

Minutes of the Roads & Safety Committee of Stow City Council Meeting held on Thursday, May 22, 2014, at 6:06 p.m.

Committee Members Present: D'Antonio, Lowdermilk, Costello & Rasor

Other Council Members Present: Adaska, Pribonic & Riehl

City Officials Present: Mayor Drew, Law Director Zibritosky, Finance Director Baranek, Service Director Wren, Director of Budget & Management Earle, Director of Planning & Development Kurtz, Parks & Recreation Director Nahrstedt, Manager of Information Systems Germano, Police Lieutenant Film, Fire Captain Stone & Clerk of Council Emahiser

Press Representatives: Stow Sentry

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### **Call to Order**

Mr. D'Antonio called the meeting to order. He stated that some people had asked him what time the meeting was going to be held this evening. He had told them 6:10 p.m. He didn't know if they were going to come, but he didn't want to start in case they showed up.

### **MOTION:**

Mr. Lowdermilk moved and Mr. Costello seconded to recess the meeting until after the Finance Committee Meeting.

Yes Votes: D'Antonio, Lowdermilk, Costello & Rasor

No Votes: None. The motion carried.

The meeting was recessed at 6:07 p.m.

The meeting was reconvened at 6:16 p.m.

### **Approval of Minutes**

#### **MOTION:**

Mr. Lowdermilk moved and Mr. Costello seconded to approve the Minutes of the Roads & Safety Committee Meeting of March 27, 2014 as circulated.

Yes Votes: D'Antonio, Lowdermilk, Costello & Rasor

No Votes: None. The motion carried.

### **Business Items**

#### **Amend Code – Section 525.19 – Improper Street Solicitation**

Mayor Drew stated we have had several incidents in the City over, she would guess, the course of the winter and this spring which have brought to the Administration's attention, as well as she believed several or all members of Council, concerns on residents' parts or business owners' parts for some safety issues around this City.

A few weeks ago we had two large gatherings of folks across the street from City Hall who were engaging in some vocal protests on both sides of a social issue, as well as they had seen a recent uptick in folks soliciting on the sidewalks for money, as well as just the ongoing general activities that we see especially in the springtime with student council, sports teams, car washes and things like that.

So, with those concerns brought to our attention, Mrs. Zibritsky and her staff had done a great job in crafting some legislation which really preserves the City's interests in maintaining safety and public welfare - insuring that our citizens feel comfortable and safe as they move about the city and conduct their daily lives and business.

We also visited and revisited ordinances which are already on the books which can be and have been utilized by our police department in a few instances where they have had some individuals who have been violating those ordinances, like trespassing and some other things that Mrs. Zibritsky had provided them with.

She thought that the legislation that Mrs. Zibritsky had crafted was something that she was going to ask all of them to please give some serious consideration to. She asked for Council's support of the measure.

She also asked them to consider it as a whole piece of legislation. The law department had done a tremendous amount of research to insure that this legislation addresses the safety needs that we have and the interests of our community without endangering any sort of rights that all of our citizens can enjoy under our constitution.

She would be happy to answer any questions. Mrs. Zibritosky would be able, better than her, to answer technical and legal questions about this legislation. However, she did think it was something that would enhance our city and make it better.

On another note, she did want to mention in conjunction with this legislation, whatever Council decides on this particular piece, the City was undertaking a public information campaign in light of an uptick in general in warmer months of people soliciting for all kinds of groups, individuals and types of things.

Just a reminder, on the City's web site and, perhaps, with some signage as well, that we encourage people to do their research, to be generous to organizations and charities that they feel comfortable supporting, but in no way, shape or form should anyone ever feel that they must donate to any group or individual or cause that they may encounter as they go about their daily lives in the City of Stow if they don't feel comfortable doing that.

She would be happy to answer any questions.

Mr. Lowdermilk asked concerning the car washes that ball teams do for fundraisers where they are holding a sign and yelling get your car washed, if that could be construed as being outlawed by this? Mrs. Zibritosky stated you have to be careful to note that nothing is really being outlawed in this legislation.

What was happening was they were restricting certain kinds of conduct. As you can see in subsection (c), that was the aggressive conduct. She didn't think car washers would likely fall under that and if they did, they would have a problem. They were also restricting things to appropriate times, places and manners.

It wasn't that people couldn't have their fundraisers and car washes, it was that if they wanted to have it on private property, they have to ask the property owner.

Many of these things the legitimate and well-established charities and fundraisers already do. Therefore, she didn't really see that as causing a lot of problems. However, if they wanted to follow people in crosswalks or by ATMs, they would have a problem.

That was really all that it was limiting that too – to those kinds of areas that they see in subsection (b) and then the manner in subsection (c). As long as they abide by that, they were more than welcome to do anything. This was a content neutral piece of legislation so it would affect anybody who was soliciting for money.

Mayor Drew wanted to point out some of the safety measures in this piece of legislation. Mrs. Zibritosky had already outlined a few of them. For example, if this legislation is adopted, people will not be allowed to solicit within 25' of an ATM or bank entrance. It

didn't matter if it was the Brownies selling cookies or anybody else, it was really to make sure that any sort of aggressive solicitation wasn't occurring.

Again, some safety measures about crossing into crosswalks. Obviously, there were concerns with any individual or group who may be soliciting being in a crosswalk or being too near cars or reaching into a car. We certainly wouldn't want the car washers or any individuals soliciting money to be approaching cars, reaching in and taking money. Again, that was a safety concern and the mixing of pedestrians and vehicular traffic can have disastrous consequences if people aren't aware of safety measures.

This really was something that would never prohibit her from standing on a sidewalk with a sign saying I think Stow is the greatest City of the face of the earth. That was certainly her constitutionally protected right to do so. However, it certainly would prevent her from following someone to a bank machine, let's say, and asking him for \$20 to donate to the City of Stow because it is the greatest place on earth and needs that \$20.

Mr. Adaska stated he wasn't going to support this legislation. He thought the Administration was overreaching. It was only going to affect the good people in the community – the ones who want to fundraise legitimately.

The ones they had gotten complaints about mostly were out there at Stow-Kent, for instance, who hold a sign up quietly, don't say anything to the motorists passing by, but generally the sign says can you help? Those were the complaints that he personally had gotten. This legislation would not do anything to prevent that from happening.

If someone was standing there quietly with a sign that says please help, I'm out of work, they can do that. That was what they had started out to do – to try to get those people off of the driveways. This wouldn't do anything to remove those people from those positions so he would not support it.

Mr. Razor thought there was a significant City interest here in maintaining our economic vitality. It wasn't easily accomplished if the citizens didn't feel safe or free to move around without being accosted for money. He hoped they could find something that accomplished that.

Mr. Pribonic stated it was really up to the people that are being solicited. If you are not giving them money, the people are not going to stand there and ask for money. If panhandlers are standing there and people are giving them money, they are going to show up day-in and day-out.

This was really determining what the people of our city want. If they want to go ahead and have panhandlers stand out there and give them money, they are going to keep showing up every day asking for money. It was everybody's right to do what they wish

to do, he fully understood that, but an easy solution was to not give these people money and they will stop showing up because nobody is going to stand on a corner for eight hours or whatever if there is no money given to them.

He wasn't saying that there weren't some people in need, but, again, if this was disturbing, then that was how they had to go to handle it also.

Mr. D'Antonio stated he would be supporting the legislation. It was defined very well in the legislation. It was strictly a safety issue. Whether it was on the east side or the west side or anywhere in Stow, it was a safety issue. It protects the business owners, our community and the individuals who live here. That was why it would get his support.

Matt Gabanyic  
4052 Osage Street

Mr. Gabanyic stated Council hit on it. It was public information. There has to be a big campaign on public information.

Akron did something like this not too long ago. He had no doubt that was one of the reasons they were starting to see this issue in our area – because they started getting pushed out of Akron.

He headed up one of the local Neighborhood Watch groups here. He had received plenty of comments about what was going on. He could assure you that there were many people approached – sometimes more forcefully than others.

They will share the same story. He had heard about it in Cuyahoga Falls and the exact same story or something to that effect is being shared at Target.

He felt horribly for the homeless. He did. Anybody who didn't, didn't have a heart. He was sorry they didn't. However, there were issues. A lot of them dealt with drug use, alcoholism, etc. When people panhandled, that money tends to go directly to their vice. It does nothing but get worse. That was why he pushed public information as well.

There were tons of charities that people can go to. If you just Google Summit County Homeless Charities, lists and lists of charities thru churches and federal aid come up for these charities.

He thought that a campaign needed to be done. He thought there needed to be pressure applied without violating constitutional rights. Council was absolutely right. He was not one of those people that wanted to do that.

He really wasn't sure what was in this legislation. He also wasn't sure what legislation currently exists in Stow. However, whatever they could do to curtail and curb this issue

he felt was extremely important. He thought any legislation that comes across without violating constitutional areas needs to be seriously looked at.

We are a community who has already dealt with drug issues that seem to be getting better. He had talked to the Summit County Drug Task Force Agent for Stow. He said things were getting better in areas like meth houses and things like that, but we still have issues with heroine, things of that nature and popping pills.

He could see those issues moving in more and more and more and they were going to look like other communities that have gone downhill, like Garfield, Bedford or other areas where they allow things to happen, not being checked in any way, shape or form.

He thought legislation needed to be pushed forward without violating constitutional rights. He appreciated it.

Paul Zuravel  
3720 Gilbert Road

Mr. Zuravel asked if it was true that this legislation wouldn't do anything to take these people holding the signs up at the Stow-Kent Plaza off? Also, would the legislation be enforceable by the police?

Mrs. Zibritosky stated if the legislation is passed tonight, it has thirty days until it is effective. That would give the police plenty of time to get the word out in the city so that everybody is well aware of what the new law is going to be. So that was the answer to that question.

As far as the people already there, it just depends on what they are really doing. This law was more about the conduct associated with this speech as opposed to this speech itself. Holding a sign was uttering speech essentially.

This legislation would only limit it in the way that they vocally solicit where they had safety interests to allow people to feel safe on the streets and not feel like they are being harassed, coerced or intimidated for money. So, it will apply to them if they start using those tactics.

If they start even just vocally in a distracting way soliciting for money by saying hey, do you have any spare change, that can be distracting to people and it can also feel intimidating. So, it will prevent them from doing those things.

She didn't know whether they were doing those things. She wasn't there all the time. She knew they didn't have a police officer there all the time. They went often. So, that question might be better for Lieutenant Film on what was actually happening there.

If they weren't bothering people, they would be left alone, but if they started to do the things that were prohibited in this ordinance, the police will take action on them if it is passed.

Mr. Zuravel stated that personally he would like to see panhandling outlawed as far people standing up there saying that they need help. Like Mr. Gabanyic had said, there were plenty of places to go for help and there wasn't a person in this room that doesn't feel guilty when they drive by there. Who doesn't want to reach out and give the guy \$2.00 when they had it so good?

When you see someone like that, you don't know if he is telling the truth or not. He was all for the legislation, but he would like to see it have some teeth and have it be enforceable.

If there is a guy up there at Stow Kent asking for money, Officer Film can go up there and say hey do you have a permit or hey we don't allow this. He didn't know that that was against the constitution. He asked if they could outlaw panhandling?

Mrs. Zibritosky stated the legislation was written for very specific reasons. It was all based on research of court cases across the country. It was modeled specifically after some that have been upheld in Ohio.

If you just outlaw panhandling, which they define as homeless holding signs, altogether, it was not likely to be upheld and it was more likely to invite litigious groups, like the ACLU, to come and sue the City. She didn't know if it was worth that kind of a risk.

Ultimately, it was going to be up to Council. However, that was the legal landscape they were looking at. A lot of courts do consider saying that you can't do this at all anywhere even if you are not bothering anybody to be infringing upon somebody's first amendment rights.

Mr. Zuravel stated as long as it contains something like up there. They stand right on the curb with the sign. That was definitely a safety issue. He asked what was in this legislation that would prevent that?

Mrs. Zibritosky stated if they actually step off the curb and start interfering with traffic, they already have a lot of laws on hand that would address that issue because, again, that wasn't really what they were saying, that was what they were doing.

If they were causing traffic problems, she had passed a lot of the ordinances on to City Council, they were all public record, and Lieutenant Film had many of them, they would be cited with those violations.

You can't just walk in the middle of the street when cars are coming if you don't have the right-of-way. So, if they start doing those things, they will be cited.

Mr. Zuravel asked if they were required to be any distance off the curb? He asked if they could be required by this legislation to be 10' off the curb? It was okay to panhandle, but you must be 10' off of the curb in order to be safe. He thought that would discourage them.

When you tell somebody you are allowed to panhandle and you can stand on the curb, the next thing you know his foot was in the street. He asked how do you stop that? He thought they should say you must stay 10' off the curb. By that time, they would be saying well nobody is going to see my sign if I am 10' off of the curb, I'm out of here. He wasn't an attorney, but he thought that might help.

Mrs. Zibritosky stated this was carefully drawn up based on cases where it was upheld. Mr. Zuravel stated but they could stand right on the curb still. Mrs. Zibritosky stated it depends on what you define as right on the curb, but as long as they are not infringing upon traffic, they can stand, and they are being peaceful and silent, they can stand.

Mr. Zuravel asked what was infringing on traffic? How do you define that? When they were standing on the curb, No. 1 he was distracted. He was reading their sign. That was human nature. It was the same thing when you go in Akron, down by Akron University when you drive right by 76, those guys are always there too.

Mrs. Zibritosky stated it was like any other sign. It was no different than a sign for McDonalds. You look at those. Mr. Zuravel stated but they were required by zoning to be so far off of the street, etc.

He was for this type of legislation because he didn't want to see that. To him it looked ghetto.

He was just saying if they weren't required to be so far off of the street, then he didn't know that it was even enforceable. If an officer can go up there and say hey our laws require you to be 5' off of the street, 8' or whatever, then they have some teeth. Even if they had to go to the corner where they were standing, take an orange spray can out and paint a line to show them where they could stand, that would help out.

If they were still allowed to be on the curb with this legislation, he wouldn't be for it. He could see where they were coming from with safety. He thought it was a good thing. However, he thought there needed to be some parameters set for those people. Otherwise there was nothing to stop anybody.

If he was at a stop light, a guy can come up to him and ask for \$5.00. What was he going to do, call 911? It was unenforceable.

Mrs. Zibritosky thought if the citizens find this kind of behavior very upsetting, which they had received many phone calls about, and they find it threatening, she would

expect them to call. Mr. Zuravel stated but by that time, he was gone. Mrs. Zibritosky stated they seem to be there.

Mr. Zuravel stated the only thing that comes to mind was they were passing another piece of legislation that can't be enforced. When they passed the legislation for putting in handicapped signs in front of the striped area of the handicapped spaces, the signs were never up there. It was a law that they had to put them up, but they weren't at Wal\*mart or anywhere in the city. The legislation was passed, but it was never enforced. He hated to see that.

Mr. Pribonic wanted to add to what he had already said. He thought that also besides not giving to these people, and he knew the police department would invite it, was if people were having problems, they should go ahead and call.

This was one of those issues that was important to us. In addition to implementing a law, he invited residents to call, because that was the only way they could handle these types of situations and bring them under control.

He asked Mayor Drew concerning community education, when that came out, if there was going to be things like there were so many organizations out there? There were plenty. He cited Haven of Rest, Open M, many of the churches, etc. If these people do need help, and they couldn't tell people where to direct their money or make their contributions, would it give them some legitimate sources that they definitely knew?

Mayor Drew stated Mr. Pribonic had mentioned Akron. That was one city that had done a really good job of public information on this matter. It was certainly one they had been looking at. Without telling you exactly what the wording will be, because she didn't have that, their envision was a couple of things.

One was using signs. For example, when you drive into the City of Stow you will see things like City of Stow Home of Shawn Porter or Home of Champion whatever high school sports team that we have. So on those poles, perhaps putting something with wording that says we encourage generosity to reputable charities.

There certainly were clearing houses in Summit County, such as United Way, Red Cross and Info Line, other agencies which have up-to-date information on if you wish to donate money to assist with any particular cause, they give you the correct address and information about that.

On the web site, they had the opportunity to be a lot more detailed with a lot more verbiage. On that, they would be able to put some links to organizations, such as United Way, Red Cross or other specific agencies and clearing houses that can provide information.

They also had the option of utilizing water bills – putting messages on the back of them.

She believed Mr. Pribonic had mentioned that truly this was a multi-faceted approach that will take the efforts of many people in our community to both insure that people's needs are met who are in need, that people feel comfortable and safe to move about the city and conduct business and that people have good information and reputable agencies and outlets to donate to if they are so inclined to do so. It really wasn't something that was going to have one solution and one quick thing that will change it.

Again, she emphasized that there were elements to this legislation which address a variety of issues which may or may not have occurred currently or in the past. The silly example that she had used was she wouldn't want a cute little Brownie following her to her ATM machine trying to sell her some cookies if she was getting \$20.00 out of the ATM because she wasn't going to tell her no.

This wasn't about the content of the speech. It was about the conduct or behavior, the manner in which people are doing this. There just are some things that it was in the interests of the City to regulate or prohibit for safety reasons, reasons of commerce and things like that so that the public can conduct their lives and their business freely and without worry of those kinds of things.

Mr. Pribonic stated he had been asked by residents and the Mayor and him had talked about having people register. He thought that they definitely did not want to do that. He thought they would be opening up a can of worms, because what they would actually be doing in a roundabout way was saying it was okay to do this.

It sure didn't seem like that had been very successful for Akron. They had plenty of them there. It was almost like a free-for-all. He knew that had been brought up to some of them. However, he didn't think that was a solution.

Mayor Drew stated Mrs. Zibritosky and the staff in the law department have done a tremendous amount of work and effort. She wanted to thank and recognize them. They truly had spent the better part of a month researching this to ensure that they had the most up-to-date court case information as they crafted this legislation.

Bear in mind that there are other area communities which may have legislation that was passed in prior years. That does not mean that that legislation meets the current standards of court cases.

Mrs. Zibritosky had done such diligent work in doing this research so that if this is passed, we don't have any kind of or minimized the likelihood of any unintended consequences. That certainly was not the intent. So, things that were on the books in other communities may or may not meet the test of today's legal standards.

Mr. Lowdermilk asked if this was perfect? He stated it probably was not. He asked if it goes as far as some people wanted? He stated probably not. He asked as far as enforcement, if this was strictly going to be on a complaint-based system or if our officers see what they view as inappropriate or dangerous, do they have the ability to step in at that point or do they have to have a call in?

Mayor Drew stated it would be both. It can be complaint driven. If residents, citizens or visitors to the city feel in any way, shape or form that this ordinance, if passed, is being violated, they wanted them to call the police department as they did with any kind of potential criminal activity or/and if Lieutenant Film is driving down the street and observes this behavior in action, then he can and will take action. So, it really is something that can be utilized.

She wanted to urge some measure of consideration that there are areas which have been mentioned more frequently and we simply are not going to ever have the resources to station an officer at any given area of the city on an all day basis to monitor behavior. So, this really will be a collaborative effort between the observation of the officers as they are out on patrol and conducting their business throughout the city as well as residents and business owners alerting the police department if there is conduct that is inappropriate after this legislation has been passed.

Mr. Lowdermilk assumed that Lieutenant Film and the police department had had input into this. Mayor Drew stated yes. They had had an internal administrative committee comprised of her office, planning and zoning and the fire, police and law departments.

Mr. Riehl commended Mrs. Zibritosky and the legal department for all the work they had done on this. This has been an issue. It was in the City of Stow's interests to pass it.

He had received a ton of calls on this. A lot of this was in his ward - Target, Applebee's, Stow-Kent Plaza and ACME. It was a safety issue.

He had had residents report that they were sitting in their cars and someone knocked on their windows and asked them if they could spare some money? That scared people.

Also, some of the panhandlers were fighting with each other on the sidewalk. That was not good.

One of them was allegedly offered a job and turned it down.

It was a problem. In many cases, they were folks from Portage County who come to Stow and portray themselves as Stow homeless people in need. It was a compelling issue. He would support it.

Mr. Costello stated he would support this issue also. He agreed with Mr. Lowdermilk that it doesn't answer everybody's wants or desires. However, it was a good step forward.

This was not unique to Stow or Akron or even Ohio. When he was in Florida two weeks ago visiting his dad in a hospital, he was panhandled in the hospital. He was asked for money so the individual could leave the hospital. So, this was not anything that was unique. Everybody knew that.

He felt whatever they could do to give everybody their constitutional right to express themselves but keep the city safe was a good step forward.

Mr. D'Antonio wanted to thank the Administration, specifically the law department and Mrs. Zibritosky. He thought this was the best legislation to put forward without impeding on anybody's first amendment rights as well as protecting the city.

MOTION:

Mr. Costello moved and Mr. Lowdermilk seconded to assign a number to the sample legislation and send it on to Council.

Yes Votes: D'Antonio, Lowdermilk, Costello & Rasor

No Votes: None. The motion carried.

**Adjournment**

MOTION:

Mr. Costello moved and Mr. Lowdermilk seconded to adjourn.

Yes Votes: D'Antonio, Lowdermilk, Costello & Rasor

No Votes: None. The motion carried.

The meeting adjourned at 6:47 p.m.

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Bonnie J. Emahiser  
Clerk of Council

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Brian D'Antonio  
Chairman