

## Special Session of Village Council

January 9, 2018

### **Call to Order**

The Special Session of Council was called to order by Mayor Bryant at 6:00pm. The meeting was opened with the Pledge of Allegiance.

### **Roll Call**

Roll Call was completed by the Clerk of Council. The following members were present.

Kiley Dane – P

Rebecca Isaacs-Niemesh – P

Michael McKeehan – P

William Thompson – P

Clarissa Walls-Parker – P

Paul Zorn – P

### **Purpose**

The Mayor stated the purpose for the meeting

Mayor Bryant deferred to Solicitor Kaspar. Solicitor Kaspar requested Attorney Sally Conyers, representing John and Luanne Cain present and discuss the petition before the Council and community. She thanked the Village for hearing the petition. She stated the petition involves a simple request; the lot referred to backs up to Veterans Park at 350 East Pike Street. Attorney Conyers stated the neighboring two lots have one owner. The total alley is 300 feet. The petitioners are seeking to abandon a 50 foot section of the alley that borders their lot. The reason for the petition is simply the alley provides ingress and egress for the Cains who have safety concerns such as break-ins, speeding, threats, indecent exposure, cars parked in the alley and trailers backing in with no visibility. She stated the alley is not maintained by the Village of Morrow; a small gravel parking lot was installed by Veterans Park with additional traffic resulting. The petitioners want privacy and quality of life on the lot for their home. The attorney advised the family desires to build a privacy fence.

Attorney Conyers advised there are three separate alleys; two have privacy fencing and sheds and one portion of the alley was previously abandoned for another owner. She stated the Cain's purchased their property with a view; now the home has a 3 sided view of a parking lot. The property was purchased for the aesthetic view originally; a park was in the rear of the property. She advised there is no public purpose for the alley at this time. The attorney read the definition of an alley from Ohio Revised Code 4511.01 and section 2644 from the Village Zoning Code. The Cain's intention is to be able to build a fence for safety and aesthetics. She advised Mr. Ballard, owner of the neighboring property has a driveway with access from the other side of the alley. She stated it was her goal to clear up confusion over time; we are not asking the Village to do anything about the parking lot or park. Attorney Conyers advised the Ballards have another entrance; this is a non-issue for the Village, only a benefit. She stated there is no expectation of maintenance by the Village; injury becomes the Cain's risk if the alley is abandoned.

Bruce Miller stated he was in favor of abandoning the alley and advised a survey was needed by the County in order to act on this. It would not take effect until a survey is done. Mrs. Cain advised she would cover the cost of a survey. She stated Mike Davis' section has been vacated. Mr. Ballard stated he used the alley for access to a garage on one of his properties since 1984. Mrs. Ballard stated they rent the house and the tenants park in the driveway; it is not always clear for us to get to the garage.

Luanne Cain stated Mr. Ballard's lawn care service is able to make the turn weekly. She advised they have a parking pad installed by the previous owner; we may not park on the grass. The Mayor asked when the pad was installed. Councilwoman Dane stated Mr. Ballard has access and the Cains have only one way into their property. Luanne Cain advised once the property was fenced, they would need a gate to access the parking pad. She showed an illustration. Councilwoman Isaacs-Niemesh stated the alley must be used to get to the parking pad. Councilman McKeehan stated you must use the alley and wish to fence it so you have exclusive use of the 50'. Mrs. Cain responded affirmatively.

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Discussion followed. McKeehan stated you are asking the Village to give you the alley; what if others asked for this? Cain explained she learned that an alley is generated by 10' of the property easement was used to create the alley. Mrs. Ballard stated if someone is parked there, it is not easy to get in. Cain advised Village zoning states you can't park on grass; she can't fence or gate her property. She stated the previous owner of the property was a Zoning Inspector. Discussion followed. Isaacs-Niemesh asked when the Cains purchased the property and when the Ballards purchased the other two properties. She stated if the other owner was not opposed and stating he would be adversely affected, she would not have a problem with abandoning the alley. McKeehan concurred.

Attorney Conyers stated it doesn't serve a public purpose. McKeehan stated it serves two parcels. The Attorney advised a single neighbor is not the *public*. Enforcement of the alley will be required if the alley is not vacated. She described the situation requiring enforcements. McKeehan stated the police cannot sit there 24/7. Councilman Zorn stated one section was vacated previously for Mike Davis. Luanne Cain advised in February of 2003, a section of the alley was vacated for another owner. Zorn stated if this is left to Village Council to resolve, do we say we don't want to act on this. The Mayor stated the Village incurred expense for its attorney in this matter. Mrs. Cain responded she had great personal expense involved.

Thompson commented. Kaspar stated the motion is on the floor via the petition as a matter of record and requested Council reply as questions were poised on findings on standards. McKeehan asked a question on the exhibit. Thompson asked if it was relevant to the petition that property is rented. Mrs. Cain stated it is not relevant that she lived her in property fewer years. Discussion followed. Mr. Ballard stated he purchased the property because of the alley being available. Mrs. Cain stated the alley was open when the park was placed there. I don't see how it is detrimental to Mr. Ballard. His previous tenant pulled onto my parking pad, also the mailman; our private property is being used as a parking place. Discussion followed. Mayor Bryant stated if the Village installs gravel, there will be more traffic. Isaacs-Niemesh asked if the Village could get a *No Outlet* sign. Mrs. Cain explained the aesthetics; she stated they wanted to block the view of the parking area with fencing. She advised gravel wouldn't prevent the security issues they currently have; a transient stayed there for a long time and there were two incidents on the Bike Trail. Chief Kilburn picked up one man. Mrs. Cain advised there are cameras on the home; the area is secluded and she is asking for permission to fence her property. Thompson requested clarification on the survey. Bruce Miller commented. McKeehan stated Mrs. Cain agreed to be responsible for the survey.

Kaspar proceeded with findings on the standards: 1) *Is there good cause for the alley to be vacated?* – By roll call of Council members, five nay and one yea by Zorn.

2) *Vacating the alley will not be detrimental to the general interest.* – All nay by roll call.

3) *Is Council satisfied the petition to vacate the alley be granted?* – By roll call, five nay and one yea by Zorn.

4) *Having found the publication was proper, what is your decision on the motion to approve the Ordinance?* Council responded by roll call five yea and one nay by Zorn.

Kaspar advised the Ordinance failed.

Mrs. Cain advised part of this process was to avoid enforcement; she would make sure Ordinances and Zoning are satisfied.

### **Adjournment**

Motion by Isaacs-Niemesh to adjourn; second by Councilman Thompson. All yea.

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Tina Powell, Fiscal Officer

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York Bryant, Mayor