



Meeting Minutes

Monday, May 4, 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, May 4, 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, City Engineer William Watterson, Parks and Recreation Director Darren Hurley, Director of Planning and Building Lee Brown, Chief of Police James Mosaic and Chief of Fire Scott Highley

There were approximately nine visitors present.

President Michael reported it wasn't necessary to recite the Pledge of Allegiance again since it was recited during the Joint Meeting of City Council and the Sharon Township Trustees.

VISITOR COMMENTS

SPECIAL PRESENTATION

- **Military Appreciation Month**

Mr. Greeson shared that we are here tonight to honor Military Appreciation Month. He invited Mayor Scott Holmes to come forward. He believes he is going to present a Proclamation in honor of this occasion.

Mayor Holmes commented that this is his first opportunity to present a Proclamation before City Council. He acknowledged having celebrated many business openings and recognizing individuals in the community during his time as Mayor.

Mayor Holmes commented that tonight he is before council to recognize our military as we can never thank them enough. Worthington will hold the Memorial Day Parade in three weeks to honor our military. He invited Dr. Cal Taylor (USA – LT Col, Retired), Commander David Kelly from Legion – Post 239 and a representative of the VFW to come forward.

Mayor Holmes read the Proclamation in its entirety and presented all three representatives with a copy. He added that Military Appreciation months actually run from May 1 through June 30. He invited Dr. Taylor to comment.

Dr. Taylor shared that he is humbled and honored to be here tonight to accept this Proclamation on behalf of the three hundred members of the military officers association of central Ohio. They are pleased that Worthington has joined with five other communities (Gahanna, Westerville, Worthington (tonight), Powell (tomorrow night), Hilliard and the city of Columbus will present it on May 11th) in taking this step forward. He thanked council on behalf of all veterans, NCO, officers, families, employers, public leaders such as council and everyone who makes our country great. He appreciates those who have gone before him and sacrificed and those who will go after him.

Ms. Michael shared that she was at a facility in Florida last week and there was a sign that made her think about the Proclamation that was presented today. It said that we are free through the efforts of the brave. If it weren't for our veterans, our active military and all the people working together we wouldn't have the freedoms that we enjoy today. Members really appreciate all of our military and all of the vets and everybody that has allowed our country and our city to be free. It is an honor for our Council to be able to support these two months of honoring those who have really made a difference for our lives too.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 13-2015

Designating Public Depositories and Awarding Public Monies of Active and Interim Deposits.

Introduced by Mr. Troper.

MOTION

Ms. Dorothy made a motion to adopt Resolution No. 13-2015. The motion was seconded by Mr. Myers.

Mr. Greeson commented that he is going to ask our Finance Director, Molly Roberts to overview this item.

Mrs. Roberts shared that in accordance with Ohio Revised Code Section 135.12, requests for proposals for public depositories for the City of Worthington were accepted on April 20, 2015. The resolution covers a five year period beginning June 1, 2015 through May 31, 2020. She received proposals for this depository period from Park National Bank, Huntington Bank, Key Bank and CF Bank. CF Bank however was only interested in the public depository award for interim and inactive funds to capture investment opportunities.

The proposals received from Huntington National Bank, Key Bank, and Park National Bank were all competitive and responsive. Park National Bank is offering a flat monthly service fee for all account activity in the amount of \$880.00 per month. Based on this

service fee structure, we could potentially save over \$500.00 per month in comparison to our current fee structure. Therefore she recommended that the depository of active funds be awarded to Park National Bank.

Ms. Dorothy asked for help in understanding Earnings Credit Allowance. Mrs. Roberts explained that the Earnings Credit could be used to offset any service fees that are charged but the total activity would not offset all of the fees. The net of the fees due would be approximately \$1,500 a month on the Huntington account as illustrated in her memo.

Ms. Dorothy commented that she didn't know if it included the Earnings Credit Allowance or not. She asked if the \$1,495 total for the Huntington included the Earnings Credit Allowance. Mrs. Roberts agreed that it was already included in that total.

There being no additional comments, the motion to adopt Resolution No. 13-2015 carried unanimously by a voice vote.

Resolution No. 14-2015

Authorizing an Amendment to the Final Development Plan for 50 West Wilson Bridge Road and Authorizing Variances (FMS Architects/Chase Bank).

Introduced by Dr. Chosy.

MOTION

Mr. Smith made a motion to adopt Resolution No. 14-2015. The motion was seconded by Mr. Norstrom.

Mr. Greeson shared that this Resolution is an Amendment to Development Plan (ADP) for the Chase Bank property at High St. and Wilson Bridge Road. He asked Lee Brown to provide an overview of the item, after which staff will gladly answer any questions members may have.

Mr. Brown commented that the request before members is an ADP that went before Municipal Planning Commission last week and includes two variances. The property is also subject to Conditional Use Permit approval for changes to the drive-thru.

Mr. Brown explained that the applicant would like to add a second ATM machine in the drive-thru area. The lane closest to the building will be kept for deposits. The second lane from the building will stay blocked with the two bollards that are currently in place. Lanes three and four will be the location of the new ATM machine. Two of the vacuum tubes will be removed and one other will be decommissioned as part of the change.

The ATM topper will include signage that will be considered wall mounted. The drawing shows one sign on the front of each ATM machine. Variances for an additional wall mounted sign will be needed as part of the ADP. Signage on the canopy is proposed

to reflect the appropriate lane designations. It has already been accounted for as directional signage.

At the April 23rd meeting the MPC recommended approval of this application. Staff also recommends approval of the application as proposed.

Dr. Chosy asked for clarification on the two variances. Mr. Brown explained that a variance was for an additional four square foot sign on top of the ATM and a variance for one additional wall sign, which is for the top of the new ATM.

There being no additional comments, the motion to adopt Resolution No. 14-2015 carried unanimously by a voice vote.

Ordinance No. 15-2015

Approving the Provisions of a Collective Bargaining Agreement Between the City of Worthington, Ohio and the International Association of Firefighters Local #3498 and Authorizing the City Manager to Execute Same on Behalf of the City.

Introduced by Mr. Troper.

Ordinance No. 16-2015

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

Introduced by Ms. Dorothy.

REPORTS OF CITY OFFICIALS

Discussion Item(s)

- Proposed 2015 Street Improvement Program

Mr. Watterson shared that the program is at council's places this evening. It is the result of the survey by city staff and includes those streets that staff feels are most in need of repair. The budget in the capital improvements program is \$775,000. The estimated cost of the improvements is \$765,889. The project also includes as asphalt overlay of the United Methodist Parking Lot, repairs to the Community Center Parking Lot and asphalt adjustments and restriping of West Wilson Bridge Road to establish bicycle lanes from the Fishing Access entrance to Olentangy River Road. A flashing beacon will be installed at the Fishing access as part of that work and is estimated to cost an additional \$20,000.00 for a total project estimate of \$785,889. The actual contract price will be based on the bids.

Mr. Watterson comments that staff is available to take council members on a tour of the city either May 8th or May 11th.

Following a brief exchange, members agreed to meet at the Service and Engineering Building at 380 Highland Ave. on May 8th at 2:00 p.m.

Mr. Norstrom thanked staff for the patching along StRt 161. Mr. Watterson shared that staff hopes that the patching will get us through until the road is paved by ODOT in 2017.

- Regulation of Running Bamboo

Mr. Greeson shared that council directed staff to explore and draft legislation for discussion about invasive or running bamboo. Staff has done that in part based on some research that we have conducted. Tonight we are prepared to walk through a draft ordinance and receive input from council members and then determine how to proceed. He asked Mrs. Fox to begin overviewing the item.

Mrs. Fox commented that she prepared an ordinance based on comments staff heard from neighbors. Some didn't want criminal penalties but felt that civil and a different kind of enforcement was okay. Some felt that we should only regulate when the bamboo enters onto an adjoining property.

She shared that many ordinances from the east coast include banning certain types of bamboo and restricts the planting of it within a certain number of feet from the property line. She tried to set up a system by which to manage the bamboo and address the concerns that we heard. She shared that she has received some questions from council members and will address those as we talk.

Draft Ordinance – Bamboo (Copy attached)

- 1180.08 – Growth of Bamboo
 - a. Defines bamboo – That is important because not all types of bamboo create a problem
 - b. Defines bamboo owner – Not necessarily always the person who planted it.

Mrs. Fox pointed out that she included some exceptions under (a)(2). Staff heard that some of the neighbors want the bamboo confined. We heard that it is easy to keep contained by just mowing over it while others spoke about how difficult it was to mitigate. Some neighbors felt that the city should require the bamboo owners to remove the bamboo that seeps into their neighbor's yard.

In addressing a question by Ms. Dorothy, Mrs. Fox acknowledged a difficulty with this type of ordinance is determining who is responsible. We heard that the neighbors who had the bamboo encroach in their yard didn't want to be responsible. This ordinance tries

to address enforcement. The city will get involved when the owner doesn't take care of business. There has to be some way to make bamboo owners responsible.

In addressing Ms. Dorothy question about barriers, Mrs. Fox shared that the neighbor could take some measures to confine. That duty is outlined on page 2, in Section D.

Mr. Norstrom wondered if that is something that we want to add. If an owner doesn't take care of it can the city and then just bill the owner. Mrs. Fox acknowledged that we could do that but it is pretty significant.

Mr. Myers suggested constructing a trench and use building materials. Mrs. Fox acknowledged that staff does on occasion enter private property for maintenance of noxious weeds. We could include something to incorporate that idea.

Mr. Norstrom commented that if someone purchased a house with bamboo and the owner that sold me the house didn't disclose that information is there something the city can do. He knows that under state law they need to disclose. Mrs. Fox said she doesn't know how we would enforce that.

Ms. Michael asked if there was any duty to disclose under the Ohio Residential Disclosure form. Mr. Myers wasn't sure that it needed to be disclosed. He thinks bamboo is beautiful. Ms. Dorothy agreed. Mr. Myers sees it as a civil liability. We should have the ability to put containment up.

Mr. Greeson thinks that is the difference between this and the ordinance that allows staff to go onto someone's property and mow grass. This would take significant equipment.

Mr. Myers thinks it is possible to remove some by hand. There will be incidental damage. The only way to get it up is to remove the rhizomes all the way up. It will need to be trenched which will require picks and shovels. It can be done with just people but it is possible that a bobcat would be needed.

Mr. Greeson sees it as two issues. Does council want staff doing that kind of work on private property and secondly, who do members want ordering that. In this case it is structured as a civil matter so he will be acting as a "hearing officer" as opposed to Mayor's Court or some other forum. It is really about where members want the forum.

Mr. Myers thinks it is appropriate the way that it is drafted. It keeps it civil. Hopefully the property owners will take care of the issue once fines begin to occur.

Mr. Norstrom went back to his earlier comment. If an owner is selling a property in our community that has a known problem, then he thinks there is an obligation on that owner's part to identify that problem. It is not a problem in Columbus but here an owner is taking on a liability that they may not know about, especially since this is a relatively rare ordinance so you wouldn't even think about it if you were moving in.

Ms. Michael shared that anytime that anybody sells property an owner signs a seller's affidavit, which specifically states that this property is not, to my knowledge, in violation of any city code. If they don't realize that the bamboo in their backyard could be a violation of city code, then there may be a problem.

Mr. Myers stated that they can sign that seller's affidavit because they are not in violation as long as it is on their property. It isn't a problem now. It is a potential problem that they will have to watch out for. Mr. Norstrom agreed.

Ms. Dorothy said she is still concerned about where this barrier is being put. All of the remedies would happen on the encroaching property. The owner's property would not be disturbed. Mrs. Fox agreed with that being the way this is written. She thinks she is hearing members say that we want to go on the owner's property with the barrier, which changes the tone of the ordinance. That could be a remedy but she doesn't know why we wouldn't just jump to that if we had this in here instead of just allowing it to grow and grow and grow. Mr. Norstrom agreed.

Ms. Dorothy commented that is actually what she is getting out. How it reads to her right now is that we are allowing it to just grow and grow and grow every single year. Mrs. Fox added yes unless the owner is tired of going over to the neighbors but that changes the way this is written. She would be happy to go back to the drawing board and do that if that is what members want.

Mr. Myers asked if that is a better solution and just eliminate the remediation on the neighbor's yard. Leave it up to the neighbor to keep care of so the city doesn't run the risk of tearing up their yard also. The remedy is if you don't clean it up off of the neighbor's yard then we will contain it for you and we leave it at that. Ms. Michael reported being okay with that.

Mr. Myers stated that leaves the neighbor having to go and dig the stuff up themselves. Mr. Norstrom commented that is what we were trying to get around.

Mr. Myers reported trying to get the city around being on the neighbor's property and the owner's property. Mr. Norstrom commented that he understands but what we are saying is that if it is growing over into the neighbor's property the bamboo owner has an obligation to remove it. So that has to happen. Whether the city does it or the bamboo owner does it or whether the neighbor does it and it is paid for by the bamboo owner, those are all acceptable. But what we are saying is that if that is happening, based on the discussion tonight, it also needs to say that a barrier needs to be put in place.

Dr. Chosy asked what's to keep the neighbor who has to take care of this themselves from accidentally wiping out part of their yard.

Mrs. Fox replied that she could include something about the bamboo owner being liable for incidental damages caused by the removal of the bamboo.

Dr. Chosy commented that he is just thinking out loud and he asked if any of this is really necessary. Mr. Norstrom shared that he thinks it is. It may not apply everywhere but we've got an issue that has created problems and continues to do so.

Dr. Chosy asked what has happened to that situation. Ms. Dorothy and Mr. Norstrom confirmed that the neighbor was still upset.

Dr. Chosy asked if something was being done. Mr. Dorothy replied no.

Mr. Smith commented that we are heading into warmer weather so it will grow and he is sure council will hear about it.

Mr. Norstrom commented that the bamboo has to be contained on the property. He asked if that is what members are saying. If you are not containing it then we will contain it for you? Mrs. Fox replied that she thinks that is what she heard.

Mr. Myers added that the city will take care of an issue if the bamboo owner doesn't. He asked if members want to do both. Mr. Norstrom thinks the answer is yes but we will bill the bamboo owner for creating the problem in the neighbor's yard.

Ms. Michael thinks what she is hearing is that if the owner allows the bamboo to go onto the neighbor's property then 1) the owner can work with the neighbor and do the mitigation or 2) if they don't, the neighbor contacts the city and the city can go in and do the removal and also install containment. The city would then bill the owner of the bamboo. She asked for confirmation on her understanding. Mr. Norstrom agreed.

Ms. Dorothy asked how long fines could accrue before action. Mrs. Fox replied that we haven't gotten to that part of the legislation yet. That would fall under (e) Failure to Confine. It states ten days from the date of the request. She tried not to give them much time because the bamboo grows quickly.

Dr. Chosy asked if we could also allow the city to decide whether or not to include any barriers instead of saying they must do it, if they have to do it. Mr. Norstrom commented that he thinks members give the owner an opportunity to put it in and if they don't then the city will.

Mr. Myers thinks the whole point of this ordinance is to coerce compliance and we never get to the point where we have to do anything.

Mr. Troper commented that in Section (e) property owner notifies the bamboo owner. He asked for clarification on the notification in Section (f). Mrs. Fox questioned whether we want a property owner sending a certified letter to his next door neighbor.

Mr. Troper asked what "satisfactory proof" meant. Mrs. Fox replied that it could be a copy of an e-mail or copy of a letter. She didn't take a real strict approach because if the

neighbor says they didn't get it, then how do we know. She thought ten days to take care of the issue was appropriate.

Mr. Myers and Mr. Troper had further discussion on the topic.

Mrs. Fox talked about the appeal opportunity covered in Section (g).

Mrs. Fox shared that (h) is the Penalty part of the legislation. She doesn't know if \$100.00 a day is the right number or not. A lien shall be applied for failure to pay. It would have to be done through a collection process. There will also be a 25% administrative fee added to the cost.

Mr. Myers asked when the \$100 runs. Mrs. Fox replied that it starts from the date that they fail to remedy.

Mr. Myers asked what the trigger is. Mrs. Fox replied that the clock will start when the director notifies them. Ms. Michael asked that that be specified.

The City manager will have 5 days to mail the decision.

Mr. Norstrom commented that from an administrative approach, the date could be included in the letter. So we've got it in the ordinance.

Mr. Myers commented that he didn't want an appeal to be too high a priority on the city manager's calendar. He would like to give the City Manager discretion to set the appeal date so if Mr. Greeson's schedule is such that he has to set an appeal for 30 days out we shouldn't push them to pay \$100 for each of those days.

Mr. Norstrom asked if "City Manager" could include "or his designee"? Mr. Greeson agreed. He added that it could be given to some third party depending on the circumstances.

Additional City Official Information

Mr. Greeson shared the following:

- 1) Members received an event flyer regarding Building Healthy Community and sponsored by Healthy Worthington. The event will be held at the Worthington Presbyterian Church on May 15th. He encouraged members to attend.
- 2) Shared a newspaper article from the front page of the Life and Arts section in the Dispatch about a group of knitters at the Griswold Center. They often knit for causes instead of just themselves. He thought it was a very nice article.
- 3) Today received news that "Nerd wallet", which is a national personal finance website that apparently reviewed a variety of metrics on housing, income demographics, number of businesses in existence, etc. and in their metric analysis

Worthington was the #1 community in central Ohio for the best place to start a business and #12 in the state of Ohio.

- 4) Mr. Brown is going to re-announce a tour of the finished second building at the Heights at Worthington Place.

Mr. Brown reminded members that Monday, May 11th at 3:00 p.m. there will be a tour of the second building at the Heights at Worthington Place, which is the larger of the two buildings and fronts West Wilson Bridge Road.

REPORTS OF COUNCIL MEMBERS

Mr. Norstrom shared that a resident of Worthington (Warren Orloff) recently won the NPR – puzzle master.

Today was the first day of the OSU advisor committee at the airport that included representatives of Dublin, Columbus, Worthington, airport personnel, OSU faculty, and students. The big news coming out of that meeting was the Board of Trustees has decided not to monetize the airport. The university is looking at developing it academically. He is the council representative to the committee.

Ms. Michael received an e-mail that the civic band was not invited to play on the Village Green. They are sending letters now.

OTHER

EXECUTIVE SESSION

MOTION Mr. Troper made a motion to meet in Executive Session to discuss collective bargaining. The motion was seconded by Ms. Dorothy.

The motion carried by the following voice vote:

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

No 0

Council recessed at 8:56 p.m. from the Regular meeting session.

MOTION Dr. Chosy made a motion to return to open session at 9:14 p.m. The motion was seconded by Mr. Norstrom.

The motion carried unanimously by a voice vote.

ADJOURNMENT

MOTION Mr. Smith made a motion to adjourn. The motion was seconded by Mr. Myers.

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
15th day of June, 2015.*

/s/ Bonnie D. Michael
Council President