



Meeting Minutes

Monday, June 15, 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, June 15, 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: Rachael R. Dorothy, Scott Myers, David Norstrom, Douglas K. Smith, Michael C. Troper, and Bonnie D. Michael

Member(s) Absent: Robert F. Chosy

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, Service and Engineering Director 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 seven visitors present.

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

VISITOR COMMENTS**APPROVAL OF MINUTES**

- **May 4, 2015 – Regular Meeting**
- **May 11, 2015 – Special Meeting**
- **May 11, 2015 – Committee of the Whole Meeting**
- **May 18, 2015 – Regular Meeting**
- **June 1, 2015 – Special 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. 21-2015

Enacting Section 1180.08 of the Codified Ordinances of the City of Worthington to Regulate the Growth of Running Bamboo.

The foregoing Ordinance Title was read.

Mrs. Fox shared the background on the topic of bamboo and Council's decision to enact this code change to assist in the regulation of its growth.

Ms. Fox commented that the ordinance before members tonight regulates the growth of the specific type of bamboo called running bamboo. The section was drafted with the intent to allow the city to impose penalties on a bamboo owner who allows the bamboo to encroach on a neighbor's property. It requires a neighbor to take the first steps by contacting the grower of the bamboo to let them know that this bamboo has encroached on their property and asking them to take care of it. The primary focus of this ordinance is that it is a bamboo owner's duty to confine the bamboo. We had some discussions about the manner in which that could happen. She noted that there are some amendments that need made.

Changes from previous draft:

In Section (c) Duty to Confine we talked about the bamboo owners taking all required steps, any reasonable measures to keep this bamboo confined to their own property including an installation of an underground physical barrier system. We believe that simply cutting it back may not necessarily solve the problem. For repeated violations she also included in the ordinance that either the city can do it or cause a contractor to go in and install that barrier system on the bamboo owner's property.

Mrs. Fox commented that it is a fairly comprehensive type of an ordinance giving the bamboo owner notice that:

- 1) The bamboo has encroached
- 2) Requires the people that are affected to contact the bamboo owner and attempt to get the issue resolved initially
- 3) Allows the city to go on to the encroached property and remove the bamboo at the bamboo owner's cost
- 4) Install a physical barrier if the city determines that is the method that will help contain this
- 5) Hearing provision – if the owner believes that a determination that they violated this ordinance is incorrect than they can request a hearing
- 6) Hearing before the city manager or the city manager's designee, which was included in this change.

- 7) Penalty provision – the penalty is \$100 per day for each day that this ordinance has been violated. If the city goes onto the neighbor's property to remove the bamboo or goes onto the bamboo owner's property to try to contain it, the cost for doing so will be assessed against the bamboo owner. However, the penalty costs cannot be assessed and collected through the county auditor's office. Penalties, if not paid would have to go through a civil proceeding.

Mrs. Fox stated that those are most of the changes that staff included. She shared that since the introduction of this ordinance she was contacted by Caryn Rickel for a second time, who is with the Institute of Invasive Bamboo Research in Connecticut who sent several links to ordinances, all of which are from the east coast. She also left a voice message indicating that in her opinion it was important to have a requirement that the bamboo not grow within a certain distance of a property line. Members may remember that being one of the items that she had included in her original memo. It was a fairly prevalent provision in the east coast ordinances that she looked at. After some discussion she recalls that council did not want that stipulation included. She did however want to pass that information along to member because it was provided to her and she thought she would do that.

Mrs. Fox commented that we also talked that the city manager or his designee could have the ability to conduct a hearing. She thinks in speaking with the city manager we also wanted to talk about the option of him maybe even appointing a hearing officer to do that which would in essence be his designee but wouldn't necessarily be another city employee just to provide a little more objectivity of the review. So we wanted to talk about that a little bit as well.

Mr. Myers shared that he is happy with the changes. He would support a neutral designee to oversee the hearings.

Shawn Haybron, 482 Loveman Ave.

Mr. Haybron shared that he is speaking on behalf of he and his neighbor. The property at 488 Loveman is a large dried forest of bamboo. It dies after a few years and sends out rhizomes to new areas. It is a fire danger. It is a nesting place for many species of birds and creates a health hazard. Running bamboo can't be maintained simply by mowing the lawn. It actually causes it to grow faster. The bamboo at 488 Loveman encroaches onto five neighboring properties, including his neighbors. He thanked council for taking the issue of bamboo seriously.

Miriam Utter, 194 Sinsbury Dr. N.

Mrs. Utter brought a ten foot section of bamboo rhizome to show council members what she has been dealing with. She had to dig up her shrubbery in order to dig up the rhizome. It grows in April and May and is virtually unstoppable. It is growing into the neighbors yards on all sides.

Mrs. Utter shared that she encouraged her neighbor not to plant it but to no avail. She thinks a provision to not allow it to be planted within a certain distance from the property line is important and encouraged members to consider it.

Anne Matteis, 445 Crandall Ave.

Ms. Matteis shared that the property at 439 Crandall has bamboo. The former owners are now deceased and the house sits vacant. She thinks they planted the bamboo without knowing about the problems that it would cause. She shared that they can't keep ahead of it. Numerous animals and birds inhabit the area. She encouraged council to do something about the issue as it has caused many problems.

Mr. Norstrom questioned the definition of "bamboo owner" on page 1 given the testimony that members heard by individuals who have bamboo on their property. Mrs. Fox directed him to the exceptions that continue on page 2. Mr. Norstrom thanked her for the clarification.

MOTION

Mr. Myers made a motion to amend Ordinance No. 21-2015 as distributed and to include the amendment to allow the City Manager to appoint a "hearing officer" to hear any appeals. The motion was by Mr. Smith.

Mr. Myers asked if the ordinance as amended says "designee". Mrs. Fox confirmed that it did. Mr. Myers asked if Mrs. Fox is asking for an amendment to mandate a hearing officer or to include a hearing officer as a designee. Mrs. Fox replied a hearing officer as a designee. Mr. Myers commented that it isn't required. Mrs. Fox agreed.

Mr. Norstrom asked when this ordinance will be effective. Mrs. Fox replied twenty three days after passage.

There being no additional comments the motion to amend passed unanimously.

There being no additional comments, the Clerk called the roll on the passage of Ordinance No. 21-2015 (As Amended). The motion carried by the following vote:

Yes 6 Troper, Norstrom, Dorothy, Smith, Myers, Michael

No 0

Ordinance No. 21-2015 (As Amended) was thereupon declared duly passed and is recorded in full in the appropriate record book.

Ordinance No. 22-2015

Amending Ordinance No. 40-2014 (As Amended) to Adjust the Annual Budget by Providing for Appropriations from the General Fund Unappropriated Balance for Salt and Ice Control and the Economic Development Fund Unappropriated

Balance for Economic Development Incentive Program Funding.

The foregoing Ordinance Title was read.

Mr. Greeson shared that there are two items included in this ordinance. One relates to the salt supply while the other relates to the Economic Development Fund.

Members may recall that the city received a \$10,000 grant from the American Electric Power Company for our ReCAP Program. This legislation will appropriate those funds. It is staff's desire to use those dollars to help continue with the services of the Neighborhood Design Center as we implement the ReCAP Program.

Mr. Greeson added that there is also \$85,000 for implementing the collective bargaining agreement with the fire employees.

Mr. Myers shared that the Attorney General's office reached a large settlement with several of the salt suppliers. He asked if any of the \$11M in that settlement will trickle down to Worthington. Mr. Watterson replied no.

Mr. Myers thinks it was all ODOT purchases. Mr. Watterson explained that the city purchased our salt through the SWAP4G program and not through ODOT.

Ms. Dorothy asked if this appropriation will fill our salt storage facility. Mr. Watterson replied that it will come pretty close. There is approximately 600 tons on hand and this appropriation will buy an additional 1100 tons. The salt bin holds about 1700 tons so this will allow us to start the season with almost a full bin. Hopefully an appropriation in 2016 will allow us to make additional purchases through the winter months. Usage varies quite a bit. In 2011 the city used 3 tons of salt over the December period and in 2013 we used 800 tons. Ms. Dorothy commented that it is best to be prepared.

There being no additional comments, the Clerk called the roll on the passage of Ordinance No. 22-2015. The motion carried by the following vote:

Yes 6 Norstrom, Dorothy, Smith, Myers, Troper, Michael

No 0

Ordinance No. 22-2015 was thereupon declared duly passed and is recorded in full in the appropriate record book.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 31-2015

Approving the Downtown Worthington Outdoor Dining Facilities Policy & Procedures and Authorizing the Municipal Planning Commission

and the Architectural Review Board to Regulate and Implement Certain Provisions of the Policy.

Introduced by Mr. Norstrom.

MOTION Mr. Troper made a motion to adopt Resolution No. 31-2015. The motion was seconded by Ms. Dorothy.

Mr. Greeson commented that members will recall from last week's Committee of the Whole meeting a discussion regarding our Outdoor Dining Facilities Policy & Procedures. Staff has attempted to re-draft that to respond to some of the issues that members raised. He recalls those issues as:

- 1) Time
- 2) Go before the Architectural Review Board for aesthetics and not necessarily come before Council
- 3) Tried to better marry the three different types of laws that regulate the areas:
 - a. The process of Conditional Use that allows restaurants in downtown
 - b. The process of authorizing the private use of public right-of-ways, Chapter 949 of the Codified Ordinances
 - c. The process of ensuring quality aesthetics in our community, which is our Design Guidelines through the Architectural Review Board

He asked Mr. Harris to address the changes to the Policy.

Mr. Harris thanked Mr. Greeson and introduced Ian Brown, proprietor of the Whitney House in the downtown area, who has joined us tonight to engage in dialog as necessary. He shared that he will go through the changes from the last version of the policy that members saw. He would be happy to take any questions afterwards.

- 1) Page 1, Paragraph 2 – Inserted references to public safety, economic development and protecting public property.

Mr. Harris stated that this effort marries this policy back to Codified Ordinance Chapter 949.

- 2) Page 1, Paragraph 3 – If adopted, this section states that Council is making the policy consistent with Chapter 949.

Mr. Harris commented that this is part of the effort to marry three discreet policy areas together. This policy deals with what will be the authority of the Director of Service and Engineering to authorize private use of public right-of-way.

- 3) Page 1, further down the page, it is called out again that City Council intends to allow facilities for outdoor dining, to include serving alcohol on sidewalks. At the bottom of the page it states that in all instances those matters are controlled

under chapter 949 of the Codified Ordinances and therefore City Council would entrust to the Director of Service and Engineering the approval of those permits with subsequent approvals for aesthetics and any conditional use from MPC/ARB respectively.

- 4) Page 2 – Therefore an application would be submitted to the Director of Service and Engineering.

Mr. Harris stated that he or she would then have the ability to review the materials rather than coming through the City Manager's office like was discussed last week.

- 5) Page 2 – The rest of the policy on this page remains as it was last week in terms of a delineated boundary on outdoor dining for alcohol service, the fact that anything in the public right-of-way must adhere to the existing liquor control permits from the State.
- 6) Page 3 – Continue with the discussion of what is required under state law for liquor permits, a delineated boundary.

Mr. Harris shared that a question was asked prior to tonight as to whether item #3 on page 3 regarding outdoor garbage containers should stay in or be removed. It is a matter that staff looked into and it may be best to have, although not require, at least have a garbage container outside in the area for outdoor service so that city trash cans are not filled with refuse from restaurants and so forth.

- 7) Page 4 – It was suggested that Item #8 at the top of page 4 (the look of umbrellas) be removed from the Director of Service and Engineering's authority as that is probably best left to ARB.
- 8) Page 4 – Bottom of Item #8, that we could still allow for umbrellas to be used in conjunction with awnings so long as they are spatially separated as opposed to an umbrella underneath of an awning, which is what we were trying to get at on our initial drafting exercise.
- 9) Page 4 – Section 3, This policy is intended to capture installation of outdoor facilities, the creation of outdoor facilities, or the continuing of outdoor facilities.

Mr. Harris shared that a question arose as to whether this policy applies to existing users of the right-of-way. As this is written the answer is yes, so you have existing users in the downtown that would fall under this permit process if Council chooses to do so.

- 10) Page 4 – Applications go to the Director of Service and Engineering with concurrent applications to the ARB and MPC.
- 11) If the Director of Service and Engineering approves, a special permit under Chapter 949 for Outdoor Dining, he or she would then forward that permit to the Planning Department. The Planning Department would then share those with ARB and MPC as they review the outdoor facilities.
- 12) Page 5 – Middle of the page, Director of Service and Engineering approves or denies applications with an appeals process to City Council. If City Council overrules the denial, therefore allowing a special permit to continue, the

ARB/MPC must act according to City Council's desire and that permit when they in turn approve the facilities.

- 13) Page 5 – Application Fees would be in the amount of \$300.00 per year, every year, for which the permit has been requested.

Mr. Harris shared that a question came in from one of the council members as to whether that is an annual renewal. He looked it up and the liquor law is on an annual permit renewal basis. Ohio Revised Code stated that those permits are issued one per year and therefore this policy is written on an annual renewable basis.

- 14) Page 6 – Bottom of page, staff strengthened the language in that the city has the right to revoke permission. In particular we cite several ordinance sections that would allow staff to do so under existing Codified Ordinance.
- 15) Page 6 – A suggestion was made as to whether we need to require that all tables and chairs be promptly removed from the sidewalk, Item E.

Mr. Harris shared that staff discussed this item and believes that existing downtown users move their tables and chairs off of the right-of-way at night. That was an item that he wanted to make sure he addressed.

Mr. Harris commented that he would be happy to take any questions.

Ms. Michael recalls that there was a question about having times limited. She didn't see that. Ms. Dorothy directed her to page 5, section 5, B. Mrs. Fox commented that the policy references hours of operations but not hours of service.

Ms. Michael thinks there was a definite concern that the policy include how late in the evening outdoor service can occur. Mr. Norstrom thinks it would depend on the location. If there is residential around the location then maybe going until 10:00 p.m. Hours of operation are addressed by MPC when a Conditional Use permit is obtained.

Ms. Michael commented that she doesn't see anything in the policy giving ARB/MPC the authority to be able to limit the hours of use for the outdoor service. Mr. Norstrom explained that those are already limited under Conditional Use in the Code.

Mrs. Fox stated that there may be a situation where the restaurant is not a Conditional Use but a Permitted Use in some of the locations in the downtown area.

Mr. Norstrom commented that we don't currently have any limits on restaurants in the downtown area other than what liquor control laws might be. Mr. Greeson thinks there are three properties that have restaurants as part of their zoning. In other words, almost all of the restaurants in the downtown exists by virtue of a Conditional Use. There are a few properties where the zoning would allow for a restaurant without a Conditional Use.

Mrs. Fox commented that council might also want to be more specific on "near residential" because we will have some residents on High St. and behind Worthington

Inn. We will also have residents at the new development so if members have an idea of what they mean by that it would be helpful. Mr. Norstrom shared that the Whitney House isn't near any residential area. With the condos that are going in next to Deweys. . .

Mr. Myers commented that if Council could just insert some broad language, considering the issue, MPC/ARB may regulate hours as it deems appropriate. MPC/ARB does that all the time and they will take into consideration all that Mr. Norstrom is saying. The Pub Outback is a very different view than the Whitney House because the Pub Outback is surrounded by condominiums and the Whitney House is not. He doesn't think that parameters are needed if council just gives MPC/ARB a general grant authority.

MOTION Mr. Myers made a motion to include the broad statement that MPC may regulate the hours of outdoor service. The motion was seconded by Ms. Dorothy.

The motion to amend passed unanimously by a voice vote.

Mr. Norstrom in referring to Section 2: Design Guidelines, Section 1 (describes the table and chairs) asked if tables and chairs will be regulated by ARB or the Service Director. Mr. Harris replied that as written it will go to the Service Director. Mr. Norstrom thinks that is the wrong place for it.

Mr. Norstrom recalls there being a discussion about a boundary that is permanent and not easily movable in Section 2. The gentleman that suggested that is not here to speak for himself tonight so he will say that he doesn't think that it should be permanent. In fact, later in this section it talks about removing during the winter so he doesn't think that "permanent" is the correct language to have in this policy.

Mrs. Fox thinks in cases where they will be serving alcohol outdoors the Department of Liquor Control will indicate what they believe will be permanent enough. Mr. Norstrom agreed to that. He asked that the language be consistent with what the Liquor Control Board requires rather than us putting an additional burden on it. He understands that they don't want the space to be one size one day and a different size another day. Mrs. Fox commented that they will define what the premise is in the permit so it has to be just that and nothing else in order for them to serve alcohol.

Mr. Norstrom suggested that we use the language we have on the third paragraph on Page 3 that says a permanent appearance. What we don't want are fences that are basically up all year long. So on page two, the outdoor dining facilities with a boundary that has a permanent appearance and a boundary, etc.

Ms. Michael asked if the motion is to amend the section to read, that the area of boundary that had a permanent appearance (not easily movable), etc. Mr. Norstrom agreed. He commented that he had additional items to add to his motion.

Mr. Norstrom referred to Page 3, #3 pertaining to garbage containers. He stated that he didn't check with Bag of Nails but he doesn't think they have a garbage container outside and from a perspective of allowing maximum retail space to the restaurant, there should not be a reason for the city to force an outside garbage container. Mr. Greeson asked for the authority to require one. He understands that it may not be relevant in the case of the Old Bag of Nails but he thinks there are other instances where restaurants fill the public containers in the absence of a private container. What is the business model where that would happen inside of a fence area? He doesn't know but if the city has the ability to require one then . . . Mr. Norstrom agreed to allow the garbage container.

Mr. Greeson replied that he thinks it really ties to whether their business model results in them bussing the tables.

Ms. Michael asked if #3 should state "must" or "may".

The consensus by members after a short discussion was "may be required".

Mr. Norstrom referring to Page 4, shared that he would like to strike the last sentence of #8 that states that "Umbrellas are not to be used in an area of the Outdoor Dining Facilities where an awning is in place". He understands staff's concern about umbrellas under awning but he doesn't think that is an issue. If there is space both for umbrellas and awnings then that should be allowed and that language should not necessarily indicate that.

Mr. Harris asked Mr. Norstrom if he wanted the second sentence under item # 8 struck as well since it is something that is already regulated by ARB. Mr. Norstrom agreed because it will all go through ARB regardless as it will be in the downtown Historic District.

Mr. Norstrom clarified for Ms. Michael that his suggestion is for the removal of the last two sentences of Section 8. He thanked Mr. Harris for the reminder.

Mr. Norstrom thinks the item on page 6, paragraph E, should be left up to the business, especially if it is within a fenced area or a permanent type area. He doesn't see putting an extra burden on our retailers.

When asked by Ms. Michael what he is suggesting, Mr. Norstrom replied that he suggests that the entire paragraph be deleted.

Mr. Greeson commented that he would like to get Mr. Watterson's reaction to that suggestion. This is the paragraph that states that all tables and chairs must be promptly removed? Mr. Norstrom replied yes. Those are not within a fenced in area. Even though they are not in the right-of-way, if we try to look at something similar to it, House Wine has its patio on the side. La Chatelaine has a patio and the furniture stays there. It is brought in some nights but not every night and there doesn't appear to be any reason for the city to enforce that on the retailers who are using the right-of-way.

Mr. Watterson commented but comments were inaudible.

Mr. Norstrom suggested that members remove that paragraph and amend it at a later time.

Ms. Michael reiterated the amendments that Mr. Norstrom asked to include in his motion. Those changes are as follows:

MOTION Mr. Norstrom made the following motion:

- 1) Section 2, Item 2 – Amend to include: . . . a boundary that has a permanent appearance. . .
- 2) Page 3, Item 3 – Amend to include: Retail establishments may be required to have at least one outdoor garbage container. . .
- 3) Section 2, Item 8 – Remove the last two sentences
- 4) Page 6, Item E – Remove

Ms. Michael asked if that was the correct motion. Mr. Norstrom agreed that it was.

Mr. Harris shared that he had a note that Section 2, Item 1 needed to be amended.

Mr. Norstrom agreed that all architectural elements are subject to review by the Architectural Review Board.

Mrs. Fox wanted to make sure that the hours of operation sentence was included. Ms. Michael confirmed that the motion was already approved.

Ms. Michael read the motion again to include Mr. Norstrom's comments:

The motion was seconded by Mr. Myers.

Mr. Norstrom asked if there is anyone that objects to any of those amendments as the items could be brought as separate motions. He would not like for the motion to fail.

Mr. Troper objected to the fourth item – the removal of Item E.

Mr. Norstrom asked that the part of the motion pertaining to Page 6, Item E – All tables, chairs, etc. must be promptly removed . . . be removed from his motion. Mr. Myers agreed to the change in the motion.

Mr. Myers commented that MPC approved new tables for a business going in. The tables that were originally approved are no longer being manufactured so the applicant came back and received an amendment for new tables. They will have to apply for a permit that states that the Service Director approves of the tables. He can't remember specifically but he thought the tables that were approved Thursday night were made of resin, which does not fit our policy. So we have a situation set up where the Service

Director has to deny based on what is listed in the policy something that has already been approved by ARB. He asked how we deal with that. Mr. Greeson replied that if council approves this motion, he thought he heard that council struck Section 2, Design Guidelines on page 2, that states that table and chairs must be comprised of metal or wood, etc. That was replaced with “all architectural elements are subject to ARB review.”

Mr. Myers stated that was proposed but he doesn't know if we came up with language for that. Mr. Norstrom agreed. He did propose that but we did not get specific language. He likes the idea of just striking #1 completely because ARB already deals with this.

Mr. Myers commented that most of the time ARB has approved it before it gets to this point as part of the original Certificate of Appropriateness.

Mr. Norstrom shared that if staff looks at this and wishes to change something, they can always bring it back for council to amend to state to specifically go to ARB.

Mr. Greeson suggested the following amendment: Tables and chairs, umbrellas, planter style and materials, and other architectural elements will be subject for review by the ARB. Mr. Norstrom agreed to the amendment.

Mr. Norstrom noted that this policy covers the area in front of the shops. He shared that ARB has approved behind and he doesn't know if that is public right-of-way (the parking lot). He asked if there is any public rights-of-way located behind businesses because this is written for public rights-of-way in front of businesses in several places in the policy.

Mr. Harris confirmed Mr. Norstrom's comment by pointing out Item 4, Page 3. which refers to items placed on the sidewalk in front of the business.

Mr. Myers commented that he doesn't think this policy pertains to that but ARB certainly reviews it.

Ms. Michael shared that if Rivage wanted to expand behind its business onto city green space, she asked if this policy will cover that expansion request. Mr. Greeson replied that the area in question is city property and not right-of-way that is governed by Chapter 949. Mr. Myers added that they would still have to enter into a lease agreement with the city. Mr. Greeson agreed.

Mr. Myers continued that through that lease agreement the Service Director could still require the same types of things that council is setting out as our policy in this document. Mr. Greeson replied that the Codified Ordinance don't vest in the Service Director the authority to apply Chapter 949 on parking lot properties.

Mr. Myers stated that it is a contract so we could include anything we want to. Mr. Greeson agreed.

Mr. Norstrom added that council could use this policy as guidelines for doing that. Mr. Myers agreed that to be his point.

Ms. Michael repeated the motion as:

- 1) All architectural elements are going to be reviewed by ARB
- 2) Boundary that has a permanent appearance
- 3) Trash receptacles may be required by the City
- 4) Keep on the first sentence in Section 8, Page 4
- 5) Keep in Section E on Page 6

The motion to amend as stated carried unanimously by a voice vote.

Mr. Norstrom commented that he has another amendment.

MOTION Mr. Norstrom made a motion that Council grandfather in any existing outdoor dining facilities for at least one year from the effective date of this resolution. The motion was seconded by Mr. Smith.

Ms. Michael shared that the current restaurants that we have do not have the authority to serve alcohol outdoors. So that would not be grandfathering them in because allowing them to serve alcohol outdoors is something new. Mr. Norstrom agreed but added that this policy is broader than that which is why he would recommend that we grandfather them in.

Mrs. Fox commented that under what staff considers to be “grandfathering” means that it is a legal, non-conforming situation and she thinks we would consider that until such time that they need to come in and change something. So if for instance a restaurant that already has outdoor dining but does not serve alcohol and they wish to, they will then have to comply with this policy even if it is in six months.

Ms. Michael asked what would be grandfathered. Mrs. Fox gave the example of Old Bag of Nails. They can continue to do everything they are doing today until such time that they want to change it but they wouldn't have to comply with this.

Ms. Michael stated they would only have to comply with this policy if they want to include alcohol. Mrs. Fox agreed because they would physically have to change how they are doing things.

Ms. Michael commented that we don't have places like this coming forward to continue to just serve food on the outside.

Mr. Harris pointed out that this draft has the word “continue” included in it. It says “if you want to continue outdoor dining service irrespective of alcohol or not they need to fall under 949. Mr. Norstrom stated that is his point.

Mrs. Fox commented that what Mr. Norstrom is saying is that he would like that to be stayed for one year. The point she is trying to make is that if that is stayed for a year as a grandfather then if they do come in in six months and want to serve alcohol and need to change the physical then they would need to comply.

Mr. Myers said he has one more concern about that but he is not sure how to add it. He would want to add if Mr. Norstrom would accept this as a friendly amendment, "to the extent that they would otherwise comply with design guidelines, sign ordinances, etc." His concern is Jet's. He went by it again tonight and he really kind of wonders if their advertising doesn't violate our sign ordinance.

Mr. Norstrom thinks that any approvals that Jet's has, that Bag of Nails has, that the new one has are all within our requirements. Mr. Myers doesn't remember Jet's having outdoor dining as a part of their Certificate of Appropriateness. Mr. Norstrom agreed that they should not be allowed to have it if that is the case. Mr. Myers added that he doesn't want this to grandfather Jet's if it is otherwise non-conforming.

Mr. Norstrom asked how about if the amendment is if the locations that are grandfathered are locations that have previously been approved by MPC/ARB.

Mr. Greeson asked if that is still for one year. Mr. Norstrom replied that he doesn't like the one year but he doesn't want to hold things up. As Mr. Harris has indicated, on the liquor he has no problems with it because they have to come back annually for the liquor license. But why should we make other restaurants who aren't serving liquor come back on an annual basis as long as they are meeting our requirements.

Ms. Michael commented that we are currently talking of amending the policy to grandfather in those entities that have already received the ARB/MPC approval for outdoor dining for one year.

Mr. Norstrom commented that he would like to have that discussion. He asked if it should be permanently. He asked if there is any reason for restaurants that have already been approved and that aren't serving alcohol to come back to us annually.

Ms. Michael added and they are not making any changes. Ms. Dorothy and Mr. Norstrom agreed.

Mr. Norstrom and Mr. Smith withdraw the motion to grandfather.

Mr. Norstrom made a new motion as follows:

MOTION

Mr. Norstrom made a motion to amend the first sentence of Section 5 to state that Special Permits to establish Outdoor Dining Facilities serving alcohol are issued on an annual, renewable basis, and during such period the Permittee must remain compliant with, etc.

Ms. Michael stated that “serving alcohol” is the amendment. Mr. Norstrom agreed because that means that anyone not serving alcohol is not subject to an annual, renewable basis.

The motion was seconded by Mr. Smith.

Mr. Myers asked why council is creating this distinction. Mr. Norstrom replied because we have to review the restaurants on an annual basis when we renew their liquor license. Mr. Myers injected that council is giving them a license. That is what this policy is. We are giving them a license to operate on our sidewalk. Mr. Norstrom agreed.

Mr. Myers commented that he doesn't know of any profession that receives a perpetual license. Everybody renews their license. Mr. Norstrom shared that we currently have a restaurant that has a perpetual license. Mr. Myers agreed. He added that he doesn't necessarily approve of that. Requiring the renewal of licenses is our hook to get compliance. If we have someone that is out of compliance, we either have to take enforcement action to bring them into compliance or we deny the renewal application for the non-compliance. It is a whole lot easier to deny a renewal application than it is to enforce an existing statute. From a regulator's perspective it is just a whole lot easier to do it. Mr. Norstrom stated that he has no problems with that when it comes to liquor.

Ms. Michael stated we have a motion and second to change Section 5, first sentence to include “serving alcohol”.

The motion failed by a vote of two (2) “yea” Norstrom, Smith to four (4) “nay” Myers, Dorothy, Troper, Michael

There being no additional comments, the motion to adopt Resolution No. 31-2015 (As Amended) carried unanimously by a voice vote.

Mr. Norstrom commented that writing Resolutions this way is not desirable. He knows we are under time pressure because we want to help the restaurants in the area but he would encourage staff to find a better way to do this because council only received this today and this was the only way we could do it.

Mr. Myers asked if we are going to be able to get a permit through the process before recess. Mr. Brown replied that Whitney House already has a permit for outdoor dining. This is for the alcohol portion so once the applicant is ready to make application everything will be in place.

Mr. Norstrom asked if there is anything changing in their application except for serving alcohol because then all Mr. Watterson has to do is approve it. Mr. Brown believes that the table layout might be a change.

Mrs. Fox shared that if they want to serve alcohol they will have to process that application through the Department of Liquor Control so that will take a little bit of time.

Resolution No. 32-2015

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 (6601 Huntley Road).

Introduced by Mr. Troper.

MOTION

Ms. Dorothy made a motion to adopt Resolution No. 32-2015. The motion was seconded by Mr. Myers.

Mr. Harris shared that this application is the seventh one under this program. This application is for 6601 Huntley Road (former Tri-State flooring building). The gun range has located as a new lessee at the southwest corner of Schrock and Huntley. This building has been owned continuously since 2000 by an affiliate of Huntley Partners LLC, which is based out of Bexley. This building has the Maxton Auto Shop on the southern portion and then the gun range is in the northern portion.

The building has shown some wear although when the building was purchased in 2000 the owners invested some money into it. Mr. Harris shared that last summer when he did a drive up and down the corridor, they were identified by him for a letter and a friendly phone call, in which case they took him up on it.

Mr. Harris showed slides of the current condition of the building. He stated that they have interacted with Neighborhood Design Center for a modest outdoor improvement package that includes:

Scope of Work

- Neighborhood Design Center-recommended updates to concentrate on signage, paint and landscaping:
 - Remove existing exterior paint and awning
 - Fresh coat of paint on entire exterior, including additional gray / red bars & new borders
 - Addition of landscaping shrubbery to hide HVAC & mechanicals
- Timeline: August 10, 2015 completion
- Total estimated costs: \$10,000.00
- Request ReCAP assistance: \$5,000.00

There being no additional comments, the motion to adopt Resolution No. 32-2015 carried unanimously by a voice vote.

Resolution No. 33-2015

Accepting the Recommendations of the 2015 Worthington Tax Incentive Review Council Concerning Parcels of Commercial Real Property in the City of Worthington Receiving Tax Exemptions for Purposes of Economic Development

Introduced by Mr. Smith.

MOTION

Mr. Norstrom made a motion to adopt Resolution No. 33-2015. The motion was seconded by Mr. Troper.

Mr. Harris shared that on June 4th the 2015 Worthington TIRC (Tax Incentive Review Council) met. They recommended that this council continue all active Community Reinvestment Abatements (CRA) and Tax Increment Financing (TIF) exemptions. Staff manned that meeting and reviewed those recommendations. We believe them to be reasonable and ready for council's action tonight. This action will continue the city's various tax exemption projects for 2015 with re-evaluation occurring in 2016. State law requires that this council act by August 3rd on the TIRC's recommendations. He would be happy to take any questions.

Mr. Norstrom asked if anything is happening at the 862 Proprietors Rd. site. Mr. Harris acknowledged that being the vacant land south of Dr. Heilman's condo unit and at this moment no. He shared that staff receives repeated phone calls from various developers, users and all manner of folks that want to make use of that property. They are almost exclusively for uses not appropriate for the current zoning. The property is represented by Skip Weiler of the Bob Weiler Company. This property is part of an estate as the owner passed away last fall. The family has told the attorneys representing the estate that they want to see that land go away. It is a matter of finding a proper use that fits zoning.

Mr. Norstrom asked if it is properly zoned. He doesn't need to have that question answered tonight.

There being no additional comments, the motion to adopt Resolution No. 33-2015 carried unanimously by a voice vote.

Ordinance No. 23-2015

To Amend Section 1147.01 of the Codified Ordinances of the City of Worthington to Add Dog and Cat Day Care Center as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District.

Introduced by Ms. Dorothy.

Ordinance No. 24-2015

Amending Ordinance No. 40-2014 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund

Unappropriated Balance to Pay the Cost of Basins 6 and 8 Sanitary Sewer Repairs and all Related Expenses and Determining to Proceed with said Project. (Project No. 568-11)

Introduced by Mr. Myers.

Ordinance No. 25-2015

Authorizing the City Manager to Execute a Lease Agreement with Worthington Lodge, LLC for Vehicular and Pedestrian Access from East New England Avenue to the Methodist Church Parking Lot.

Introduced by Mr. Smith.

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

Mr. Greeson reported on some legislative activities that council may want to be aware of. He shared that he is going to reference an Ohio Municipal League legislative bulletin. Members may have read in the news media that the Ohio Senate has unveiled their version of the biennium budget. There are a number of things in there that appear to affect municipalities. Staff is trying to ascertain the impact of Worthington. If they negatively impact us financially he would like some authority to write to that affect and we think the timing of that might be important to be able to do that.

Local Government Fund – *There seems to be an ongoing propensity to reduce funding for local services while at the same time increasing micromanagement of municipal activities. In this particular proposal there is a redirection of about \$24M of the biennium from the Local Government Fund municipal distribution to townships and small villages.*

Law Enforcement Assistance Fund – *We need to look at that more closely because it redirects about \$15M from the Local Government Fund over the biennium to this specific fund. We would be eligible to receive some of those dollars to offset increased requirements for law enforcement training. So it is a redirect of funds to pay for mandated hours of which you are covered in the first year and only partially covered in the second year and we are not sure where it goes from there.*

Governor's Task Force - *\$2M would come off of the Local Government Fund revenue to fund the Governor's Community Police Relations Task Force.*

Obviously there are some priorities in there that we think are good like training and police relations task force but concerning might be the fact that those previous municipal

dollars are now be encumbered for specific policy objectives of the state. Then dollars that had previously been directed to municipalities are now being redirected to townships and villages.

Ms. Michael understood that Local Government Funds were going to be increased but a significant amount of the increase would be redirected to townships with a smaller amount going to municipalities. She asked if the redirection is of existing funds or additional funds. Mr. Greeson replied that he can't tell from the bulletin. What is referenced is about \$41M over two years so what he has to dig into is whether that is from a projected increase in overall income tax proceeds at the state level and they are taking the increase or whether this is cutting into the base and has the potential to reduce our current allocation.

Mr. Norstrom asked Mr. Greeson what he is asking for tonight. Mr. Greeson replied that he thinks if we are negatively impacted then we need to be proactive.

MOTION Mr. Myers made a motion to authorize the City Manager to take appropriate measures to effectively preserve the financial well-being of the City of Worthington. The motion was seconded by Mr. Norstrom.

The motion carried unanimously by a voice vote

Mr. Greeson thinks the motion covers his next item. There are two pages of municipal tax changes that are bulleted in this bulletin that staff recently learned about that are individual proposals imbedded in this budget document that change a whole range of municipal income tax provisions. We will also look to see if they negatively impact us but we just need time to analyze this. This is in addition to all the changes that were part of House Bill 5 that was adopted last year.

Mr. Norstrom asked when this will be adopted. Mr. Greeson replied that it could be acted on this week in the Senate. It would then go to conference committee as they try to reconcile the House and Senate budgets.

Mr. Myers commented that we are at the end of the two year, right? Then we are talking July 1st.

REPORTS OF COUNCIL MEMBERS

OTHER

EXECUTIVE SESSION

MOTION Ms. Dorothy made a motion to meet in Executive Session to discuss personnel as it relates to Codified Ordinance Section 109.10. The motion was seconded by Mr. Myers.

The motion carried by the following voice vote:

Yes 6 Smith, Troper, Norstrom, Dorothy, Myers, Michael

No 0

Council recessed at 8:58 p.m. from the Regular meeting session.

MOTION Mr. Myers made a motion to return to open session at 9:15 p.m.
The motion was seconded by Mr. Norstrom.

The motion carried unanimously by a voice vote.**ADJOURNMENT****The motion carried unanimously by a voice vote.**

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

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned at 9:16 p.m.

/s/ D. Kay Thress
Clerk of Council

*APPROVED by the City Council, this
20th day of July, 2015.*

/s/ Bonnie D. Michael
Council President