Meeting Minutes

Monday, April 6, 2015 ~ 7:30 P.M.

Louis J. R. Goorey Worthington Municipal Building
John P. Coleman Council Chamber
6550 North High Street
Worthington, Ohio 43085

City Council

Bonnie D. Michael, President
Robert F. Chosy, President Pro-Tempore
Rachael Dorothy
Scott Myers
David M. Norstrom
Douglas Smith
Michael C. Troper

D. Kay Thress, Clerk of Council
CALL TO ORDER – Roll Call, Pledge of Allegiance

Worthington City Council met in Regular Session on Monday, April 6, 2015, in the John P. Coleman Council Chambers of the Louis J.R. Goorey Worthington Municipal Building, 6550 North High Street, Worthington, Ohio. President Michael called the meeting to order at or about 7:30 P.M.

Members Present: Robert F. Chosy, Rachael R. Dorothy, Scott Myers, David Norstrom, Douglas K. Smith, Michael C. Troper, and Bonnie D. Michael

Member(s) Absent:

Also present: Clerk of Council Kay Thress, City Manager Matthew Greeson, Director of Law Pamela Fox, Assistant City Manager Robyn Stewart, Director of Finance Molly Roberts, and Director of Planning and Building Lee Brown

There were approximately thirty three visitors present.

President Michael acknowledged a boy scout from Troop 905 who was in the audience. The scout was in attendance as a requirement for his Citizenship in the Community merit badge. She encouraged him to ask questions.

President Michael invited all those in attendance to stand and join in the recitation of the Pledge of Allegiance.

VISITOR COMMENTS

APPROVAL OF MINUTES

- March 2, 2015 – Regular Meeting
- March 9, 2015 – Committee of the Whole Meeting

MOTION

Mr. Troper made a motion to approve the aforementioned minutes as presented. The motion was seconded by Ms. Dorothy.

There being no additions or corrections, the motion to approve the minutes as presented carried unanimously by a voice vote.

PUBLIC HEARINGS ON LEGISLATION

President Michael declared public hearings and voting on legislation previously introduced to be in order.

Ordinance No. 12-2015 Vacating Street Right-of-Way on the West Side of Linworth Road.

The foregoing Ordinance Title was read.
Mr. Greeson commented that Ordinance No. 12-2015 has been properly introduced and this is the public hearing on the legislation. It is a request to vacate a portion of right-of-way on the west side of Linworth Road. Staff recommends the following procedure:

1) Mrs. Fox will overview the process for vacating the right-of-way
2) Mr. Brown will overview the property, the right-of-way in question, the nature of the application and the staff recommendation
3) Hear from the applicant, Jay Zollars, who is present as well as his attorney Mr. Hrabcak
4) Council discussion

Mr. Greeson added that Mrs. Fox recommends that anybody who wants to testify on this item be sworn in. Ms. Michael shared that she has received several speaker slips from people other than the applicant and his attorney. She directed all who wished to testify on this issue, with the exception of Mr. Hrabcak, stand and be sworn in.

Mrs. Fox administered the oath.

The Process
Mrs. Fox shared that staff received a petition on behalf of the property owners of 6211, 6219, 6227, 6233, and 6245 Linworth Road, which are five lots on the west side of Linworth Road and north of StRt 161. Said petition was to vacate the right-of-way that was platted as part of the Elmwood Subdivision from back in the late 1800s. The process for vacating right-of-way by petition is contained in Ohio Revised Code 723.04. When council received this petition it is required to hold a hearing, which is what we are doing this evening and upon being satisfied that there is good cause for the vacation, that it will not be detrimental to the general interest and that the vacation should be made, council may by Ordinance declare such street to be vacated. The effect of vacating that street is that the land becomes in the ownership of the abutting lot owners. In this situation, the street is at one side of the properties and so the effect of a street vacation in this particular instance would be that this land would become part of the land of all of these property owners.

Mrs. Fox stated that Council will have to make a determination that: 1) There is good cause for the vacation, 2) It will not be detrimental to the general interest, and 3) It should be made. She thinks in this situation council has the petition that was provided as well as the reasoning for the petitioners submitting this petition. Mr. Hrabcak is here on behalf of Mr. Zollars.

When asked by Mrs. Fox if he would be speaking on behalf of the other property owners, Mr. Hrabcak replied that he has been retained by Mr. Zollars. The neighboring property owners have joined in the petition to vacate.
Overview of application and staff recommendation

Mr. Brown restated that the parcels in question are located on the west side of Linworth Road, north of Dublin-Granville Road. There are five properties interested in the vacation but the main focus of this hearing will likely be on Mr. Zollar’s property.

Mr. Brown shared that during staff’s first conversation with Mr. Zollar in June 2014 they realized that according to the Franklin County Auditor’s map, it looks like 75% to 80% of the house is actually located in the right-of-way. He managed to have someone from the County Engineer’s office go out to the site and perform a survey of the property. That survey revealed that Mr. Zollar’s property actually included an additional 12 to 14 feet. Members will see a faint black line on the map being displayed on their monitors (shown below) that runs from the top of the screen to the bottom. That line is what the Auditor is showing as the parcel boundary. To the east of that line members will see the actual property line (shown in red) as determined by the Franklin County Engineer’s office. With that survey it was determined at only an 1/8” of the northeast corner of the house was actually in the right-of-way. As the properties continue down south towards Dublin-Granville Road, all of the houses and the sidewalks related to the houses would be pulled out of the right-of-way so the only structure in those five properties in the right-of-way is an 1/8” on the north side of Mr. Zollar’s property.

Mr. Brown reported that the Franklin County Engineer’s office is recommending a ten foot vacation of right-of-way. The red hashed line is the approximate location of the ten foot vacation of right-of-way. That would get the stoop and the sidewalk to the front porch of the house out of the right-of-way.
Mr. Brown shared several slides of the property from last summer. He added that it has since been cleaned up as the applicant is going through a severe renovation on the property. He then showed pictures of the property as it stands today.

Mr. Brown commented that all of the landscaping, the stone walls, and the timber walls along this western portion of Linworth Road are actual in the right-of-way.

Mr. Brown showed slides of Mr. Zollar’s property. The entire area leading up to the house with the landscaping and stone walls is located within the public right-of-way.
The following picture was taken from the applicant’s driveway and looking south towards Dublin-Granville Road.

The following slide is looking north along Linworth Road. All the vegetation, the light post and everything on the left side of the picture is actually in the right-of-way.
The next slide Mr. Brown shared showed Mr. Zollar’s personal residence. Members will see the heavy vegetation north towards the ravine.

The next slide Mr. Brown showed is of the property in question. The property has been heavily renovated. A new concrete sidewalk was constructed from the driveway to the front porch and a new stoop added. The front corner of that porch post is the actual area that is currently in the right-of-way.
The next slide is a blowup of the survey that was provided by the County Engineer’s office that shows the location of the house.

The following is an exhibit that was prepared by Dean Ringle’s office with the recommendation of a ten foot vacation.
The following slide again shows what is actually on the Auditor’s Website versus what is actually proposed by the City and from Franklin County.

\[Image of a slide with a map showing actual and proposed property lines.\]

Mr. Norstrom asked the location of the line based on the application. Mr. Brown pointed out the change as requested by the applicants.

Mr. Myers recognized that it would encompass all of the current hardscape and landscape on those properties. Mr. Brown agreed. He added that during the original conversations staff had with the applicant back in June and July we made reference to all of the planning work that is going on within the city and with ODOT for the intersection improvements of Linworth and Dublin-Granville Road. We shared that there may be widening or just intersection improvements. There may likely be bike and pedestrian plans that could include future right-of-way for a multi-use path or some type of streetscape improvement or storm water infrastructure improvements. All of that was shared in our original conversations and one of the reasons that staff felt we didn’t want to give up something that we may need, whether it be five days or five years from now.

Mr. Norstrom commented that the applicant was aware of the property line when they put the hardscape in. Mr. Brown understands that the applicant bought the property at Sheriff’s sale last year. The stone walls that were shown were covered under a great deal of brush. He believes he just removed the brush and cleaned up the stone wall.

Mr. Myers asked the location of the fifth parcel. Mrs. Fox explained that it is lot 32 and is located further to the south.

Dr. Chosy asked if one of the suggestions with that ten foot line was to continue it in front of the other houses. Mr. Brown replied that from what staff understands from the County
Engineer’s office is that it would vacate only the portion in front of Mr. Zollars house in order to get the house, the sidewalk and the stoop completely out of the right-of-way.

Dr. Chosy stated that it looks like the second house is just about touching the right-of-way line as well. Mr. Brown replied that according to the County Engineer’s Office, the second house is completely out of the right-of-way.

Ms. Michael asked if the sidewalk was out of the right-of-way. Mr. Brown acknowledged that it could possibly be in the right-of-way.

Mr. Myers asked if the sidewalk and stoop had to be permitted before it was constructed. Mr. Brown replied that they should have received a right-of-way permit from Service and Engineering for any work done in the right-of-way however the property itself was annexed in 1993 and prior to that was in Perry Township. The right-of-way and the properties to the south were actually annexed in 1988 so depending on the timing of things it could have been while it was still in the county.

Ms. Michael commented that if the right-of-way was vacated then the city would not have any ability to add bike trails or something like that without doing something to regain access to the right-of-way. She asked if that was correct. Mr. Brown agreed.

Dr. Chosy commented that as long as that right-of-way portion is not used landscaping and everything else can be done. He asked if that was right. Mr. Brown agreed. He added that Section 951.03(b) deals with the area typically between your property and the street. Typically we see a sidewalk and a five foot green belt that requires the applicant to maintain. If any type of work is to be done then a right-of-way permit is required.

Mr. Smith asked how far from this parcel is the city corporation line. Mr. Brown replied that five parcels to the south you hit the City of Columbus corporation limit. Everything north of this parcel is city of Worthington.

Ms. Dorothy asked the location of the right-of-way line north of this property. Mr. Brown replied they are located in the rear lots of Potter’s Creek.

Dr. Chosy asked if there is right-of-way to the west of Linworth Road further north. Mr. Brown replied yes. It is a 60+ foot right-of-way.

Mrs. Stewart showed the location on the map.

Mr. Brown acknowledged there being additional right-of-way but it gets tighter as you travel north.

Michael Hrabcak, Attorney for Jay Zollars
Mr. Hrabcak shared that he would like to speak first just so he can frame a little bit of the issues for council so that we can fully appreciate the situation that we are in. As indicated in the petition, Mr. Zollars purchased this house at a sheriff’s sale. Pursuant to
that Sheriff’s Sale there was a Preliminary Judicial Report which is required to be filed that notifies the bidders and/or potential buyer of various liens and encumbrances and right-of-ways that may affect title to the property. This right-of-way was not on the Preliminary Judicial Report and for one reason, the only place that this right-of-way appears is on the actual subdivision plat for the Elmwood Subdivision that was platted in February of 1888. Something transpired after the fact, there is a theory out there that perhaps the records had burned but nonetheless a title search, short of going to the Franklin County Recorder’s Office and eliciting the powers that be there, this would have never be discovered. Your applicant bought without notice, without knowledge and clearly the history of the property has been operated wouldn’t have notice of this particular right-of-way. The same goes for all of the adjacent property owners. These adjacent property owners have enjoyed these houses for quite some time. The subject property was built in 1946. This right-of-way was not of issue for 137 years until Mr. Zollars sought to improve an eyesore across the street from his house. He has invested substantial dollars, time, energy, and effort in order to rehab this property, which was in a serious state of decay. It is now a home that the council and the residents of the city of Worthington can be proud of and it is certainly something that will affect its taxable value for revenue purposes.

Mr. Hrabcak explained that part of the issue that faces council members is this is a property that has been annexed and members have inherited this issue. He will submit to members that none of the neighboring property owners had notice or knowledge of this right-of-way. That being said, each of these property owners and everybody that has participated in this particular application has paid property taxes on each one of these pieces of real estate which does not reflect a diminution in value that this right-of-way would mean, which is significant. Not only the city of Worthington but Franklin County has enjoyed property tax revenues from these properties. Should council not vacate this petition, he is reasonably confident that each of the affected homeowners would file a Board of Revision complaint to have their taxes reduced on their respective property by the impediment that this right-of-way, which until recently was nonexistent but for Mr. Zollars due diligence would not have appeared. He would submit to members had Mr. Zollars not purchased this particular property and proceeded through the proper course to rehab it that it is very likely this right-of-way would have done undiscovered. Noteworthy, each of these residents have occupied this right-of-way openly, continuously, adversely, and notoriously for much, much longer than twenty one years. He would submit to council at least as early as 1946 when the home was built. Mr. Zollars home is arguably the most significantly impacted. There was a serious miss when that home was built and it was allowed to be built within the right-of-way.

So there are a number of different things going on here but the long and short of it is this, we believe that the council will be satisfied that there is good cause to vacate the entire right-of-way. In addition, we believe that it wouldn’t be detrimental to the City. It hasn’t been detrimental to the City or the County for the 137 years that this right-of-way has been on the subdivision plat. So he would submit to members that although while they appreciate Mrs. Fox and Mr. Brown’s concession as it relates to a ten foot right-of-way easement, that in the grand scheme of things makes homeownership for Mr. Zollars and
all of the other neighboring property owners very, very difficult in if none existent as it relates to the values of their property.

Mr. Hrabcak commented that he believes that Mrs. Fox had indicated in her memorandum to Council that there is a concern or reservation as it relates to a future use for either bike or pedestrian traffic. He would submit to members that those are very, very important issues, however the way that this is noted on the subdivision plat is for street purposes only and they believe that would exclude specifically pedestrian and bike traffic. He submits acknowledged that being the applicant’s view and he and Mrs. Fox may and perhaps agree to disagree on that issue.

Lastly, as it relates to StRt 161 and Linworth Road and the improvements, if you look at the way this right-of-way is shared it pie shapes out basically to nowhere. If you look all the way to the north that ravines off into a significant ditch so to indicate that that might be a useful right-of-way at some point in time, that would only be after a very, very substantial investment in order to level that area out.

Mr. Hrabcak concluded by thanking council in advance for their time, attention and consideration on this most important issue and certainly a most important issue to these voters and taxpayers.

When Mr. Myers commented that Mr. Hrabcak doesn’t dispute the Engineer’s survey as attached to the memorandum, Mr. Hrabcak agreed that they are in agreement with what the lines are.

Mr. Myers understands that with a Sheriff Sale there may be a Memorandum that is an As Is Sale or No Warranty Sale. He asked if that is correct. Mr. Hrabcak agreed that is correct. He added that individuals who attend Sheriff Sales rely on the Preliminary Judicial Report because it outlines the various things that affect the property. It is no different than a Title Commitment. It is a commitment for title insurance.

Mr. Myers commented that he looks at that as the same way he looks at his adverse possession argument. He can call the IRS and ask for advice but they can still issue a finding even though their advice told me to do it the right way. In other words, you can’t hold the fact that Mr. Zollars bought this without knowledge and that we have left it this way forever. That is an estoppel argument and you can’t estoppel the State. Mr. Hrabcak replied that for the purposes of this tribunal he would say no.

Mr. Myers added that you can’t take adverse possession against the state either. Mr. Hrabcak replied that he is not so sure about that. He believes there is case law out there that says you cannot but there are a whole host of legal and equitable theories by which the homeowners could proceed and those are options that are available to them and they will review them depending upon the finding of City Council.

Mr. Myers asked at the end of the day, what is his standard to apply in this case. Mr. Hrabcak replied that he believes that it is within the public’s best interest and what is in
the interest the City of Worthington in general as set forth in the statute as Mrs. Fox
enunciated. Mr. Myers stated that he would prevail if he shows good cause. He asked if
that sounds right. Mr. Hrabcak replied that he believes so, yes.

Mr. Myers asked if he has told him all of the reasons why council shouldn’t do this. He
asked Mr. Hrabcak what is his Good Cause other than the fact that it has always been
this way and nobody has gotten hurt and we shouldn’t do it now. Mr. Hrabcak replied:

1) It has been around for 137 years and there hasn’t been Good Cause yet to utilize
it.

Mr. Myers commented that doesn’t mean there won’t be Good Cause tomorrow. He
asked what Mr. Zollars’ perspective is. Mr. Hrabcak replied that his perspective is
should there be any action taken in regard to the right-of-way it would be substantially
injurious to Mr. Zollars, to his property, and to the value of that real estate that he pays
real estate property taxes on.

Mr. Myers stated that is what he is driving on. He asked how he would be hurt. He
asked for specifics. Mr. Hrabcak replied that he is already being hurt by going through
the process and with diminution of value on his property because once he goes to sell it,
he has to disclose the existence of this right-of-way, which up until his ownership has
been unbeknownst to everybody and unbeknownst to the neighboring property owners.
In addition to that the value of his property is substantially diminished by the fact that the
right-of-way is there. Because it is there it clouds the title. Anybody buying that property
will pay substantially less for it and arguably its value is less.

Mr. Myers asked if they would have a remedy against their title policy then if that was not
discovered in a title search. Mr. Hrabcak replied that he bought it at a Sheriff’s Sale so
there was a Preliminary Judicial Report. Mr. Myers commented that he is assuming the
other property owners have title insurance covering their properties. Mr. Hrabcak
replied that he doesn’t know that. They joined in the petition. He doesn’t represent those
folks but that would be something that they would address. But what is injurious to them
is injurious to Worthington as a whole. You have voters, you have taxpayers, and you
have people that are here enhancing their values. If you look at these properties, they
are absolutely beautiful and they are beautiful because of the efforts they put forth on the
property. Mr. Myers commented that he will get no argument from him. There is
substantial improvement and he appreciates that.

Ms. Michael commented that when property taxes are assessed, the taxes are based on
the lot lines. She asked if that was correct. Mr. Hrabcak replied not necessarily. There
are a number of things that can affect a property’s value. Board of Revision complaints
are filed all of the time based on changes of use, based upon encumbrances, so it is not
just based on a lot line in and of itself. It is based on what would be the value of that
property.
Ms. Michael asked Mrs. Fox to comment. Mrs. Fox stated that she is not sure of the
question but if what Ms. Michael is asking is when people pay taxes they are presumably
paying taxes on their legally described parcel. Mr. Hrabcak added and the value of the
real estate on it. Mrs. Fox agreed that all of that goes into it but she thinks what Ms.
Michael is asking is are they just looking at the parcel, the legally described property.
Mr. Hrabcak commented that he would be hard pressed to believe that as good a job as
our Franklin County Treasurer does that they get into right-of-ways and easements and
valuate property based on that.

Ms. Michael asked if they are paying taxes on the easement portion of the property or
just the portion of the property that is in their parcel. Mr. Hrabcak replied that they are
paying tax on the entire parcel. Ms. Michael commented that would not include the
right-of-way. Mr. Hrabcak disagreed. They are paying tax on that entire property.
When somebody goes by and values that property, they are valuing that property based
on the way that it sits. They are not basing it just upon the house separate and apart
from the hardscape and streetscape. Mrs. Fox added that they don’t have a meats and
bounds description. They have a lot number description and so the lot is the original
platted dimension of the lot. Ms. Michael added that it does not include the easement.
They are not paying tax on an easement but rather on a parcel.

Mr. Hrabcak stated that maybe he is misunderstanding Ms. Michael’s question and he
apologized. If she were to look at Mr. Zollars home and if you were to take away 90% of
his driveway and all the way up to 10 feet in front of his front porch, he would suggest to
members of council that that would substantially impact the value of that home and that it
would be unjust for him to pay real property taxes on value that is truly not there. Mr.
Myers commented that is a Board of Revision issue. Mr. Hrabcak replied that he knows
but he is just responding to the question.

Mr. Myers asked Mrs. Fox what the County’s role is in this. She has indicated that the
County Engineer is going to propose to the County Commissioners that they approve a
10 foot. This property is in the city of Worthington. He asked what does it matter what
the County does. Mrs. Fox replied that the County takes the position that since Linworth
Road is a county road than it is a duel process. They also weigh in on vacation of any
portion of what is deemed to be a county road. Mr. Myers stated that the city doesn’t
really have a whole lot of certainty as to if there were conflicting decisions how that
would be resolved. Mrs. Fox replied no. Mr. Hrabcak added that there was a meeting
that took place on site and he believes that Franklin County is taking the position that
they will support whatever the city of Worthington does. That is why they proceeded with
the application with the city of Worthington first. He asked Mrs. Fox to correct him if
that is inaccurate. Mrs. Fox agreed but added that she thinks that they also have
indicated that they would recommend up to the 10 feet and no more than that but that is
their process and their issue.

Mr. Myers commented that he has no idea what has happened before tonight. He knows
that since 2008 when the market tanked nobody has been talking anything about
Linworth and StRt 161. There is a lot of development that nobody was talking about until
two years ago. Now we are getting hit from all sides. This happens to be one of the
areas that is probably second or third on our list of priorities right now. We’ve got
ODOT involved. We’ve got the County involved. We’ve got developers involved on two
of the four corners so he has to keep an open point of view on this property. He doesn’t
know what is going to happen but the first time in seven or eight years something very
well might happen. So he has that on the one side and that is saying don’t vacate
anything. Keep it. Then he has what he thinks is a hardship to an extent to the property
owners, at least Mr. Zollars. His house is over the line. He has to tear down an 1/8” of
his house. He is caught between a rock and a hard place. It seems to him that this is
something that we need to come to some mutually agreeable resolution on. Mr. Hrabcak
replied that they would very much like to do that.

Mr. Myers commented that 10 feet is not an option. Mr. Hrabcak replied that if you look
from where Mr. Zollars sits and you take 10 feet, 10 feet you step out the front door and
you are done. Mr. Myers shared that he lives in Colonial Hills and they don’t have much
more than that. He realizes that Linworth is a much busier road than Colonial except at
7:45 on a school morning.

Ms. Dorothy commented that she has a question about Mr. Hrabcak’s statement that it
would be a diminution of the values of the properties. She knows that in other forums
they have talked about bike and pedestrian adding value to residential properties. The
closer proximity you are to a bike and pedestrian pathway your property value has been
shown to increase. Mr. Hrabcak replied that he would submit to her that a bike or
pedestrian path within 10 feet of the front door wouldn’t enhance the value of the
property. He doesn’t have any citation to authority for that but he would submit that to
the Council. Again, if you look at the way the dedication (he will use that word very
loosely because dedication has a very legal significance) the way the dedication is on the
subdivision map, it refers to a street purpose. It does not reference either street or
pedestrian traffic.

Ms. Michael stated that she would take a little bit of an argument with him on that in the
sense that right now, one of the major trends that there is throughout Ohio and through
all of the organizations that are part of the Mid Ohio Regional Planning Commission that
includes Worthington is “complete streets”. The “Complete Street” concept includes
working to provide for bicycles and pedestrians. Mr. Hrabcak replied that he stands
corrected. He is referring to what is set on the map of 1888 and he is not quite sure that
bike or pedestrian traffic was contemplated. Mr. Myers shared that that might have been
all there was. Mr. Hrabcak agreed. He appreciates council’s questions. That just points
out the significant issue that we have here and the very difficult hardship that these
homeowners face and that this Council faces with the competing interests that are
presented by Linworth Road.

Mr. Myers commented that he is in a position now where it is either all or none. Mr.
Hrabcak replied that they would like to work with Mr. Myers and they would submit that
they work with him to come to some type of a reasonable accommodation that serves
everybody’s best interest. Mr. Myers replied that is why Council pays Mrs. Fox. Mr.
Hrabcak commented that with all due respect to Mrs. Fox the way that that has been set up was that there was going to be this 10 foot piece and again you can see the chagrin of the homeowners and the affected property owners. It addresses a very small portion of what is ultimately Mr. Zollars issue and really doesn’t address any of the other adjoining property owner issues. So he submits that while they appreciate that and they thank staff for it they believe that there is more common ground than has been tendered by way of olive branch to date.

Dr. Chosy commented that from looking at the pictures from a practical standpoint, the fact that the right-of-way is close to your front door doesn’t mean that all of that is going to be used. If you look down there is a portion along the side of the road that is quite wide. Then if you need to go further in perhaps only as far as the west side of the walls there. In fact the other houses would be a great deal more affected than Mr. Zollars. So it is not like all or nothing. It’s not like if that is 10 feet in front of your house it will come right to the porch. It is going to be along the street. Mr. Hrabcak replied that he doesn’t necessarily disagree with what Dr. Chosy is saying. That being said, if you look at that that is why he is submitting to Mr. Myers that perhaps there is something further between the 10 foot off the front porch and the entire vacation of the right-of-way that may be possible. But again, what has been submitted at least thus far and what is before members today is just as it reflects Mr. Zollars property and gives no deference whatsoever to the neighboring property owners that are affected.

Ms. Dorothy asked to see the County Engineer’s survey.

Afterwards she commented that it looks like to the north of Mr. Zollars property the right-of-way is 40 feet. Mr. Brown agreed. Ms. Dorothy continued by stating that it then jogs out and we have that triangle that we are looking at. She asked if that was correct. Mr. Brown agreed.

Ms. Dorothy stated that the County Engineer is suggesting to vacate that 10 feet in front of the house. Mr. Brown again agreed.

Mr. Myers pointed out that to the north the right-of-way is much narrower than what the right-of-way is beginning at Mr. Zollars property.

Mr. Norstrom commented that if we look on the map that includes Dublin-Granville Road it has some black lines on it that shows the right-of-way relative to the properties. If you look you will see that the black line is the right-of-way. Mr. Myers thought that was the plat line. Mr. Norstrom confirmed that as what he is asking. Mr. Greeson commented that it is the Auditor’s plat.

Mr. Myers thinks it interesting in that the right-of-way does something very similar maybe based on that plat. Mr. Norstrom agreed. Mr. Myers continued by stating that the plat is not exactly accurate. They even put a disclaimer on the auditor’s webpage that that is not necessarily accurate.
Mr. Norstrom asked the location of the right-of-way. Mr. Brown showed the location according to the Franklin County Auditor as well as the City’s GIS website. Mr. Greeson added that it also shows up on the zoning map.

Mr. Norstrom commented that it implies that the right-of-way gets very broad there. Mr. Brown agreed. He added that it narrows down north of the site.

Dr. Chosy stated that the part north looks sufficient to be able to deal with pedestrian and bicycle lanes.

Ms. Michael asked if there is still right-of-way south of the property all the way down to StRt 161 or not on the west side of the street. Mr. Brown replied that there was. He added that it is a little tighter.

Mr. Myers asked if there is forty feet all the way to StRt 161. Mr. Hrabcak commented that it pies out. If you look at it the way it is on the subdivision map, it correlates exactly with the way that pie shape. Once it gets down to lot #31 it just pies out into the road.

Mr. Myers commented that from what he gathers, lot #31 would get the whole ten feet. They are closer to the right-of-way now than ten feet. He asked if that is correct. Mr. Hrabcak commented that the ten feet that is being proposed is only off of the front porch of Mr. Zollars property. Mr. Myers replied that he understands that. But he is assuming if we took that ten feet all the way down it is only going to affect the next two parcels because once you get to parcel #31 and possibly even #32, they are closer than ten feet to even a narrower right-of-way right now.

Mr. Zollars shared that he has pictures of exactly what Mr. Myers is asking. Ms. Michael stated why don’t we move on to that. Mr. Hrabcak thanked council for their time, attention, courtesy and questions. They were much appreciated.

Jay Zollars, 6280 Linworth Rd.

Mr. Zollars confirmed that he had been sworn in. He has lived there about fourteen years. He lives right across the street from the house being discussed this evening. He shared that the house was in deplorable condition. He recognizes the importance of right-of-way for the city. He values that. He also values the fact that Linworth and Worthington are working to have bike paths. He is not disputing that. He loves and welcomes that. What he is disputing and why he is before council this evening is because there are five owners whose houses are in the right-of-way. When he starts going through the pictures that he would like to show, members will see his argument. He would love to work with the city and come up with a compromise but for the last nine months there has been no compromise. It has only been no, no, or he got one foot out of the County to get the house out of the right-of-way but he still had to go get a variance to add on to the front of the house vertically. He is not expanding, just vertically. That is a hardship. It is money, time and effort. Mr. Zollars in referring to his pictures stated that they will demonstrate very clearly what their objections are.
Dr. Chosy commented that he has heard people talking about house #31. There is no house #31 on the map. Mr. Zollars replied that it is not showing up on the information that was presented to council.

Mr. Myers pointed out the location of lot #31 to Dr. Chosy.

Picture #1 – Shows the vegetation, the failing retaining wall and the condition of the front of the property at the time Mr. Zollars purchased the property.

Mr. Zollars shared that the property has been in that condition for ten years. He has lived across the street fourteen years. The retaining wall is falling down. Members can see all of the overgrown vegetation and as the pictures go on members will see that he has improved those items. Members will also notice the grade. If you look at the picture, he was standing at Linworth Road, level, and you look up, that is at least a thirty foot elevation. So any kind of work that the city has planned in the future he personally can’t imagine them either leaving him with a cliff ten feet from the front door straight down or eliminating the driveway to the property.

Dr. Chosy commented that he doesn’t understand what the picture is of. Mr. Zollars replied that it is a picture of the property in question, 6245 Linworth Rd.

Dr. Chosy stated that it is a picture facing the property. Mr. Zollars agreed. He added that you couldn’t see the house.

Picture #2 – The elevation

Mr. Zollars shared that the next picture is of the elevation showing from Linworth Rd. and looking up towards the house. Members can see a faint gray in between the trees. That was the house. He is just pointing out that the elevation is extreme at this biggest section of right-of-way.

Picture #3 – Picture of the improved property

Mr. Zollars shared that the vegetation is gone. The retaining walls have been rebuilt and are functioning. It is about a $10,000 investment of trying to maintain that and get it cleaned up.

Picture #4 – Picture of guardrail along Linworth Rd. to the north.

Mr. Zollars commented that the guardrail is there because there is a stream that runs underneath the road at this location. There is a good forty to fifty foot elevation going down. The original intent of this right-of-way was for a subdivision that was never built and that was the right-of-way for that. There are no houses, at least right now, that are planned and/or have access to that land. All that land is owned by property owners on Potter’s Creek and the houses sit on the front part.
Mr. Zollars said he just wanted to point out that there is still sufficient room for a bike path in front of the retaining walls that are within the guidelines that council has already approved in other bike path projects. He will prove his point in a minute.

Mr. Zollars shared that the neighboring property to the south is owned by an older couple who raised five kids in that house. They have lived on this property for sixty years. They have had to rebuild that retaining wall and maintain that retaining wall and they have done an excellent job. They are unfortunately in poor health and could not come tonight to testify. But this right-of-way goes through their house as well.

Mr. Norstrom asked if the right-of-way goes through their house or through their property. Mr. Zollars replied the right-of-way goes through their house just like it went through the house at 6245 Linworth.

When members questioned his comment Mr. Zollars stated that he has another view that he will share in a minute.

Mr. Zollars commented that this house is located to the south. It is owned by Jennifer Brown, who is here tonight and intends to testify in favor of the petition to vacate the right-of-way.

Mr. Zollars commented that this is the fourth house to the south.

Mr. Zollars commented that the house at 6211 Linworth is the last house that is located within the city of Worthington. That house is approximately thirty-eight feet from the side of the road and it is located in the right-of-way. So unless the city of Worthington plans to buy that house to make this road wider in order to use seventy-six feet that they are encroaching on my property at 6245 Linworth, he finds it very difficult to understand why the city would need a right-of-way of eighty or ninety feet when you have a house thirty-eight feet from the side of the road.

Mr. Myers commented that under Mr. Zollars proposal the city gets nothing. We couldn’t even put a bike path in there. Mr. Zollars replied that under his proposal he was left without a choice because he was unable to have diligent conversations with the City. Mr. Myers stated he doesn’t know anything about that. Mr. Zollars contends that it is the truth and Mr. Myers asked him a question.
Mr. Myers stated that he is just asking yes or no, under your proposal there couldn’t be a bike path. Mr. Zollars replied that the City would have to get a right-of-way for all the way down Linworth Road.

Mr. Myers again stated that under this petition the entire easement would be vacated to the road and the City would not have room for a bike path. Mr. Zollars confirmed that as the petition is written today, yes.

Picture #10 – Construction on the house at 6245 Linworth Road

Mr. Zollars commented that the picture is just an illustration to show that he had to get a permit.

Picture #11a – Picture of the property looking towards Linworth Road

Mr. Zollars commented that the picture shows the front elevation of the property.

Picture #11b – Picture of the retaining walls.

Mr. Zollars stated that the picture shows the distance between Linworth Road and the first retaining wall.

Picture #11c – Map of the property from the Franklin County Auditor’s Website

Mr. Zollars shared a copy of the map on the Franklin County Auditor’s website.

Mr. Norstrom asked if it is the map before the property was re-surveyed. Mrs. Fox confirmed that it was. Mr. Zollars confirmed that it was to the best of his knowledge but stated that he doesn’t have any records or anything in front of him and he doesn’t believe the property owners that are here this evening have been notified.

Mr. Brown shared that staff worked with Dean Ringle’s office (Franklin County Engineer) and they went out to the property to survey. All of the other houses are actually outside of the right-of-way and the only house (by an 1/8”) that was in the right-of-way was Mr. Zollars house. Going through the process with the Engineer and going through their records and going out to the site and surveying the entire area for us, it actually added about twelve feet of additional property to the property owners along that side of the road.

Ms. Michael commented that the eastern lot line would then be moved to the right. Mr. Brown agreed.

Mr. Zollars asked if members also see his point in regards to where the house is located for house #6211. The diagram is from an estimate from the Franklin County Auditor’s website that is within forty feet of the road. His point is and as you just learned earlier
the right-of-way going north is forty feet and so he has a hard time understanding how council is going to do road improvements that are going to be up against someone’s house.

Mr. Norstrom asked when Mr. Zollars became aware of the issue of the lot lines. Mr. Zollars replied when he went to pull the permit to do remodeling. Mr. Norstrom commented that he was aware of the issues when he did the hardscape and improvements. Mr. Zollars acknowledged that he was aware. He added that he didn’t think he had a choice.

Picture #12 – 6417 Linworth Road

Mr. Zollars commented that this is a picture of a house up the street. It is north of the subject properties. Members will notice that that particular house, the house is again 38 feet from Linworth Road so there are all kinds of houses that are within 40 feet. Again we are all supporting the bike paths but to take the entire front yard of his property is a detriment to him as well as the future owner and it is not needed by the city of Worthington.

Picture #13 – Map showing the 6417 Linworth Road parcel.

Mr. Zollars shared that the house is 38 feet and the right-of-way is roughly 30 feet and that is using the measurement program on the Franklin County Auditor’s website.

Picture #14 – Picture of bike path

Mr. Zollars commented that the picture is of the brand new bike path that the city of Worthington put in on East Wilson Bridge Road. He went up and measured it. It is eight feet of grass and a five foot path. Mr. Brown interjected that those figures should be flip-flopped. It is five feet of grass and eight feet of path. Mr. Zollars acknowledged the mistake. He added that either way you are looking at thirteen/fourteen feet and not seventy six feet going in his front door.

Mr. Zollars commented that the point being is the front retaining wall, for his particular property is fourteen feet, the second one is twenty feet back. The bike paths that are in question and much wanted are about eight feet wide. The city can do the improvements that it wants to do. He pointed out that it is not just his house that is affected. This is a petition of five property owners that all have the same problem and none of them were aware of it at the time they bought the property because this right-of-way is from 1888. They have invested a bunch of money in the property. He was present a couple of weeks ago when Linworth Baptist Church is buying the property to the south of him on the east side of the road. They support that. They have been good stewards of the neighborhood and he is just asking for the same right-of-way and property owners rights that other people in Worthington enjoy.
Mr. Smith asked if he had any urgency to this decision. Mr. Zollars replied yes. He has been working at this for nine months and spending thousands of thousands of dollars. Mr. Smith commented that regardless of what has happened before, if it took council a couple of weeks to figure something else out that was a compromise, he asked if that would be satisfactory. Mr. Zollars replied that he would love to work something out but not ten feet. He thanked council for their time.

Jennifer Brown, 6227 Linworth Road
Ms. Brown confirmed that she had been sworn in.

Ms. Brown shared that she has no pictures but believes everyone has seen the lots. She owns lot #33, the address of which is 6227 Linworth Road.

Ms. Brown confirmed that she was not aware of this right-of-way when she purchased the house eleven years ago. According to the survey lines, the right-of-way actually goes up to her front porch. So getting back to the point, she is south of Mr. Zollars house and ten feet wouldn’t really benefit her much either. It would go right directly in front of her home. She has been paying property taxes on the entire lot. It wasn’t something that she was aware of until this whole situation came about. She is also concerned about the value of her house. Obviously she thinks that this would significantly decrease the value and also make it difficult if she would try to sell or add on to the house. She would not be able to add on to the front of her home and there is quite a bit of property today between the front porch and the house so if she chose to do that she certainly could. But this situation would prevent her from doing so.

Ms. Brown echoed that she is obviously in favor of the petition to remove the right-of-way for all of the reasons that have been talked about this evening.

Shawnda Thompson, 6310 Linworth Road
Ms. Thompson confirmed that she has also been sworn in.

Ms. Thompson stated that she supports the petition to vacate the right-of-way. Jay Zollars is her direct neighbor and he has done a lot to improve his property and our little plot of Worthington.

Ms. Michael commented that 6310 Linworth is north and east of the 6245 property. Ms. Thompson acknowledged that being correct. She thanked council for the opportunity to comment.

Keith Fuller, 6238 Linworth Road
Mr. Fuller commented that he had nothing more to add to what has already been shared.

Mr. Norstrom told Mr. Brown that he wants to make sure that he understands the situation. On the map that members have it shows the ten feet only in front of one property. That is what he and the county have discussed. There has been no discussion about the other property owners’ properties. Mr. Brown confirmed that as being correct.
He explained that the County Engineer’s Office felt that only the ten feet should be removed in front of Mr. Zollar’s house because that was the only structure that was actually in the right-of-way. That would get the structure, a stoop and a sidewalk out of the actual right-of-way.

Mr. Myers commented that even under the Engineer’s new survey the houses further to the south, just the physical structure of the house are out of the right-of-way. Mr. Brown agreed. Mr. Myers continued by saying that these owners would take a step off of their front porch and be in the right-of-way. Mr. Brown replied possibly.

Mr. Myers asked Mrs. Fox where the ten feet number came from. Mr. Brown replied that it was the recommendation from the County Engineer’s office and also when they were out at the site originally when it started back in June and July last year, at that point we thought that 70/80% of the house was actually in the right-of-way so the idea was to give the property owner that amount plus an additional ten or twelve feet to get the structure and everything completely out of the right-of-way.

Mr. Myers shared that what he thinks he hears is that the rationale behind the Engineer’s proposal was to make certain that all of the physical structures along those five properties were out of the right-of-way but it made no mention or regard for any green property. Mr. Brown agreed.

Ms. Michael commented that just because something is in a right-of-way it does not mean it is going to be developed. Mr. Myers agreed but added that it could be.

Dr. Chosy stated that you have to deal with the real world and ideally you could have a very neat and nice bicycle path with green between it and the road and all of that but in this instance can we not figure out the minimal amount of land that we need on the west side of the road to accomplish a path and just let that be the right-of-way. It is still going to be very close but it is sort of a compromise.

Ms. Michael shared that what makes this issue much more convoluted is that right now there is the study of the StRt 161 corridor from Sawmill Road to StRt 315. It is currently under study and review with MORPC, State of Ohio, Perry Township, City of Columbus, and Worthington all trying to figure out what are the best solutions and part of that is also looking at possible redevelopment that may occur at the intersection. The two biggest areas are the railroad and Linworth Road to be looked at so without knowing what recommendations are going to come it is kind of hard to know if we are going to need something additional for road or just for a path.

Mr. Myers commented that immediately north of this property the most that we can get is forty feet. Mr. Greeson shared that Mr. Watterson who wasn’t able to be here said that and he thinks Mr. Brown touched on it in his presentation, storm water would be another potential use. He thinks that is the challenge with being a government official that manages right-of-way is that you are called upon to be a steward of it not knowing all of the details about its potential future use but knowing that the public may have an interest
in the future whether it be bikeway, road, sidewalk, or storm water. We lay fiber optic cables in rights-of-way that people platted 100 years ago. They didn’t think of fiber optic cable at that time. Those kind of stewardship questions always emerge in these kinds of instances. Ms. Michael commented that some of those, while the fiber optic cable gets buried there are still other uses of the property. It is not like somebody steps off their front porch and they are in the middle of the street.

Ms. Dorothy stated that she has a question about that. She has heard concern about having a right-of-way on their property but how many properties in Worthington have right-of-ways. She asked if this is an a-typical situation. Don’t we have setback requirements for building any property and what about right-of-ways throughout Worthington? Mr. Brown reported there being a required setback. Typically for residential the setback is thirty feet however with this, depending on when it was built and when it was annexed would have been under different codes at the time. He is sure throughout the city there are probably other examples of encroachment. The Snow House is an example of one that he knows of where the front two feet of the house is actually in the right-of-way. Mr. Greeson added that there is a property on StRt 161 near the Adventist Church where the city granted an easement for the footprint of the house so that at some point in time they could get financing or whatever. It is actually an easement rather than a vacation of the StRt 161 right-of-way and the easement is the footprint of the house.

Mr. Norstrom commented that what members have before us is an all or nothing and he cannot support the vacation as proposed by the property owners. He thinks there is room for compromise. He is not sure that he agreed with Dr. Chosy in that it is minimal because he is not sure what minimal is at this point in time. He thinks as we look at the adjoining properties to the north there is only about a forty foot right-of-way (if he understands from the conversation). He thinks the ability for all of the properties to have their property extended towards Linworth is there. He just can’t support that it goes all the way as proposed by the applicants. Dr. Chosy agreed.

Ms. Dorothy asked if members can table this legislation. Mr. Norstrom thinks members should vote it down.

Ms. Michael agreed that members could either vote or table the legislation.

Mr. Norstrom asked if members were to table this legislation, it could come back as an amended application. Mrs. Fox agreed that with the permission of the petitioners, she thinks that council can table it. She thinks we would need to hear from them on that. She thinks it could just come back as an amended request.

Mr. Hrabcak commented that the applicants are receptive to that proposal.

MOTION Mr. Norstrom made a motion to table Ordinance No. 12-2015 to provide staff time to work on an agreeable solution. The motion was seconded by Mr. Myers.
The motion to table carried unanimously by a voice vote.

Mr. Myers asked if members wanted to give staff any direction. He encouraged everyone who joined in this petition to talk to their title insurer. They missed it. They blew it. He is sure Mr. Hrabcak could help them with that because there are issues.

Ms. Michael explained that when properties were purchased a title company would have done a title search and the title search didn’t catch something that it should have caught that should have been exposed to owners prior to the purchase of those properties and that is what title insurance is there to cover.

Mr. Norstrom shared that the guidance he would suggest is to look at Complete Streets and look at the adjoining right-of-way widths and determine how if something were to happen along Linworth Road what would it take in the future. Understand that we are also looking to make the property owners in a better situation with the properties than they are currently.

Mr. Myers would like to know more about why the Engineer felt that ten feet was appropriate and just on that house.

Ms. Michael shared that a concern that she has is that it might not be a flat number of feet all the way down because the houses are at varying lengths. We might have to have a different amount for each one in order to be able to do something like Complete Streets or pedestrian/bicycles. She thinks that to be able to walk out of your house and have a nice trail like we have on Wilson Bridge Road is probably not going to be a hardship.

Mrs. Fox shared that she hasn’t thought that through all the way but if what you are suggesting is vacating it seems to her that the property owners’ property descriptions will change. If that area then becomes part of their property we have a plat here that the County has done but that would all have to be re-platted or re-described in some form or fashion. She raised that because it is not just us saying lets draw the line here.

Mr. Norstrom asked if the city would get more property taxes. Mrs. Fox replied it could be but she is just suggesting that the action by this council is not just that, . . . we can say the line will be drawn here but then it becomes a matter of what exactly is the property owners legal description.

Mr. Hrabcak commented that the property owners would be more than happy to assume whatever burden would be necessary.

Mr. Myers shared that given the fact that the city is not making money hand over fist on property taxes. He added that the enhanced value of that property alone probably accounts for more than a couple of feet moving a property line. He just wants to make certain we are not hamstringing our negotiators from the beginning. He doesn’t know.
They may very well come back in two weeks and say ten feet or nothing and he will be okay with that. He would just like to give this one more shot to see if there is something.

Ms. Michael asked if council wanted to have some idea of a timeline for coming back. Mr. Greeson thinks staff will have to consult with the County Engineer’s office and probably ODOT as well. Mr. Myers shared that they may drive this train. The city may not have a choice.

Mr. Greeson stated that council is asking staff to anticipate improvements that other agencies are going to be a part of. Mr. Norstrom commented that he is not sure all of council are asking that. This is a local problem. He doesn’t care what MORPC and others are doing. This is our issue.

Dr. Chosy commented that members are always hearing about groups planning ahead and knowing exactly what they are going to do. Why can’t we have a rough plan here?

Mr. Hrabcak replied that Franklin County doesn’t move as expeditiously as the city of Worthington in his experience.

Mr. Myers asked that it return just as quickly as possible. Other members agreed.

Mrs. Fox commented that just as soon as staff feels as if we are at a point where we have gone as far as we can go we will bring it back. Mr. Myers added that it may ultimately be out of our hands. It may be the County that drives the train.

With that, Ordinance No. 12-2015 was tabled.

**Ordinance No. 13-2015**

Amending Sections 1123.19, 1123.63 and 1127.03(d)(2) of the Codified Ordinances of the City of Worthington Defining Child Day Care Center, Nursery School and Preschool, Defining Semipublic Uses and Providing for Consideration of Changes to Conditional Uses.

Mrs. Fox shared that at the last city council meeting staff introduced Ordinance No. 13-2015 which provided for amendments to our code to allow for a day care center, preschool, and nursery. The ordinance as introduced would change the definition of semi-public use and include within that definition what we terms daycares that were accessory to those semi-public uses. As members are aware we received quite a bit of opposition to that approach and specifically using the term “accessory” in connection with child day care and semi-public uses. Since the last council meeting she has met with Scott Whitlock and an attorney that he engaged in this matter. She also had extensive discussions with representatives of Beth Tikvah who requested that they have the ability to consider child care at their synagogue at 6121 Olentangy River Road. As a result of those conversations and in light of the fact that this accessory use approach was not sitting well with some members of the public we discussed the proposed language that
Mr. Whitlock had presented that actually created a new definition for child care that defined it as a co-located child day care center, which was a center that was within the structure of and using the facilities of a semi-public principal use operated by that semi-public principal use or an organization that furthered the mission of the semi-public use. We had some discussions about that. We have talked about process. Everybody that she has been discussing this topic with is in agreement that from a process standpoint enacting this new definition would get where she believes we were with the prior language by getting this request before the MPC as a conditional use. So we have an ordinance now that staff is proposing that council consider that has all of the same provisions in it (and she will go through those in just a minute) but change this ordinance to include this new co-located child care definition within our code and to allow for that co-located child day care use to be considered as a conditional use in an R-10 and R-16 residential zoning category.

Mr. Norstrom stated to further this conversation he will make the following motion to amend to the ordinance.

**MOTION**

Mr. Norstrom made a motion to amend Ordinance No. 13-2015 as presented tonight and as found at member’s places this evening. The motion was seconded by Mr. Smith.

The motion to amend Ordinance No. 13-2015 carried unanimously by a voice vote.

Ms. Michael stated that we are now working with the amended language.

Mrs. Fox shared that this ordinance amends the child day care center existing section of the code to bring it more up to date with some of the terminology for the Ohio Department of Developmental Disabilities. It also eliminates a reference that was in there to child day care does not include the provision of care of children during religious services. We took that out so that there wasn’t any confusion about what child day care was or wasn’t with respect to religious institutions. As she indicated a minute ago we have included this co-located child day care center definition as 1123.191. This ordinance also amends 1147.01 to include as a conditional use in R-16 and R-10 this newly defined co-located child day care center. We also made a change to the conditional use permit section of the code under 1127.03(d)(2). That provision as it currently reads addresses changes to conditional use permits when there are changes, alterations, adjustments or rearrangements to structures and parking areas and many of the physical aspects of a conditional use permit but it did not address when a conditional use permit use changes to an extent that there may be some impacts on some of these elements that the city considers for the permits. So we added language in there where the applicant would have to request a change to your conditional use permit when there is a change in use that would affect any of those basic standards of review elements set forth in the code.
Mrs. Fox reported that being a summary of what this ordinance is. She thinks there are a few people in attendance that will probably want to speak to this but she would be happy to answer any questions.

Mr. Myers commented that he just wants to make sure that he has this right. A semi-public use would be one conditional use in an R-10 district and that a co-located child care center would be yet another conditional use so they would essentially have to seek approval for both conditional uses and both of those would go through the MPC process. Mrs. Fox agreed.

Mr. Myers added that it would include changes to use and physical structure. Previously granted conditional use of a co-located child care, if the use changed to something other than co-located child care they would still have to seek approval. Mrs. Fox agreed if it were an allowable conditional use.

Andy Shafra, 7128 Bluffstream Ct. Columbus, Ohio
Mr. Shafra shared that he is President of the Board of Trustees at Congregation Beth Tikvah which is located at 6121 Olentangy River Road.

Mr. Shafra commented that he is here to speak on behalf of Congregation Beth Tikvah and their desire to provide faith based early childhood education at their facility. They have been residents and members of the Worthington community for thirty five years. During that time they have worked hard to serve the needs of their families and to be good citizens and neighbors.

Mr. Shafra shared information about the religious services and educational programs available at Beth Tikvah. He also highlighted some of the social services the Congregation provides. He added that there is one important educational service that a Congregation can provide but currently does not which is a faith based early childhood education program for their youngest members.

Mr. Shafra explained that the Congregation loves the urban feel of their property and the beautiful woods that surround them. Just as their neighbors want to maintain this wonderful environment, he assured members that the Congregation of Beth Tikvah does too. He shared that faith based education is a fundamental responsible of religious institutions, educating their next generation is a core requirement, and teachings of the Jewish faith as it is in other faiths. He added that the U.S. Department of Education has established the center for faith based and neighborhood partnership guidelines to promote student achievement by connecting schools and community based organizations, both secular and faith based.

Mr. Shafra then shared several comments from a letter of support by the senior pastor at Worthington Presbyterian Church, Dr. Julia Wharf Piermont.

Mr. Shafra shared that applying a Jewish day care option, repeated exposure to their values in early childhood is an important part of the Jewish faith. The New Albany
Temple Beth Shalom which houses a Jewish faith based pre-school reported that faith based pre-school brings people to the community and they become more inclined to be engaged with that community. A faith based early childhood education program in any Congregation is an asset to both the Congregation and the community at large.

Mr. Shafra commented that Congregation Beth Tikvah serves an important community need as the only Jewish Congregation in this part of the city. They love being in Worthington. They are proud of their deep integration into this community. They think that by having the only Jewish Congregation in northwest Columbus, Worthington demonstrates how welcoming and diverse it is. That is one of the reasons the city is an excellent place to live. They have observed numerous instances where professionals relocating to central Ohio actively consider and select Worthington because of the close proximity to Beth Tikvah. Religious institutions offer stability and moral values, gathering places for social neighborhood and community programs, and Beth Tikvah exists to serve and educate our members. Their first priority is education and their sole focus tonight is requesting the permission to apply to incorporate education for the youngest among us.

Mr. Shafra shared that today there are eleven churches and congregations within Worthington, four of the eleven provide similar early child care education programs. There are two additional pre-schools in Worthington and all six of these facilities abut R-10 zoned residential properties. None of them have had complaints to city police or city staff over disturbances, traffic, or other concerns in the past few years. He shared that besides these Worthington churches there is a Jewish faith based early childhood program providing services in a church on Smokey Row. That facility abuts residential properties as well. He would be happy to provide letters of support from neighbors of that program and the way that the existing program interacts with the neighborhood.

Mr. Shafra concluded by stating that the Congregation at Beth Tikvah has worked hard to be good neighbors. On a regular basis they cooperate with their neighbors on landscaping, the creation of the Olentangy overlay district, and the work collaborating with the OSU Airport. In addition the initiated discussions with their neighbors very early in this process to communicate their intentions and plans to incorporate their ideas and feedback. He thinks it is important to discuss two outcomes of these meetings.

1) The building modifications they would need to provide these educational functions are very reasonable. In fact, based on some of the preliminary drawings and layouts they presented, the neighbors they spoke with had few to no issues regarding the potential physical changes to their building, and size, scope or general look and feel.

2) As members may be aware, the most significant long term concern of many of their neighbors is the possible that they would seek to develop the back, the western most portion of their property or gain vehicular access to their site, which would result in access to the Shaker Square neighborhood. As a good faith gesture in conjunction with their desire to incorporate faith based childhood education they have offered to sell almost one acre from the back of
their property which would forever put those issues to rest. In fact they have entered into a contract and approved that contract by a Congregational vote with one of their neighbors to sell that land contingent on their gaining all final approvals to provide faith based early childhood education on site. This neighbor has committed to retaining the undeveloped nature of the land and will join it with their existing property. If approved this contract has as a Congregation to sell nearly a quarter of their land is a tremendous compromise on their part and he is confident that it shows their commitment to being good neighbors.

Mr. Shafra closed by stating that they seek to provide faith based early childhood education within their facility and in the research with the city staff they have asked the city to consider the most appropriate legal, or zoning means to allow them to provide these essential services. For that they entrust their rights to members of City Council, the Municipal Planning Commission, and the Worthington staff members who have worked so diligently with them in this process. Several other religious institutions already offer such benefits and they benefit the community while being good neighbors. They believe offering early childhood education at Beth Tikvah is a benefit to their congregation, neighborhood in the city and they are simply asking to have the same opportunity to do so. In addition, allowing Beth Tikvah to have this benefit will create several jobs in the city and nearly a quarter of their land becomes part of the tax base once sold. To that end they would be happy to work with the City in anyway necessary to best accomplish this positive step for them and the community.

Mr. Shafra closed by quoting Reverend Piermont from Worthington Presbyterian Church, “our preschool contributes substantially to the livability of Worthington, which is the key to the future wellbeing of our community. To have Congregation Beth Tikvah join in the project of faith based preschool could only increase our attractiveness as a city and our strength in neighborliness.”

Mr. Myers asked Mr. Shafra if he supports adoption of the Ordinance No. 13-2015 as amended tonight. Mr. Shafra replied that they really rely on the city staff to help them. Their request was to allow them to have a faith based early childhood program on site and they believe that this language allows them to apply through the conditional use process.

Mr. Myers asked if he supports the adoption of this ordinance this evening. Mr. Shafra replied that it is really their goal that they support so yes.

Mr. Norstrom commented that the testimony members have heard tonight is testimony he thinks they should be hearing at a future meeting potentially or that ARB and MPC will hear. He would like to ask members of the audience that if they are testifying on this topic it is the question that was just asked and that is whether or not you support the language change.
Bill Lhota, 838 Cambridge Ct.
Mr. Lhota shared that he and his wife absolutely supports the language as proposed

Gordon Reis, 824 Cambridge Ct.
Mr. Reis shared that he too supports this language and Beth Tikvah.

Michael Schaeffer, 830 Old Woods Rd, Columbus, Ohio
Mr. Schaeffer shared that also supports the ordinance.

Scott Whitlock, 6081 Olentangy River Road
Mr. Whitlock thanked staff and Mrs. Fox in their help to produce language that he believes accomplishes the intent of the recommendation to council by the Municipal Planning Commission. He believes that the language will permit Beth Tikvah or any other church in an R-10 district to apply for a co-located day care center. Will permit that to go to the MPC which will be authorized to consider both the use and any construction considering all the factors it normally hears and if appropriate setting any conditions under the ordinances that are appropriate. One difference that this does make is that it rules out a purely pecuniary transaction between a church and a commercial operator of a day care which simply rents the church in order to run a commercial day care that has no relationship to the mission of the church. That is not the purpose of Beth Tikvah. They are bringing in a responsible operator who he believes supports their mission and would clearly fit within this ordinance and clearly be able, he believes, to file an application with the MPC. He thanked council for the time spent on this.

Tom Groeneveld, 885 Middlebury Dr.
Mr. Groeneveld believes that historically the zoning commission established zoning district that did not allow day care centers or preschools in R-10 districts to protect the residential nature of R-10 districts. He believes other zoning districts do allow that and those are the things that should be approached by Congregation Beth Tikvah and that we don’t have to change the zoning ordinances of the city of Worthington to accommodate this.

David Williams, 878 Cambridge Ct.
Mr. Williams commented that he would like to speak as a professional educator in support of the motion. He moved to Worthington several years ago because of the values that it places on education and he thinks this motion adds to Worthington’s commitment to education for all of its citizens. He is fully in support of it.

Kimberly Nixon-Bell, 6077 Olentangy River Road
Ms. Nixon-Bell commented that her property abuts Beth Tikvah. She is here to say that she doesn’t think this is a good idea. She thinks basically what council is being asked to approve is to approve the establishment of a commercial business in a residential area. What we are looking at is a day care that will be running five days a week, eleven hours a day and fifty to fifty two weeks a year. She has been out of town which is why she and her husband have not been around to speak but they did write a letter to the MPC explaining their concerns. So she has not had much time to prepare for this evening. But when she
looked at full time day cares in the city of Worthington, they were in areas that were  
zoned C-2 with the exception of one. The other day cares are actually pre-schools or  
they are running part time. What that means is that the children are coming to them for  
only a portion of the day and that those particular programs are running on a school  
calendar.

Ms. Nixon-Bell shared that many have been to her home as it has been a part of tours for various reasons. You know what the setting looks like. You know that it is relatively private and that is exactly why they bought that property, because of the privacy that it offered them. What is going to happen with a day care is that each child is going to generate a minimum of four trips. Mr. Shafra is correct. He asked to meet with them and actually she invited the group to meet at her home on her deck. At that point in time the proposal before members was for twenty five children. That would mean there will be one hundred cars coming in one driveway, circling around, going by her home and then going out. But then what happened within a matter of weeks is that number went from twenty five to fifty. She understands that there have been discussions with other neighbors by representatives of the Temple that that number could go to 100. So we are talking about having a minimum of 400 cars that would be driving to drop children off or pick children up and then go off to their work. We also have to remember that there is staff that will be there and they will be there before the eleven hours or leaving after the eleven hours. Also she wasn’t here this winter but there were problems with snow removal that was happening in early hours. Members have to understand that the parking situation and the driveways for this particular parcel go behind homes so we are talking about people in their beds or they are downstairs maybe getting breakfast together and they have this snowplow that they had no idea was coming through to clear the parking lot. Now this was an exceptional winter but you have to understand that if we are going to be running a commercial business at this site from 7:00 in the morning to 6:00 at night snowplow removal will be a reality.

Ms. Nixon-Bell stated that it is not only for her particular property but what happens is there are four different churches right now or houses of worship in Worthington that a change like that is going to impact. She believes that to change the code like this is going to create problems within other neighborhoods. She believes that it is going to make it very difficult for residential neighborhoods to welcome any future conditional uses for what all it is going to bring with it. This brings a whole lot more to her than she ever bargained for as a neighbor. She wants members to know that she tries to be a good neighbor. She works with her neighbors. Like Mr. Shafra has said she has worked on landscaping and as you know she has worked for things like a sidewalk that everyone enjoys. She enjoys Worthington. She likes being a resident. She does not think that this adds to the value of their residential properties and she is very concerned that it will be a negative impact on her home as well as ten or twelve others in Shaker Square and her neighbors on Rau Lane.

Mr. Myers stated that many of the comments that Ms. Nixon-Bell brought forward can be addressed during the MPC process. He asked if that was correct. Mrs. Fox replied yes.
Mr. Myers commented that it would also include potentially capacity that could be one of the considerations, could it not? Mrs. Fox replied that one of the considerations is the size of the operation as it relates to the surrounding neighbors so the impact of the operation on the surrounding properties.

Mr. Myers stated that if he remembers reading correctly MPC would have the opportunity to request or require traffic studies, would they not? Mrs. Fox replied that she thinks that traffic will be one of the main considerations that they are going to want to hear about.

Dr. Chosy shared that traffic was one of his key issues and he has talked to Mrs. Fox about this. He questioned how much power MPC has to determine the disruption of the neighborhood. This has been added. He is not sure that was necessary before under certain circumstances so he thinks we do have significant control over what goes on there.

Mr. Anker, 6077 Olentangy River Road
Mr. Anker shared that he has lived at that address for thirty three to thirty four years. He reported that he had forwarded to Mrs. Fox alternative language to be put in this, one of the code sections that is being amended that would allow MPC to specifically limit the number of children within a day care because he thought that was the one factor that has a ripple effect. It affects everything. She declined to include it so it is not in the legislation but he wants to bring that to council’s attention because you showed it as a concern. They discussed it and that is where it was left. It is an option if members think that it is the extra help you need in giving the MPC clear authority to make that limit, he would suggest that members consider it.

Mr. Myers stated that just so we are clear, Mrs. Fox indicated to him that they have that authority without that expressed language. Mrs. Fox agreed that Mr. Bell forwarded some language to her and asked that there be an additional element for review by the MPC for this specific type of use. She shared that it was another subsection that said “for co-located child day care facilities they may consider the number of children”. She did decline to include that because she felt as if the elements that were already included would address that, not directly with a number because she thinks it is the impact on the facility and not the specific number. As she said in her example to Mr. Bell, fifty children may have no more of an impact than forty. There is also the issue of enforceability. If there are fifty two children one day and forty five the next how does that get enforced? So she thought that the MPC could look at it under the elements that are already there and we like to keep those elements kind of broadly stated because we have a wide variety of conditional uses that the MPC can consider. There are features under those elements that they can use. The size of the facility, the massing, the screening, the traffic, all of those elements impact the intensity of the use and the size of the use so while we may not be getting at an exact number, she thinks all of the other elements that the MPC looks at can affect how large that operation can actually be.
Mr. Myers commented that we have broad language that his concern would be more about singling out a specific entity. He shared that when he drafts statutes he is always concerned with equal protection issues and creating distinctions between different classes and we eliminate any of those issues but still give MPC that same authority. Mrs. Fox agreed.

Mr. Norstrom shared that his daughter attended a faith-based day care center. He thinks it is an important function of a religious facility and the fact that there are some religious facilities in the city that are not capable under our current zoning to do that, he thinks this is an appropriate change. He added that he is not expressing an opinion one way or the other on a discussion about Beth Tikvah at this point.

Mr. Myers called the question.

There being no additional comments, the Clerk called the roll on the passage of Ordinance No. 13-2015 (As Amended). The motion carried by the following vote:

Yes 7 Troper, Norstrom, Dorothy, Smith, Myers, Chosy, Michael

No 0

Ordinance No. 13-2015 (As Amended) was thereupon declared duly passed and is recorded in full in the appropriate record book.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 08-2015

Authorizing the Award of Re-emergent Corridor Assistance Program Funds to Help Improve Facility Exterior Facade and Streetscape Along Certain of the City’s Commercial Corridors (6300 Huntley Road).

Introduced by Mr. Myers.

MOTION

Ms. Dorothy made a motion to adopt Resolution No. 08-2015. The motion was seconded by Mr. Troper.

Mr. Greeson shared that this is a ReCAP application. It has been reviewed and recommended by the Community Improvement Corporation. He invited Mr. Harris to briefly overview the application.

Mr. Harris shared that members have seen the layout of the ReCAP Program before. This is the sixth application under the program history. The program is unchanged from its inaugural back in 2014.
Mr. Harris reported that the application before members tonight is staff recommendation to approve $25,000 in ReCAP funding to 6300 Huntley Road, which is owned by Mrs. Marilyn E. Swisher. The CIC met on March 13th to review this application. Although there was no quorum at that meeting, there was a consensus among Board Members present that the application should move forward to council for approval.

Mr. Norstrom asked if the consensus means that there would have been enough vote to be a majority if there had been a quorum. Mr. Harris replied that there were four members present but it was a comfortable discussion. Ms. Michael commented that the answer would be yes from her opinion and she was at the meeting.

Mr. Harris commented that 6300 Huntley Road has been owned by Mrs. Marilyn Swisher and her husband since 1990. While her husband is now deceased, she has tended to and cared after this property with the help of her lawyer. The work proposed on this project includes:

Scope of Work
- Neighborhood Design center – recommended updates:
  - New concrete pad at the building entrance
  - Drain tile installation
  - Replacing the exterior trim
  - New awnings, including a steel or aluminum awning at the entrance
  - Repainting entire building exterior
  - Removing obsolete signage and an old maple tree along frontage

Mr. Harris shared pictures of the building in its current state. He added that the improvements to this building will be very nice. He shared renderings of the building after the proposed changes are complete. Of significant note that he wishes to share is that this is the first of what hopes to be many projects that were designed with the help of Neighborhood Design Center, which is the city of Columbus supported not profit design firm to help with urban planning and space and site layout for small businesses within the region. We have engaged them for 2015 to help applicants understand the full power and scope that they could achieve under the ReCAP program. This is in direct response to suggestions that council made last year to say that you didn’t just want new landscaping and some paint. Give us more! This is an effort by staff to bring in an engaged firm to help us get more for the money.

- Timeline: June 30, 2015 completion
- Total estimated costs: $55,256.46
  - Two general contractor bids were received with sub-contractor bids also submitted.
- Request ReCAP assistance: $25,000.00

Mr. Harris concluded that the staff recommended and CIC members were in consensus that 75 points out of 100 points were earned by this application.
When asked by Dr. Chosy for an explanation about the points, Mr. Harris replied that there is a scoring sheet. CIC members go through each element of the application and grade it on terms of time completion, property use of funding (bang for the buck) and there are about four or five elements that we score it on that total up to 100 points. He added that 52 points are needed to be recommended for approval to council.

Dr. Chosy commented that the current bricks look awful. He asked if they are really going to update the bricks. Mr. Harris replied that the scope of work as well as the contractor bids, which the applicant has chosen Sullivan Builders as the contractor which is a Worthington firm that is located on Proprietors Rd. The Sullivan Builders bid included full brick painting across the entire exterior of the building.

Dr. Chosy asked about the post located on the front right side. Mr. Harris stated that he doesn’t know if that was a drain pipe or what have you. Members will notice that it was removed on the new and improved version.

Mr. Myers asked if Loeb was considering other locations before this. Mr. Harris confirmed that they were. He added that one of the elements that he likes about this is that staff had driven around last summer and saw buildings that we thought could benefit and he sent out letters blindly. Mrs. Swisher actually called back and shared that she would be interested and by the way, Loeb has been talking to her that if they don’t get the building improved they want to move. So he is actually thrilled to bring this to council tonight.

Mr. Myers concluded that this is really more than just an aesthetic improvement. It is retaining a business. Mr. Harris agreed. He added that it is also getting more bang for the buck in terms of the design output using the help of NDC.

Dr. Chosy asked if they were going to make improvements inside as well. Mr. Harris replied that this is only for outside work. He is not aware of any improvements to the inside.

Mr. Norstrom asked if there is anything that prohibits us from encouraging or providing bonuses when Worthington contractors are selected for the job. Mr. Harris replied that it is not written into the program. We could do that in a “soft” way. By that he means that Mrs. Swisher had asked who she should talk to and in his role he is often asked referral questions like that and he always gives out at least three names. So in this case they were one of the names that he provided. She then on her own, with her lawyer’s help reached out to all three and Sullivan came back and she had enjoyed them.

Mr. Myers asked if it would be something we could even incorporate into the scoring process. Mr. Harris replied that one of the elements that you score on is dedication or commitment to the overall community. We could actually include that type of metric into the analysis.
Ms. Dorothy commented that the Neighborhood Design Center was from grant money. She asked how they got involved. Mr. Harris replied that we have a $10,000 engagement for 2015 with Neighborhood Design Center. It is paid for out of the ReCAP Program but we did get a $10,000 grant from AEP under their LEAP program for 2015. We have not done the fiscal task of making one pay for the other but it is in the overall kitty.

Ms. Dorothy shared that another Worthington connection for that is resident Isabela Gould. She asked if she is the director of NDC. Mr. Harris agreed that she is. So as of January 1 she is the new Executive Director. She is thrilled to be working with us on this project.

There being no additional comments, the motion to adopt Resolution No. 08-2015 carried unanimously by a voice vote.

Resolution No. 09-2015 Establishing Stand Up for Transportation Day (A National Transportation Infrastructure Day) in Worthington on April 9, 2015.

Introduced by Mr. Norstrom.

MOTION Mr. Smith made a motion to adopt Resolution No. 09-2015. The motion was seconded by Dr. Chosy.

Ms. Dorothy asked why the city is considering a resolution this year. She asked if it is something we have done before. Mr. Greeson replied because the city was asked by COTA to adopt this. He believes they have also asked other jurisdictions. They and many other people are advocating for passage of a comprehensive transportation bill. They in particular are interested in multi-modal transportation and want to voice support for public transportation infrastructure as part of that federal bill if it ever gets done. Staff didn’t see that inconsistent with the city of Worthington’s plans or goals and felt comfortable bringing it forward to council.

Ms. Dorothy stated that it is just for April 9, 2015. Mr. Greeson agreed.

Mr. Norstrom shared that this is a national program various public transportation associations is encouraging. Ms. Michael added that this is good national recognition to congress about the importance of transportation and the infrastructure needed for it.

There being no additional comments, the motion to adopt Resolution No. 09-2015 carried unanimously by a voice vote.

Ordinance No. 14-2015 Declaring a Sanitary Sewer Easement over a Portion of the City’s Property Located Within Linworth Park at 6087 Linworth Road.

Introduced by Mr. Myers.
Ordinance No. 15-2015

Amending Ordinance No. 40-2014 (As Amended) to Adjust the Annual Budget by Providing for An Appropriation from the General Fund Unappropriated Balance.

Introduced by Ms. Dorothy.

The Clerk was instructed to give notice of a public hearing on said ordinances in accordance with the provisions of the City Charter.

REPORTS OF CITY OFFICIALS

Policy Item(s)

- Set Public Hearing - Ordinance No. 11-2015

Ms. Michael shared that this ordinance is the re-zoning of the Sharon Square property to allow for a food establishment. Mrs. Fox added that it will rezone from C-1 to C-2.

MOTION

Mr. Troper made a motion to set Public Hearing for Ordinance No. 11-2015 for the April 20, 2015 City Council meeting. The motion was seconded by Mr. Norstrom.

The motion carried unanimously by a voice vote.

Dr. Chosy asked if the re-zoning included the parking lot to the rear of the property. Mrs. Fox replied that there is a parcel where the building is and there is parking in the front. Then there is a parking lot to the rear. It does not include that rear lot. Mr. Brown agreed. He added that it is a separate parcel and it is zoned R-10 to provide more protection as it goes into the neighborhood.

Dr. Chosy stated that parking is allowed in that lot. Mr. Myers confirmed that it was part of the application. We included those spaces as part of the application, did we not? Mr. Brown replied that the only thing that went to MPC we just the parcel on the southeast corner of Selby and High St. East of the alleyway was not included as part of the rezoning request. It is just the parcels that are currently zoned C-1.

REPORTS OF COUNCIL MEMBERS

Mr. Smith shared that he attended last week’s MORPC event and had an enjoyable time. He thought the speaker was very good.

Mr. Smith also thanked staff for the WiFi connection in City Council Chambers.

Ms. Dorothy shared that she attended the Easter egg hunt in Colonial Hills and members of the Police Department made an appearance and provided goodies. It was unexpected
and much appreciated by the community. They appreciate the community outreach by the Police Department for the neighborhood event.

Mr. Troper shared that there will be a twenty four hour lacrosse volunteer tournament fundraiser that his wife is helping with at Thomas Worthington High School July 10th and July 11th. He shared postcards about the event.

Ms. Michael commented that she thought the MORPC annual meeting/luncheon was wonderful. She agreed that the keynote speaker was wonderful. Mr. Greeson shared that his name is Jeff Tumlin. Ms. Michael would like a video of his presentation as it would be perfect for the bicycle/pedestrian committee when we get it set up. It was just terrific when he was talking about how to develop things to avoid congestion.

EXECUTIVE SESSION

MOTION

Mr. Smith made a motion to meet in Executive Session to discuss land acquisition and Board and Commission appointments. The motion was seconded by Dr. Chosy.

The motion carried by the following voice vote:

Yes 7    Dorothy, Myers, Troper, Norstrom, Smith, Chosy, Michael

No 0

The motion carried unanimously by a voice vote.

Council recessed at 9:37 p.m. from the Regular meeting session.

ADJOURNMENT

MOTION

Mr. Myers made a motion to return to open session at 9:55 p.m and adjourn.

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned.

/s/ D. Kay Thress
Clerk of Council

APPROVED by the City Council, this 18th day of May, 2015.

/s/ Bonnie D. Michael
Council President