

**THE VILLAGE OF ST. BERNARD
SPECIAL COUNCIL MEETING**

August 10th 2023

The St. Bernard Village Special Council Meeting was held on August 10th, 2023, in Council Chambers.

Roll call showed all members were present: Mr. Tobergte, Mr. Brickweg, Ms. Hausfeld, Mr. Bob Culbertson, Ms. Bedinghaus, Mr. Ray Culbertson, and Mr. Schildmeyer.

ORDINANCE NO. 21, 2023

**AMENDING THE ST. BERNARD CODIFIED ORDINANCES CHAPTER 905, TREES,
WEEDS AND LITTER, AND DECLARING AN EMERGENCY**

Motion made by Ms. Bedinghaus, seconded by Ms. Hausfeld, to suspend the 2nd and 3rd reading of Ordinance 21 2023. Motion passes 7-0.

Nicole Klungle, 551 Church Street- First, I just wanted to say, the mics are fabulous. I don't know if you got new ones, but I can hear you so well and it's amazing. I love it. I wanted to point out, I think there is a tiny typo in 905.05 A, it says the director of public service and safety, or their designer may enter the property. I think that's designee. I know there there's no appeals process in this ordinance by design, but I really think there should be when you're entering private property to make changes. I also see that there is no listed process for determination of fees and I'm very curious whether in the laws, contracts and claims committee meeting it was discussed that the village could send service department workers to abate, or hire a contractor to do so, and presumably the cost to the village would vary with this, and I would be very curious what would prevent the village from hiring somebody more expensive to do a specific property? And hire somebody less expensive to do another property? Finally, I am wondering how liability for injury will be handled if somebody say a village employee is sent to abate a property and is injured on that property. Who incurs the liability for that?

Auditor, Ms. Brickweg- I can answer the last part. All of our employees are covered under workers comp, so it would probably just go right under their workers' comp. It doesn't matter what property they're on or not because they could get hurt anywhere, but as long as they're working under the city, it would be covered under that.

Nicole Klungle, 551 Church Street- Did any council member know that?

Auditor, Ms. Brickweg- I think all of our council members know our employees are covered under workers' compensation because it is a large part of our budget.

Nicole Klungle, 551 Church Street- I have no reason to doubt your expertise on this, Ms. Brickweg, I was talking to Council.

Council Member, Ms. Brickweg- I was on the fire department for 33 years and we were covered under workers comp as well as a firefighter, so I was aware of that.

Nicole Klungle, 551 Church Street- And a private company has their own bonding I assume.

Council Member, Mr. Tobergte- Yes.

Nicole Klungle, 551 Church Street- How about the fee determination?

Safety and Service Director, Mr. Paul- As far as fees go, I take overtime rate, because sometimes I have them go in in the evening because they're too busy in the daytime. So, it would be an hourly rate for labor. If it's a truck driver, that's an hourly rate. There's administration fee, there's rental fee for the equipment and fuel fee. And that usually balances out to be right around \$250 on average.

Nicole Klungle, 551 Church Street- Per hour?

Safety and Service Director, Mr. Paul- Oh no, per job. That is an average for going in to cut a lawn.

Nicole Klungle, 551 Church Street- Would that be consistent with hiring a private contractor as well?

Safety and Service Director, Mr. Paul- I have never asked a private contractor to cut a lawn because we have been cutting the high grass since the service department started. Grass has been a problem for a long time. When I went back to see how it was billed, I took it that way. I think it is fair. You have to make it so they will follow the law. When I read in here and saw no less fee under \$25.00, that's the cost for the rental of the mover. So, what about all the salaries and all of that.

Nicole Klungle, 551 Church Street- So, that is on top of the fee, right?

Safety and Service Director, Mr. Paul- I didn't read it all, but I'm sure that that's part of it. But when the way I do it, there would be no extra because it all comes under whoever it involves.

Nicole Klungle, 551 Church Street- Ok, and what if you were to hire a private contractor for that?

Safety and Service Director, Mr. Paul-I would have estimate that. Point taken on who to hire. In the village here, I was always told by the people that worked for the village always tell me, and I am talking about contractors, St. Bernard has always chosen the lowest bid. I can't speak for the next person after me.

Nicole Klungle, 551 Church Street- Yeah, I think there needs to be a fee schedule. Otherwise, this has the potential for abuse.

Safety and Service Director, Mr. Paul- Or they just don't hire out contractors, at least for grass cutting and mowing. Ther service department can handle grass mowing.

Nicole Klungle, 551 Church Street- This is another question I would appreciate it if council knew the answer to. Thank you.

Carol Ewbanks, 70 Angels Way- I apologize if this is repetitive, but, um, I have yet to really understand what the process would be for targeting particular yards or lot or homeowners, and how those yards are determined. Who does that? And what is the process that the homeowner then endures?

Safety and Service Director, Mr. Paul- I can do that one also. So basically, what happens is that complaint for a yard comes over a complaint line. Uh, don't identify who's complaining. Don't give that information out. That's just between me and the complaint. It then goes to Robert Evans, who's our sanitarian. Robert would look at that. Find the owner, contact the owner, and find out if there's any problem. So, we investigate. Is their lawn mower broken? Have they been on vacation, anything? Death in the family? So once that's all investigated, they're explained to them what they need to do. It used to take up pretty close to like a month and a half to get the grass cut. So, we streamlined it now to do three weeks. So, they get a week and if it's not cut, there's no movement on the cutting of the lawn. Then they get a certified letter. Once they get the certified letter, they have 10 days and then we move in to cut it.

Carol Ewbanks, 70 Angels Way- So, there could be two identical lawns in St. Bernard, one will have a neighbor complaining, and they would be targeted but the other yard would not?

Safety and Service Director, Mr. Paul- If if they're not caught, that is probably true. But if the service department's going around and they report TP something happened here, usually there can be a drawn-out process like the police can be involved to make a Wellness check, the fire department can be there to make a Wellness check. But the minute the complaint comes through, whether it be by a police officer or service department or anyway, then then we move on it.

Carol Ewbanks, 70 Angels Way- What specifically is the criteria that a lawn is in this category?

Safety and Service Director, Mr. Paul- Eight inches. Grass must be less than 8 to 10 inches. Robert does measure it.

Carol Ewbanks, 70 Angels Way- And this has nothing to do with garden beds or flowers?

Safety and Service, Mr. Paul- Flowers cannot overhang of public right away or a walkway. Robert will discuss that with the resident. But no, as of now, we cannot do anything about wildflowers.

Carol Ewbanks, 70 Angels Way- So this is just tall grass and weeds.

Safety and Service Director, Mr. Paul- Yes, tall grass and obnoxious weeds.

Shawn Pratt, 551 Church Street- Just want to expand upon what Carol was asking about. I think a little, one of the terms in here, we're defining cultivated plants, anything that is exceeding 10 inches. So that is not just grass. There are some exclusions here. One of the exclusions is cultivated flowers. But there's no definition of cultivated flowers. I understand that that's not language that is in the old one, but it still caused me a little bit of concern, especially in light of the discussions that have been going on. Can anyone answer how anyone would interpret cultivated flowers excluded from this ordinance?

Law Director, Ms. Van Valkenburg- I know there have been concerns about people who have wildflowers and pollinator gardens in the front yard. The thought on that was we would address that subsequently, because there are concerns or being a topic of concern, with the naming of weeds and that, the use of cultivated flowers was not to, for example, if you planted it in a garden, or if you are tending to it. I would consider that to be a cultivated flower. I am not excluding wildflowers. If you planted them or put seeds down for them and you intended them to be there that would fall broadly enough in the term cultivated flowers.

Shawn Pratt, 551 Church Street- I feel like it would be helpful if that language and definition would be included in this ordinance. I understand you have future ordinances, but we have no idea or the pathway to implement that other ordinance if and when it ever comes. To me this is an important and missing piece.

Council Member, Mr. Schildmeyer- I just wanted to kind of respond to that. I think we did in laws, contracts and claim we're very deliberate about what we were trying to fix is the fact that the city could not enforce the existing ordinance as written. So, step one was, let's put in place a mechanism where we could actually enforce it as written, knowing that step two probably was going to have some pretty serious debate, which I think we're seeing here, and we wanted to allow time for that debate but not hold up our ability to enforce the ordinances we had. Cindy, and you can correct me if I'm wrong, but that was why we split it up and made it basically a two-step process.

Shawn Pratt, 551 Church Street- Yeah, I have no complaint splitting it up. It's just more of the point that since you are now aiming to make an enforceable Ordinance, so that raises the specter of more enforcement than there has been in the past, and there's this language in there that, in my mind, if my neighbor that calls in a complaint because they don't like my 12 inch tall or 36 inch tall flowers. What's the response and how am I sure that that kind of harassment won't occur?

Council Member, Mr. Schildmeyer- Shawn, to answer your question, that criteria, that threshold, the thought is, it is no different than it would have been before. So, it before it was viewed as against the ordinance it would still be now. I hear what you are saying, there might be more enforcement now, but it is not really different.

Shawn Pratt, 551 Church Street- I understand it is not different but the fact that you are reviewing and revising this ordinance, with these vague definitions, we have the opportunity to fix them. We can't just rely on the good will of the people currently doing the job, council, Mr. Paul, whoever. There will be other people next year and the years after that. We should be thinking about those things.

Council Member, Mr. Schildmeyer- I think we agree with that, we just did not want to hold up our ability to enforce what we have in place, while we have that healthy debate. There are many yards that need to be addressed now. We had a lot of feedback from the community about taking care of this situation. The original ordinance that was written was too vague for us to do this in a reasonable way. We know there are a lot of people who want this issue addressed. This discussion could take us months and by then it will be fall and the grass won't matter, and all those people will be staring at terrible looking yards all summer. We did not want to do that.

Barb Torbeck, 221 Bank Ave- I lived with this situation for 15 years with the vacant house next door to me and the old ordinance., just forget it. Fortunately, somebody did purchase the house. Things have improved. My question is, one of the things I ran into with the old was I would make the complaint because the grass was taller than the fence line, so we're well beyond 8 to 10 inches, and back then it was, oh, we have to give them notice, takes it 30 days. The owner lived in New York, and we got to send it certified, and then when we get to the end of summer, winter comes. Oh, the grass is all down. The next year it's back up again. Same situation for 15 years I complained about this. And every year it had to restart. Is that the way this ordinance is going to be? Is there any notice period? Three strikes you are out? It was 15 years of the same nonsense. So, once the season is over, the ordinance is over. Am I right?

Council Member, Mr. Tobergte- Yes, it is one calendar year. If someone gets a complaint now, they have 5 days to take care of it. Otherwise, the service department will come and take care of it and at the beginning of next year, it starts all over again.

Alec Macke, 212 Harvey Court- I am a newer resident here. This will be my second year. We did experience a rental property on the corner of my court. There it became a really big issue with ticks and other bad insects that we don't really want with small children. With a stroller going by, we would straight up just miss it. We would just go around and cross the street again. Don't like it. It's unsafe to do that with some children without crosswalk. The thing is though is that the rental property, and we all know how rental properties are, sometimes they're abused. So, one thing that I really was interested in is there any idea if the property is being rented, which from my understanding you have to actually go for a process to have rental property in Saint Bernard. But more fines or more like doubling what we're doing here because you should be taking care of this property if it's a rental property. Is that something we could escalate? Especially with a landlord or rental situation. I work in HVAC too. So, going to people's property or rental property, I am seeing these grass issues everywhere. I know the way they feel about their properties, it is just a money thing. I think this should be taken extremely seriously on rental property.

Council Member, Mr. Schildmeyer- Valerie, correct me if I'm wrong, but I think we changed the language. It used to be you had to get in touch with the person that owned the property, which was at a hurdle and in almost an impossible hurdle, honestly, in a lot of cases, like if they're in New York or wherever they're at. And if they don't want to hear from you especially, and they don't, but now the ordinance should read all we have to do is post the notice on the property and five days from there we can go in and cut it correct? Rental property and getting ahold of the landlord was one of the biggest problems we were having.

Alec Macke, 212 Harvey Court- So, any way of charging them more? Or with the lien I suppose would be more of the progression pf that? Is that correct?

Law Director, Ms. Van Valkenburg- I would have to look into the legality of charging a rental property for I'm not sure that there's really a basis in law for that. My thought would be probably not but I do think changing it to serving the people in control, which could be a tenant, but yea we can just put the notice on the door. It no longer has to be certified mail. That gives us grounds to move forward much more promptly.

Benjamin Fraley, 4511 Park Place- I have lived in Saint Bernard now for close to five years. The five years that I've lived here, I have lived next to a vacant house the entire time. I'm pretty sure that this ordinance was written for me and if the individual whom I call about once a month asking for somebody to come and cut down, if they are present thank you and I apologize. I would like to echo some of the concerns as my other citizens have voiced. The language is a little bit vague, but I also think that that can also be a good thing. Typically, with law it's good to leave things up to interpretation, and I typically think that anyone who's going to be conducting this job doing it from a common sense and a good heart, good intention perspective. That being said, I think this is insanely overdue. I think that the previous process was unbelievably inefficient and hopefully this will continue to encourage individuals to take care of their properties in the way that a lot of the good upstanding citizens have. I think maybe that there should be some language included for exceptions for individuals who might be perhaps older or have some other issues with taking care of their lawn and maybe have some sort of process for appeasement for them. I think that might be some good language to include. This might be out of the scope of this ordinance as well, but in addition to having a vacant home next to for five years, I've also dealt with pests, raccoons, possums, and all of the alike cats as well. Actually, just saw a raccoon at the vacant property the other day too, so it's probably out of scope of this ordinance specifically. But perhaps in the future we could create another ordinance to address whom that responsibility might fall to. Again, that might be me being an ignorant citizen, but I've called the Police Department. I've called the fire department. Called the health department. I've called the dog warden and have all gotten the runaround from more or less everybody on who should be doing what. About the raccoon that I saw the other day, I called City Hall and they sent out the service department. Doesn't sound like that is a common practice or not, but if it is, that should also probably be posted somewhere or perhaps included in another ordinance. Again, I just like to stress that I think this is well overdue. And I think that this is a good step in the right direction for encouraging citizens to take care of their yards properly. Thank you.

Auditor, Ms. Brickweg- I have a question for Ms. Torbeck. If what I heard before is true, once you are fined once, you don't have to go through the process again. Now I get year to year it starts over, but for week to week. Am I correct on that?

Council Member, Ms. Bedinghaus- Yes, you are correct Peggy.

Auditor, Ms. Brickweg- So, it won't help you year to year but it will help you week to week.

Carol Ewbanks, 70 Angels Way- Question, and this is probably pretty naive, but I'm wondering why so many measures are passed as emergency measures? I know most of you know the answer, I do not.

President of Council, Mr. Asbach- I'll take it. Items are discussed in committee of the whole these particular ordinances tonight, laws, contracts and claims I believe met last week, two weeks ago. They've been discussed prior to that and usually everything is talking about a committee of the whole, if there are any concerns or if we always ask when we're reading the ordinances, if there are someone in the audience, we may have it go regular course or other things that need to go regular course. It's August and the weeds and grass cutting kind of needs to be done now because council meets, other than a special meeting, council meets once a month.

So, if we read this, if we did it not by emergency, it would basically take until September or October to basically pass this. Grass cutting season is almost over by then.

Law Director, Ms. Van Valkenburg- Times that they are financially related ordinances and it's something that kind of comes up unexpectedly, like we may have the opportunity to take advantage of grant monies or especially purchase or something, something like that. It needs to be moved on because, as Mr. Asbach explained, it would just take too long to go regular course.

Carol Ewbanks, 70 Angels Way- My other concern is that this all sounds very vindictive, that we're judging this guy and that guy and going to put lien on his house and we're not offering them any support. A lot of people here are from the Garden Club. We have workdays and we work together to make things pretty. I would like to suggest we might put together a coalition of good-minded helpful Saint Bernard citizens who would be there as support to people who have a problem.

Council Member, Ms. Bedinghaus- When one of the gentlemen that was just speaking said you know, do this respectfully and, you know, with some common sense. We talked about that in our meeting. So, like, you know, Tommy Paul was talking. So, if a policeman comes in or a fireman comes in there for some healthcare reason or whatever it is and reports of the high grass or whatever it might be, you know, and see if there's an issue like they have a broken lawn mower or something and it comes back. To the administration. You know, of course we're going to, if there are sick person, you know is there anybody else around that we know cuts grass we can call and say could you take care of this person, and get it done within the five days. So, I think there is some, not really all vindictive, but these are the ones who continually do not cut their grass.

Carol Ewbanks, 70 Angels Way- Could there be a way to build that in? Have a group of people identify themselves as available to help someone who is ill or just can't do it or afford it.

Council Member, Ms. Bedinghaus- Great idea. We are not trying to be vindicative but there are some people who habitually just disrespect this law to begin with.

Council Member, Mr. Tobergte- If we has a group of people who are available to do that, you have to worry about liability also. If somebody gets hurt, who is going to pay for it? Keep that in mind.

Katie Joyce, 4412 Tower Ave.- I just was concerned about the. 905.06 the investigation of violations. Can you tell me a little more about that? Is this the same that we were talking about a complaint and then you go in? Can you tell me a little more about that investigation, please?

Safety and Service Director, Mr. Paul- Yes, we have sanitarian who's been here part time for the village. When I get complaints or list of complaints, I send them to him. He comes out and evaluates, gets in touch with the owner or the person that lives there, explains to them what has to happen. If it's not the owner, then we try to find the owners name and then we go from there. So, all of the violations, say if the only complaint was the high grass and he gets there and sees building, he will turn it over to building. If you're looking at that, he would look at noxious weeds. He would look at trash if there's litter in your yard that doesn't belong there, trash cans without lids. If he sees that, and it's all torn up by animals, he will also explain that to you that

it's against our law there also. So, it's and it is the same person. He's been here since I've been here and before me.

Katie Joyce, 4412 Tower Ave.- I'm just thinking of when renting a property, unless there's an emergency like the landlord couldn't come into your space and I wonder how that relates to this. You know, are we just talking about what's visible in the front? Are we talking about you're able to go in the backyard?

Safety and Service Director, Mr. Paul- No. So, Robert is not allowed to make access to any property. So basically, what happens is if the complaint is next door, then I would say can Robert enter your property to have a look at the back and normally you get a yes. But normally though also and I want everybody to understand this, when Robert comes in and usually makes contact with the owners that grass is usually cut, or it is resolved and as far as vindictive, if we find out that their lawn mower is broken, they had a death in the family. We give them lots of time to cooperate to get their grass cut. It's not all harsh and mean. Since I have been here, I have fined maybe 8 times and 4 of them are the same owner. Once they receive the fine, people come into compliance.

Auditor, Ms. Brickweg- We have not had a lien on anyone's property for grass cutting since 2012. We do try to work out what is the circumstance and how can we help. This is for the people who are blatantly not cutting their grass.

Motion made by Mr. Tobergte, seconded by Ms. Hausfeld, to change the word "Designer" to "Designee" in section 905.5 on ordinance 21 2023. Motion passes 7-0.

Motion of suspension of 2nd and 3rd reading for ordinance 2023 passes 7-0.

Motion made by Ms. Bedinghaus, seconded by Ms. Hausfeld, to adopt ordinance 21 2023 as amended. Motion passes 7-0.

ORDINANCE 24 2023

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A JOINT AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS, HAMILTON COUNTY, OHIO AND THE VILLAGE OF ST. BERNARD, OHIO TO ADMINISTER A COMMUNITY REVITALIZATION GRANT AWARDED FOR PROPERTY REDEVELOPMENT AND DECLARING AN EMERGENCY.

Motion made by Ms. Bedinghaus, seconded by Ms. Hausfeld, to suspend with 2nd and 3rd reading of ordinance 24 2023. Motion passes 7-0.

Motion made by Ms. Bedinghaus, seconded by Ms. Hausfeld, to adopt ordinance 24 2023. Motion passes 7-0.

Motion made by Mr. Ray Culbertson, seconded by Ms. Bedinghaus, to adjourn the meeting. Motion passes 7-0.

Special Council meeting is adjourned.