



Meeting Minutes

Tuesday, January 3, 2017 ~ 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
Scott Myers, President Pro-Tempore
Rachael Dorothy
Douglas C. Foust
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 Tuesday, January 3, 2017, 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, Douglas Foust, David Norstrom, Douglas K. Smith, Michael C. Troper and Bonnie D. Michael

Member(s) Absent: Scott Myers

Also present: Clerk of Council D. Kay Thress, City Manager Matthew Greeson, Director of Law Pamela Fox, Assistant City Manager Robyn Stewart, Director of Public Service and Engineering Dan Whited, Director of Planning and Building Lee Brown, Director of Parks and Recreation Darren Hurley, Chief of Fire Scott Highley and Chief of Police Jerry Strait.

There were eleven visitors present.

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

VISITOR COMMENTS

APPEALS

- Determination on whether the Council elects to hold a public hearing on the appeal of an Architectural Review Board application for solar panels at 661 Evening St.

Mr. Greeson commenting on procedure, shared that an appeal has been filed by Council member Foust in accordance with the Codified Ordinances. Council will need to elect or not to hold a hearing on the appeal. If Council decides to hold a hearing, it will have to do so within 60 days of the final Architectural Review Board (ARB) decision. If Council decides not to hear the appeal then the ARB decision stands. An appeals means that members are deciding tonight whether or not to hold a hearing. Staff is prepared to provide a PowerPoint presentation if members wish. The entire ARB packet was included in the Council agenda packet along with e-mails received from residents.

Mr. Greeson stated that if Council elects to hold a hearing, staff will go through the entire presentation. Tonight, Council will need to decide how much information it will need to make a decision on whether or not to hold an appeal hearing.

Ms. Michael noted that the appeal hearing will determine whether or not solar panels are appropriate on this particular house under the current guidelines. Mr. Greeson agreed.

Ms. Dorothy commented that there was an ordinance in 2016 that allows Council members to apply for an appeal but there is no automatic right to a hearing. Mr. Greeson agreed. The ordinance states that an aggrieved party or a Council member can file an appeal. It is the Council as a whole that elects whether or not to hear the appeal.

Ms. Michael thinks it would be helpful to read the existing guideline.

Mr. Brown reported that in February 2010 City Council looked at adding a sustainability section to the Planning and Zoning Code and to the Worthington Design Guidelines. One of the "WHEREASs" reads:

"City Council and the Architectural Review Board are interested in encouraging sustainable design and building practices, while preserving the character and integrity of the Architectural Review District."

Within that Ordinance was an attachment related to sustainability and recommendations. Item "C" which relates to solar panels states:

"Place solar panels in a location that minimizes the visual impact as seen from the right-of-way and surrounding properties. Generally, panels should be located on roofs in the following manner: the rear 50% of the roof of the main building; the rear inside quadrant of the roof of a main building on a corner lot; or on accessory structures in the rear yard. On sloped roofs, place panels flush along the roof unless visibility is decreased with other placement. With flat roofs, keep panels at least 5' from the edge of the roof, or place at the edge if a building parapet exists that will screen the panels.

Solar panels at another location on a building or site may be acceptable if their placement does not have an adverse effect on the architecture of the building, or the character of the site or Architectural Review District.

The equipment to support solar panels should be screened from view."

Mr. Brown reported that guidance was added to the Worthington Design Guidelines in February 2010.

Mr. Foust stated that as the appellant on this request he would like to share a couple of comments. While he realizes that tonight is about a particular application, he feels that there is a bigger issue that he would like for Council to take up, if not at this moment then at some point in the very near future.

As he listened to a presentation fourteen months ago, he is not sure that the guidelines just read by Mr. Brown were honored in the 2016 appeal request, which troubled him at the time. He shared phrases like slippery slope or precedence with some members of the ARB following that meeting and he continues to have concerns. He thinks this is about whether city leadership has provided sufficient guidance to ARB regarding how they

should incorporate current technology into architectural standards. The conversations and split votes suggest that we haven't. He thinks it is about moving forward thoughtfully and the co-existence of heritage and character with technology. He has read the e-mails that were received and is grateful for that input. He doesn't think that this is about global warming or polar icecaps or fracking nor is it about stopping anything. He is one of seven votes but he believes all of his colleagues support the value of clean renewal energy, our impact on the planet, and our legacy we leave for future generations. He shared that in his day job he helped pave the way for local government to incorporate wind and solar power into their local infrastructure. The point being, he is not anti-anything. As he looks back at the things he voiced in his 2015 campaign and 5,000+ people seemed to agree with it, he talked about things like responsible development based on doing our homework, understanding the impact on schools, traffic and yes, the environment. In preserving those things that caused many of us to choose Worthington as our home. He raises this simply as a matter of getting city leadership to look at this in the same manner as it does any architectural issue. He thinks the goal is to create guidance for the ARB in response to changing technology that allows clean energy alternatives and the long established architectural character of our City, both in and out of the Architectural Review District to co-exist. He added that to him, no single factor here trumps another factor. To him, it is a matter of striking a balance.

Ms. Dorothy commented that she thinks the ARB meeting did a good job identifying the balance we have in the community, specifically in the Architectural Review District. They noted that the house was a ranch style built in 1955 and not a contributing structure in Worthington. All throughout the community we have technology included in the community. For technology we have electric power lines that she thinks are more out of character with Worthington. It would be great if we could get rid of those. She thinks this is a modern technology that needs to be approved throughout the city including the AR District. She didn't see anyone against the initial filing including in e-mails and thinks the ARB decision is appropriate for this house.

Mr. Troper added his agreement to Ms. Dorothy's comments. This house is not a contributing structure in the Worthington historic district. He shared that he met with Ms. Dole about the house and her intent to install the panels. He thinks if we were looking at an older home in the historic district it might be more appropriate for solar shingles but that might be something Council could look into in redefining the guidelines. He supports the solar panels for this particular house.

Mr. Smith agreed with Mr. Foust in that a larger conversation is needed and soon. He hopes that will occur during this year's retreat and also include electric vehicle stations and any other renewable energy type of progression such as the nods that the state of Ohio just approved as law for AT&T to install on public property. He thinks they will allow some guidelines for architectural and aesthetics as well. Until that point he thinks it should be addressed on a case by case situation. He likes the look of solar panels and he likes them on this structure.

Ms. Michael thinks she is hearing the need for a larger conversation, perhaps restructuring our guidelines. That could be a discussion topic for the February Committee of the Whole meeting.

Mr. Norstrom shared that the thing he doesn't understand from some of his fellow Council members is whether they read the council approved ordinance that allowed those guidelines to be established. Basically the part that says, "solar panels should be screened from view." The intention is that the solar panels not be seen from the front of the house. We have fifty years of an Architecture Review District. Before we allow another mistake in that district, he thinks this discussion is the necessary discussion. When we passed this legislation solar tiles were not an option. Those are now available and he imagines that in a few years there will be other options for solar on houses. But Council has worked hard and maybe it is time to change and get rid of the ARB completely. We have established a district and said we want to protect the architecture in that district. As much as he is a solar advocate and has looked at it for his house, it is not appropriate to put the panels in a visible location. That is what Council has stated. He would support the appeal being heard by Council just to debate that issue. If Council doesn't debate the topic then this application goes forward without that debate. He thinks that debate is important for Council. We either let it go forward on this case or we stop it with this case. Council should not make another exception to our rules.

Ms. Dorothy shared that she has read the guidelines. They also state: "Solar panels in another location on a building or site may be acceptable if their placement does not have an adverse effect on the architecture of the building, or the character of the site or Architectural Review District." That is what Council is talking about right now, which she believes ARB did a good job.

Mr. Norstrom commented that he fully agrees with Ms. Dorothy but the question is what is meant by the "architectural effect of the building." It is not clear. He knows what that meant when he served on the ARB and this application would not have been approved but it was. The question is whether Council wants to define the adverse effect on architect and buildings now and have that debate. To say that we are not going to have that debate, he doesn't think is appropriate for the City or for the district.

Ms. Dorothy thinks Council can have that debate without having a hearing on this application. Mr. Norstrom agreed. He added that by doing so Council has potentially allowed a violation of what it wants. If members agree that Council should have that debate then let's have it now.

Ms. Dorothy informed members that she wants solar panels in the AR district. When asked by Mr. Norstrom if she wants them to have an adverse effect, Ms. Dorothy replied that she doesn't think it has an adverse effect.

Mr. Smith shared that the definition is based on the Council or Board's understanding of that definition at the time. Obviously it changes. It is probably going to be changing

based on a debate that Council will have at a future time. Using this mechanism as an appeal of somebody's house specifically is a poor way to go about that debate.

Mr. Norstrom agreed. Council should have that conversation and we should stop this from going forward because if we were to have that conversation and determine that this would violate what members want in the district then Council should not allow it to happen.

Mr. Smith stated members can vote on that tonight can't we? Mr. Norstrom agreed that they could.

Mr. Foust agreed with Ms. Dorothy in that they both want solar panels. The question he would pose to Ms. Dorothy and Mr. Troper is where is the harm? We have a precedent and a year ago we raised a concern about whether Council had set a precedent. That precedent has been cited in making a case for a second. So does Council double the number of violations from one to two? Where is the harm in stopping and having a thoughtful conversation before proceeding with a second, possibly erroneous decision?

Mr. Norstrom added that Council is without Mr. Myers this evening. Ms. Michael shared that Mr. Myers contacted her and she has his comments to share. Mr. Norstrom doesn't think his comments are appropriate because he is not part of the debate.

Ms. Michael informed members that while Mr. Myers left work early because he was ill, he asked that she share his support to accept the appeal for a hearing by Council.

Michael Bates, 6560 Evening St.

Mr. Bates thinks that he misunderstood what tonight's meeting was about. He thought it was going to be a discussion on the solar panels themselves in the architectural district. But since this has come up this evening and the way that Mr. Brown has read the code, it does seem like the solar panels meet the code. The question is what do we want to do going forward. He agrees that we need a plan going forward because solar panels are going to be a fact of life in this community and across the country now and for future generations so we might as well get it figured out now. If that is hearing the appeal or making it a retreat topic that is up to Council but we probably do need to get it nailed down at some point.

To Mr. Foust's commented about the harm, it is his opinion that we are holding a citizen hostage from going forward with the applicant's project. That is the harm. If there is a change down the road, then now we have two houses in the AR district that do not meet whatever the new district parameters are. He does not think that it is fair to hold the current homeowner hostage.

Mr. Norstrom shared that he would agree with Mr. Bates if the homeowner was not aware that there could be a problem. She was made aware of the possible issues. Mr. Smith commented that doesn't make the applicant wrong. Mr. Norstrom agreed.

Rosanne Nagel, 282 McCoy Ave.

Ms. Nagel shared that she lives just outside of the historic district. She is a teacher of history and provides a sustainability course. She has also spent some time working with the Ohio Historic Preservation office. She is frustrated with the idea that Worthington promotes a progressive image and tries to bring in young families and future generations that sees value in the community and present one story that doesn't necessarily marry to the new story with this concept of integrity. The historic district is going to be very important in terms of the integrity of the architecture. We also have a responsibility to maintain a sustainable future. We need to look at how we want to progress and look at properties within today's parameters. We need to allow citizens to make decisions especially for a property that is non-contributing. We do not all have the same view in terms of aesthetics. Obviously there is historic integrity but we need to recognize what that greater picture will be for future generations. We do not draw people to this town for the same tourist reasons as one goes to old town Boston. We really need to be a progress community that acknowledges that it is historic but we are also looking at how we can bring together this progress. She hopes that we will consider placing solar panels on this building (City Hall), the fire station, etc. Place them on all of these buildings that have the opportunity to have solar panels. Instead of just sitting here and talking the talk maybe we walk the walk about this issue of sustainability.

In discussing the timeline by which Council needs to decide whether or not to hold a hearing on the appeal request, Mr. Greeson read the code section which states as follows: "The hearing shall be held not later than 60 days after a final decision has been rendered by the Board". He added that "the Board" means the ARB.

When asked by Ms. Michael what that date would be, Ms. Stewart replied that the 60th day is February 6th, which is Council's first meeting in February.

MOTION Ms. Dorothy made a motion to hold a public hearing on the appeal. The motion was seconded by Mr. Troper.

When asked by Mr. Smith if she wants the appeal, Ms. Dorothy replied that she can vote no.

Mr. Norstrom commented that while Ms. Dorothy doesn't know what the votes are, he thinks she is playing with Council and he doesn't think that is appropriate.

Mr. Smith commented that he is concerned about the wording offered in the motion that was made by someone who intends to vote against the appeal. Ms. Michael explained that traditionally motions are offered in a positive frame. If members do not like it then they can vote it down.

Mr. Greeson shared that the motion offered in the City Manager Memo was: "A motion to elect to hold a public hearing on the appeal."

MOTION TO AMEND Mr. Norstrom made a motion to amend the motion to move the decision to another date. The motion was seconded by Mr. Foust.

Amendment failed by a vote of four (Troper, Dorothy, Smith and Michael) to two (Norstrom and Foust).

The original motion failed by a vote of four (Troper, Dorothy, Smith and Michael) to two (Norstrom and Foust).

Ms. Michael stated there will not be an appeal. At this point she would like for staff to dedicate the Committee of the Whole meeting in February for discussing and possibly revising the guidelines. She thinks it should also be understood that any guideline changes be used in future applications.

Mr. Norstrom is not sure that February allows staff enough time. This is a complicated issue because it impacts our architectural review district. If we are saying any modern technology can overstep that or make changes, those are debates that members should have. He thinks having it ready in the timeframe offered doesn't provide adequate time. He would say 60 to 90 days.

Ms. Michael agreed with the suggested timeline. She directed members to provide any thoughts they may have to Mr. Greeson. She also thinks a discussion should be had with members of the ARB to get their thoughts.

Mr. Smith thinks the middle of February timeline makes more sense and he offered his reasons. If members are committed to making a decision by 90 days then he thinks they should talk about it sooner.

Ms. Michael asked if members wanted an initial discussion in February and then see where things go.

When asked by Mr. Greeson if members wanted to refer the issue to the Architectural Review Board, Ms. Michael and Mr. Norstrom replied no. Ms. Michael added that she believes it is a Council level issue.

Ms. Dorothy reported having larger questions about the AR guidelines to begin with that she brought up a year ago that no one wanted to revisit the whole guidelines. She understands that this is just about sustainable features.

When Ms. Dorothy asked if that was correct, Mr. Norstrom reported this being about the guidelines. If she wants to have that conversation he fully encourages it.

Ms. Dorothy shared that she had previously brought up the guidelines because she thinks that much of them are ambiguous. She feels they could be tightened up in several different aspects including solar panels. She would welcome a review of the entire

architectural review district guidelines. Ms. Michael agreed that a review is very much needed.

Members and staff discussed the issue further.

Mr. Bates suggested that Council place a moratorium on additional applications until there is a firm decision made on the architectural review guidelines. He would hate to see someone else get caught up in a similar type of situation where they have invested money even and then not being able to move forward.

Members discussed the idea of a moratorium.

Mr. Greeson thinks Council can direct staff to prepare legislation to accomplish a moratorium. Ms. Fox could work on that and staff would bring it back.

After some further discussion Ms. Michael declared that there were four members who favored going forward with moratorium legislation.

Mr. Greeson noted that the legislation would establish a moratorium for issuing permits in the architectural review district for solar panel installations.

Mr. Brown thinks staff can start pulling things together but he doesn't want to promise members a 30 days completion. He shared that staff has been talking to other communities in central Ohio to see what they are doing. While they have only been initial conversations, he thinks we can aim for the February meeting but a March timeframe might be better. That would allow staff time to see what we can find for solar before diving into the rest of the design guidelines. That would at least give staff time to build on that information and then look towards the language that Mr. Greeson mentioned for a moratorium.

When asked by Ms. Michael if there is a problem with having a moratorium until the guidelines are reviewed, Mr. Brown replied not to his knowledge. He added that staff has not talked to anyone in the district but Ms. Dole about solar panels.

Mr. Greeson shared that staff will need to consult with Ms. Fox on the relative merits of the moratorium and bring back legislation and whatever advice she would have on the issue. His experience with moratoriums is that they must be finite in time and specific in purpose.

Ms. Dorothy expressed her objection to the moratorium. She thinks that goes against the character of Worthington as being a progressive city. She thinks putting a moratorium on solar panels in the architectural review district disparages all of the City.

Mr. Troper thinks it is crazy to put a moratorium on this issue. He thinks if people want solar panels they can have them even though they will be on a case by case basis. If members feel that we need to hear an appeal on a specific one then we can do that.

Mr. Foust asked the question again of where is the harm in just slowing the process down a notch.

Mr. Troper asserted that the harm is that people want solar panels. The majority of the letters were in favor of solar panels. The neighbors were in favor of solar panels. The majority of people who spoke were in favor of solar panels. If this were a historic house then he might have agreed to hear the appeal and maybe require solar shingles or whatever but it is not.

Mr. Norstrom commented that the historic district is the entire district. The rules apply to the district and not just historical houses in the district. Which gets us back to maybe having another conversation about the district. But that is what the district is and has been for fifty years.

Mr. Foust in addressing the comment on number of letters, he thinks there were twenty or so, but there were 5,000+ people who voted in this last election and he doesn't know that 20 is a significant sampling of those 5,000. He noted that some credence has been given to Facebook page postings. He was intrigued by the fact that five people liked it but 104 viewed it. He pointed to that as being another data point along with those twenty letters. To him there is more going on than just a hasty decision. Members have made one decision tonight and he would just ask that members slow the process down a bit.

Ms. Michael reiterated that members want to review the guidelines. She doesn't want to rush the process but she also doesn't want it to drag out. If March works for Mr. Brown then she can see March as the beginning of the discussion so that we don't lose this. Mr. Norstrom shared that there no chance that we will lose this. It is too important an issue to be delayed by Council. Ms. Michael stated that she just wants to make sure it stays as a priority.

Mr. Greeson confirmed that the issue will be back to Council in March.

When asked by Mr. Troper if the moratorium would be from one point to a specific point or will it be an indefinite moratorium, Ms. Michael thinks that something staff should look at while drafting the legislation. Mr. Greeson commented that he would feel more comfortable in Ms. Fox advising members in the mechanics of that process.

Ms. Dorothy commented that the moratorium is what the majority of Council is asking for and she is in the minority. Ms. Michael replied that the vote was four to two (Troper and Dorothy).

Mr. Greeson takes that as direction that staff needs to prepare some information and some guidance to members on how to accomplish that. Ms. Fox is out all this week so it is not likely that we will have legislation prepared for next week but we will probably be able to have a more informed conversation on the mechanics of a moratorium.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 01-2017 Authorizing the City Manager to Execute a Cleaning Contract for the Community Center.

Introduced by Mr. Troper.

MOTION Ms. Dorothy made a motion to adopt Resolution No. 01-2017. The motion was seconded by Mr. Smith.

Mr. Hurley shared that bids were opened on Dec 9, 2016 for custodial services at the Community Center. Three bids were received with the winning bid being submitted by Cummings Facility Services. Ms. Kelly Dehn from Cummings is present this evening to answer any questions. He reported that their bid was \$8,311.64 per month. The contract will run from February 1, 2017 through January 31, 2018. Sufficient funds are already allocated in our 2017 operating budget to fund the 2017 portion of the contract. Tonight staff is requesting that Council adopt the resolution that would authorize the City Manager to execute the cleaning contract so that Cummins Facility Services can begin the provision of the services on February 1st.

There being no additional comments, the motion to adopt Resolution No. 01-2017 carried unanimously by a voice vote.

Ordinance No. 01-2017 Amending Certain Sections of the Codified Ordinances of the City to Allow for Electronic Notification to the Public of the Dates of Public Meetings, of Vacancies in Personnel Positions in the City, of a Water Conservation Emergency, and of Applications Heard Pursuant to Part 11 of the Codified Ordinances.

Introduced by Mr. Norstrom.

Ordinance No. 02-2017 Amending Chapter 111 of the Codified Ordinances of the City to Establish Procedures for the Purchase of Supplies, Materials and Equipment and the Construction of Public Improvements.

Introduced by Mr. Foust.

The Clerk was instructed to give notice of a public hearing on said ordinance(s) in accordance with the provisions of the City Charter unless otherwise directed.

REPORTS OF CITY OFFICIALS

Policy Item(s)

- Liquor Permit – Transfer from Shahzad LLC (dba Worthington Marathon) to Manas 99 LLC (dba Worthington Marathon)

Mr. Greeson shared that this is a liquor permit transfer to change the LLC and relates to their C-1 and C-2 permits. He asked Chief Strait to weigh in on this but he is not aware of any reason to file for a hearing. Chief Strait shared that the police have no objection to this request.

When asked by Mr. Norstrom if there are any other gas stations in the city with permits to sell beer and wine, Chief Strait replied that he believes the BP and the UDF on Linworth both have these types of liquor permits.

MOTION Mr. Norstrom made a motion to not request a hearing on the transfer of a permit from Shahzad LLC to Manas 99 LLC. The motion was seconded by Mr. Smith.

The motion carried unanimously by a voice vote.

Discussion Item(s)

- City Council Retreat Dates

Mr. Greeson shared that the first stage to organize a retreat is to select a date. He asked members for some options in the February and March timeframe for a Friday evening, Saturday morning event.

After some discussion, members suggested February 3rd and 4th with March 3rd and 4th as the alternative. Staff will share the suggestions with Mr. Myers to determine a final date.

Mr. Greeson commented that he will engage the Council President for suggestions on what members would like to accomplish and discuss facilitators. Ms. Michael asked members to contact her or Mr. Greeson with their suggestions of topics.

Mr. Greeson noted that members have done a great deal of goal setting/task identification in our retreats, particular last year.

When asked by Ms. Dorothy if he had .pdfs of the last few retreats that he could share, Mr. Greeson acknowledged that he does and he will send them out.

Mr. Foust commented that he would pose the question back to city staff on whether there are things about which they would seek guidance from Council that are appropriate for discussion.

REPORTS OF COUNCIL MEMBERS

Ms. Dorothy noted that the pads for the pedestrian hybrid beacons are in place. She asked for a timeline on the installation. Mr. Whited believes they will be installed within the next few weeks. Mr. Greeson added that there will be some corresponding educational sessions offered on the use of the beacons. Mr. Hurley shared that the information is already available on the City's website and packets of information will be going out to the schools, the library, and the Griswold. There will be both a hard copy educational piece and an online format that will be triggered when the mast arms arrive.

EXECUTIVE SESSION

MOTION Mr. Troper made a motion to meet in Executive Session to discuss Board and Commission appointments. The motion was seconded by Ms. Dorothy.

The motion carried by the following voice vote:

Yes 6 Foust, Norstrom, Smith, Troper, Dorothy, and Michael

Council recessed at 8:28 p.m. from the Regular meeting session.

MOTION Mr. Norstrom made a motion to return to open session at 8:36 p.m. The motion was seconded by Mr. Troper.

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

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

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned at 8:36 P.M.

/s/ D. Kay Thress
Clerk of Council

*APPROVED by the City Council, this
6th day of February, 2017.*

/s/ Bonnie D. Michael
Council President