us the opportunity to have that Rules and Laws Committee meeting that happened today so that we could address the concern. Obviously, we can't go back in time, but I wanted to make sure it was clear that we were responding. That process was already happening. The ordinance was in the process of being updated. Him coming in helped us a lot to raise the urgency of that so that we could get that work done and I appreciate the fact that the update that Mr. Braun provided that we're making that change to allow it, so I think that's great. I just wanted to acknowledge that we are trying to respond when those come up and I appreciate you holding us accountable for that so, please keep doing that, but, in this case, I think we did the right thing. We will change that ordinance, or, if it's proposed, and I hope that will help him in the future and others. Because, he's not the only it's for. There's other people in Springdale that have these commercial vehicles that will benefit from getting them off the street and then also the other residents that will free up not just that space, but the look of that neighborhood will be improved.

Ms. Morgan: Yes, I mean, the thing was my daughter-in-law, she came because she knew I'm always up here and everything, so she came to me with the situation because since he was new, he kind of threw his authority around at her and it was like more or less giving her a threat. Well, my son wasn't there and so here it is, she's left talking to him. I didn't know him. I knew I was here when he was being elected. But, again, there's always a way to talk to people, and here's where we're at. It had been hit twice, but this time, it was just, and I happened to look out my window when someone was hitting it the first time, so, I caught him. You know, I've got cameras all around my house, so I can see everything. I happened to be at work when this person hit the car this last time, so, you know, my camera caught it.

Mr. Anderson: Yes, and I'm sorry that that happened. I think we all can appreciate those accidents, but I just wanted to let you know that that's happening and we do respond to that. The other comment about how the inspectors might interact. That's good feedback, but just so anyone else who's in a situation where they get a notice from the Building Department, that comes with information on if they have questions about it. I'd encourage anyone to reach back out to the Building Department and ask to make sure that they understand their options. Especially in those situations. You always have a chance to challenge those orders too. We hear those at Board of Zoning Appeals if somebody doesn't feel that that violation is correct. And, we will walk through that. So, there's other things that can be done. But, I am sorry that that happened to you.

City of Springdale Council

November 4, 2020

Ms. Morgan: Okay. Thank you.

Update on legislation still in development

As you review your Internal Memorandum, Item Number I was addressed with Ordinance No. 36-2020; An Ordinance Accepting a Proposal from CT Consultants for Stage 1 Design Engineering Services for the Northland Boulevard Reconstruction and Declaring an Emergency. That passed with a 7-0 vote. Item Number II was addressed with Ordinance No. 37-2020; An Ordinance Amending Ordinance 7-2019 and Converting the Advance from the General Fund (010) to the Capital Improvements Fund (090) into a Transfer from the General Fund (010) to the Capital Improvements Fund (090) for the City for Springdale, Ohio During the Fiscal Year Ending December 31, 2020. That passed with a 7-0 vote. Item Number III was addressed with three separate ordinances regarding annual contracts with the Mayor's Court Magistrate, Prosecutor, and Public Defender with Emergency Clauses. Ordinance No. 38-2020 was addressed indicating that the contract would be extended to Magistrate Justin Bartlett, which passed with a 7-0 vote. Ordinance No. 39-2020 addressed the Prosecutor Seth Tieger; that passed with a 7-0 vote. And, Ordinance No. 40-2020 was addressing the Public Defender Daryle Tibbs which passed also with a 7-0 vote. Item Number IV addressed two separate resolutions appointing members to the Charter Revision Committee. Resolution No. R21-2020 appointed Michelle Gilmore to the Charter Revision Committee and that passed with a 7-0 vote. Resolution No. R22-2020 appointed Marci Haungs to the Charter Revision Committee and that passed with a 7-0 vote. We also had Ordinance No. 41-2020 which was a first reading and all other matters were forthcoming.

Recap of legislative items requested for next Council meeting

Mr. Hawkins: There is a request for Ordinance No. 41-2020; An Ordinance Amending Chapter 123 of the Codified Ordinances of the city of Springdale, Ohio Relating to the Issuance of Rental Permits and Conditional Rental Permits for a second reading. There is a request for An Ordinance Providing for the issuance of not to Exceed \$1,270,000 Real Estate Acquisition Bond Anticipation Notes by the City of Springdale, Ohio in Anticipation of the issuance of Bonds, Providing for the Pledge of Revenues for the payment of Such Notes and Declaring an Emergency. There is a request for An Ordinance Authorizing the City to Enter Into a Lease/Purchase Agreement by and Between U.S. Bancorp Government Leasing and Finance, Inc. and the City of Springdale to Purchase a New Fire Engine and Declaring an Emergency. There is a request for An Ordinance Accepting a proposal Under the State of Ohio Cooperative Purchasing Program and Authorizing the Purchase of a New Fire Engine from Vogelpohl Fire Equipment, Inc. in the Amount of \$792,245 and Declaring an Emergency. And, lastly, there is a request for An Ordinance Declaring Certain City Property as Surplus Property and Authorizing the City Administrator to Dispose of Said Surplus Property and Declaring an Emergency. That would conclude the requests unless there's anything else from Administration or Council.

Mr. Braun: Rules and Laws Committee had asked me to add, Mr. Hawkins, an amendment to Section 73.041 of the Code of Ordinances to address commercial vehicle parking, and amendment to Chapter 153 of the Zoning Code to address non-recreational trailers and that's all.

Adjournment

Mr. Hawkins made a motion to adjourn. Mrs. Sullivan-Wisecup seconded the motion and Council adjourned at 9:01 p.m.

Respectfully submitted,

Lawrence Hawkins III
Acting Clerk of Council

Minutes Approved:
Tom Vanover, President of Council

_____, 2020