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Minutes of the Police and Fire Committee Meeting held November 20, 2023, at 7:00 P.M. Present in Council Chambers were Chairman Winiarski, Mr. Cowger, Mr. Dembinski, Ms. Smith, Mr. Janik, Mr. Wachholz, President Wasilk, Treasurer Ramsey, Auditor Phillips, Mayor Costilow, Law Director Pecora, Assistant Law Director Ward and council elect Nahorn. Mr. Dembinski motioned to excuse Mr. Jeffreys and Mr. Heberling as they had letters on file. Seconded by Ms. Smith. Voice vote 6-0 to excuse. Also present pertinent to the meeting were Police Chief Cawthon, Mr. & Mrs. Darryl McCarty, school resource officers Gawlik and Lamb, and Mr. Mark Adams who is the administrator of the Lorain County Health Department.

A-23-53 Tobacco Retail Licensing

Chair Winiarski explained this request. He introduced all who were present. He said since the last meeting, Police Chief Cawthon and Ms. Smith did a remarkable job on working on this.

He and Ms. Smith met and went over the proposed legislation line by line. Chief Cawthon said the goal is to make it a more palatable accreditation. The restrictions are still there, but not so much that it would be hindering of this coming into our city. So the items we did removed from the previous proposed ordinance was the tobacco retailer density section. He explained. That was a challenge because we have our downtown area. The 17 page document has been prepared and sent out. If passed, this will give us teeth to hold those accountable who don't want to follow the law. Each citation will take a hit on the businesses' license. Repeat offenders would lose their license. He explained further. So this is an ordinance will allow the health department to partner with the city.

Ms. Smith wanted to be clear that she was not looking to usurping the law department. Her background and understanding with the juvenile law had her trying to understand this. When we left here the last time she was struggling with aspects of people coming into our city that did not notify our Police Chief and had no idea that they were doing compliance checks which technically would not be in accordance with the law. She had a ton of questions and did not necessarily support this. She had a major problem with the legislation that you can penalize the person selling the products, but you have a 19 year old buying and there is absolutely no penalty to them. She did read the legislation and to some points, such as a military person can fight in the war, but would be penalized for purchasing cigarettes while they

are underage. She appreciated hearing the Chief's assessment as well as Mr. McCarty's as a retailer. She spoke further. She spoke to the enforcement mechanism and the civil penalty which would provide enforcement. She was glad to bring the school enforcement officers because they see this begin to happen and without some type of legislation there is no list or ability to enforce the licensing piece. She wants to be on the leading edge of doing the right thing. she spoke to the vaping shops and that their license cannot be pulled. She had to hear what a problem this is for our schools. She spoke further. Chief Cawthon said to him this ordinance is holding those who are irresponsible accountable. Should we pass this ordinance, we will be able to do that.

Mayor Costilow said it was mentioned about removing some sections in the ordinance, and he does not see too many business people here. Asked if anyone followed through with contacting others? Mr. Winiarski said just a few. Mayor Costilow asked about the sections that were removed. He spoke to the licenses being able to be transferred when stores are sold. Feels there should be some tweaking. Chief Cawthon said that this was a possibility.

Mr. Cowger asked if many man hours will be spent on watching this. Chief Cawthon said they would be active in going out and checking. Mr. Cowger asked about the funds collected being put into the county coffers. He wished the City to receive some of the funds. Chief Cawthon explained the potential distribution.

Mr. Dembinski asked about the civil and criminal portions, the tobacco and vaping products are similar but not the same. He wondered if they would be better to be the same. Chief Cawthon said the law department will be looking at that.

Officer Lamb and Officer Gawlik spoke. Officer Lamb said his zone is the high school and Nord. In the high school during the last month, they have found 10 vapes that were used by kids in the bathroom. Six of the kids stated they bought these in Amherst, 2 had family members purchase it for them, and two declined to share. They found 10, but there could have been a lot more. He spoke to the THC vape that was found where it was purchased in Michigan. There were some vaping materials found in Nord, where the students said they got them from their siblings. Officer Gawlik said he has been an SRO for two years and just his time in the Jr. High School they have given about 22 warnings to kids for possession of vapes. About 15 were charged with vapes. A lot of the charges are repeat offenders. They call LACCADA to see if these kids could get into some kind of program. These are very addictive to some kids and it's a huge issue, not just to our kids but every school in Lorain County. They get these products from their parents, or siblings. Most of the products are purchased at vape stores. The kids don't get I'd or carded when they ask for products. They have done compliance checks. It is a big issue and they hope to deter it as much as possible. Mr. Janik asked if these incidents are documented? Officer Lamb said his are all recorded. Officer Gawlik said his recording system is the same. He said they student's cars are also checked, and the school have their own pun. Mr. Janik asked if the students are asked where they made their

purchase? Officer Lamb said they ask and the students tell them. There were explanations of how/where students make or get their vape products and at times parents are allowing them to use these products. Mr. Janik asked if there were metal detectors in the schools. The schools do follow up when they hear about someone having a vape or vaping. So the schools do most of the searching.

The Chair asked what LCADA was? Officer Lamb said it is the Lorain County alcohol and drug addiction association. He spoke of the way the LCADA was able to work with the kids. The chair asked if kids still smoked cigarettes. The answer was they moved to vaping so they can get all the flavors. These can also be concealed in various ways. Mr. Janik asked if there have been suspensions or expulsions. Officer Lamb said there have been.

Mr. Carryl McCarty, 807 Lincoln Street, owner of Your Deli and Olde Town Pizza said he was disappointed that not more permit holders were notified of this meeting. Up until this morning, he had no information. They do not sell any vapes at their Dairy Mart or in their restaurant. He does not believe in them and also thinks they are not a good idea. He would like to see the new proposed ordinance and review it. He agrees that there should be more control of tobacco and vape products; and people should be accountable for it. They have gotten "caught" at Dairy Mart, not that often, as it's not a perfect world out there. He would like to remain involved and get more information so he can be knowledgeable when he speaks to this. He feels it's ridiculous that these vape stores do not have any rules. Mrs. Wasilk explained procedurally what will happen as this moves ahead. Mr. McCarty said he was told at the last meeting that he would receive information and he has not. Mr. Winiarski apologized and said he did send him information but to his Civil Service account. Ms. Smith said she and Chief talked about other business owners and they felt that Mr. McCarty was a stellar representation of the kind of things they want to put forward. The things they thought might hamper businesses, they tried not doing that. They talked about the license cost so they were not burdening any business owners. But we did not necessarily want the manager of a big box store come and talk to us and tell us what we shouldn't do. But Mr. McCarty's voice, a respected member of the community, matters more to her than the big box store general manager that doesn't necessarily live in this community or raised children in this community. Mr. Cowger said in regard to burdening business owners, the ordinance the way he read it, it sets the licensing fee at \$450. Then it turns the control over to what that fee will be and never allowing it to go below \$450. It does not reference that it can only increase by a certain percentage every year. That would be up to the county. Chair asked what the wishes would be. Mr. Cowger said we should get some input from a few people and then get back to that. He feels this still needs a lot of work before it's sent to council. Mr. McCarty asked if the City could control the fees instead of the county? Mr. Cowger said all the provision is for \$450 minimum. Who knows what it will go up to? He will gather information and distribute it.

Mr. Janik asked if we know how many vape sellers there are in Amherst? Mr. Winiarski said there were 24. Mr. Janik asked how much a pack of

cigarettes goes for? Mr. McCarty said \$9 - \$10 a pack. Mr. Janik asked if anyone knew how much vape products go for? It was said it was cheaper, but no one knew the answers. Mr. Janik said we need to find out the price difference between cigarettes and vapes and also can we lower the \$450 if the retailers get a 100% on their compliance check? This would ensure that they are checking ID's. Lowering that fee would be a reward. Ms. Smith said the goal is that every business is in compliance. If there is 100% compliance, then we would be under funding the department having the compliance checks going on. We want to make sure we are selling to the right ages. Mr. Janik and Ms. Smith had a discussion on this topic. Mr. Pecora said he was not sure what discretion we have about the fees. Mr. Dembinski felt that Amherst should be in charge of setting the fees. The city of Lorain is in charge of setting the fees for their city. He would like to see the math of where setting the fees at \$450 came from. Mr. McCarty wants to be involved, attend the meetings, and provide his input and would like all businesses to give their input. Mrs. Wasilk agreed with Ms. Smith that we need to keep the fee the same all the time and it's what we need to do the enforcement. The financial reward for the businesses that stay in compliance is that they don't get fined. Ms. Smith said the pulling of licenses is at a hearing by the Health Department.

Health Commissioner Mark Adams spoke and said he was excited to actually talk about a public health issue with Council and watching them get involved. He had watched the last meeting and will answer some of the questions. As far as the cost, they use a cost methodology. He explained the math pieces that go into the license fees. They do not want to charge the same amount of the licenses to all cities. Mr. Cowger asked if the food licenses follow the same methodology. Mr. Adams said no, those are based on risk. There was further discussion between Mr. Cowger and Mr. Adams. Mr. Adams explained in depth how involved this issue is. He explained how the second hand smoke issue was handled. He said they have the ability to begin a new program the next day if council wishes to use them. They would like to do a few months of education and going out and informing everyone. They would rather have the situations resolved and not happen twice. They would rather fix the problem. Mr. Pecora asked about how the transfer of this license would work if it was allowed to be transferred. Mr. Adams is not sure how that would work and is listed on the list of suggestions. To answer Mayor's question, Mr. Adams would prefer a bit of freedom than a \$300 fine the first time they are caught. He provided some suggestions.

Mr. Janik asked if a minor is making these purchases, are they arrested? Chief Cawthon said that under 21, no. 18-20 is viewed differently. It is not a violation of law for them to possess, but it's a violation to sell to them. If they are under 18, it is a violation and we can cite them for possession. There are different levels and the schools work with them on various levels. Mr. Janik wondered if there could be inserted something about if the child is in possession of it but it was provided by the parent. Chief Cawthon said there are exceptions in the law and he explained.

Chair read off some of the items discussed and questions that need addressing and they were discussed further.

Mr. Adams also answered some questions about the marijuana issues now that it's legalized.

Mayor Costilow felt it was best that the Health Department collect the money as the county know best how to do this better.

Mr. Cowger motioned to table. Seconded by Mr. Dembinski. Voice call vote 6-0 to table.

Mr. Wachholz motioned to adjourn, seconded by Mr. Dembinski. Voice vote 6-0 to adjourn.

The meeting adjourned at 8:48 P. M.

Chuck Winiarski, Chairman
Police and Fire Committee

This meeting may be viewed at amherstohio.org under Committee Meetings 11/20/23.