



**CITY OF WORTHINGTON**  
**Worthington City Council Minutes**  
December 11, 2017

6550 N. High Street  
Worthington, Ohio 43085

---

**CALL TO ORDER – Roll Call, Pledge of Allegiance**

Worthington City Council met in Regular Session on Monday, December 11, 2017, in the John P. Coleman Council Chambers of the Louis J.R. Goorey Municipal Building, 6550 North High Street, Worthington, Ohio. President Michael called the meeting to order at or about 7:30 PM

**ROLL CALL**

**Members Present:** Douglas Foust, Scott Myers, David Norstrom, Douglas K. Smith, Michael C. Troper and Bonnie D. Michael

**Member(s) Absent:** Rachael R. Dorothy

**Also present:** City Manager Matthew Greeson, Assistant City Manager Robyn Stewart, Director of Law Tom Lindsey, Director of Finance Scott Barter, Director of Service & Engineering Dan Whited, Director of Planning & Building Lee Brown, Chief of Fire & EMS Scott Highley, Director of Parks & Recreation Darren Hurley, Chief of Police Jerry Strait, Clerk of Council D. Kay Thress

There were twenty two visitors present.

**PLEDGE OF ALLEGIANCE**

*President Michael invited all to stand and join in reciting the Pledge of Allegiance to the flag.*

**VISITOR COMMENTS**

**SPECIAL PRESENTATION**

**Resolution No. 84-2017**

Expressing the Appreciation and Best Wishes of the Worthington City Council to Chief Scott Highley for his Outstanding Service to the Worthington Division of Fire & EMS and for his Service to the Community.

**Introduced by Mr. Myers.**

## **MOTION**

Mr. Smith made a motion to adopt Resolution No. 84-2017. The motion was seconded by Mr. Norstrom.

Mr. Greeson congratulated Chief Highley on a well-deserved retirement. He provided some background information. He is not the stereotypical Chief as he has always been a calm and thoughtful leader. He has a high degree of emotional intelligence. He is a great reader of people, the needs of the community and someone who recognizes the needs of others and seeks to serve them in the long term interest of our community. Because of this skill set he is someone that he and other directors have often asked to be part of our interview processes for new employees and promotions in other departments. He is a great judge of fit and character and very insightful about people in general. He has shown what we desire out of all public servants ethics, an incredible sense of fairness, and a truly caring approach. Chief Highley has worked outside the firehouse to benefit the community by supporting youth sports, the Lions and Leadership Worthington among other initiatives. He has worked inside the firehouse to support his employees and ensure that we have a well-trained, well equipped, highly professional fire and EMS operation that is widely respected throughout this region.

Mr. Greeson believes that Chief Highley is community focused and really described what he has tried to accomplish. In an increasing technical, regulated, and sophisticated medical and fire science operation, our Chief has not only ensured that we not only excel but he has done so with an understanding that we are still small town. We are a place where people want to know their firefighters, visit the firehouse, and connect to programs that help serve their public safety needs at the community level. He knows his field and has been an effective public administrator. He has integrated into his profession having served as chief of the state EMS Board and as a frequent lecturer in fire science and management courses, teaching the next generation how to administer fire operations. In speaking of the next generation, his two sons who grew up in Worthington and went to Thomas Worthington High School have now followed in his footsteps as firefighter/paramedics. He wished Chief Highley the best and shared that he hopes he has the opportunity to become a more full time parrot head, scuba dive wherever he wants and shepherds his boys to their inevitable success in this profession. It has been an honor to work with him and he thanked him for his service in Worthington.

President Michael invited Chief Highley to join her at the podium. She shared that it has been a pleasure to work with him. She read Resolution No. 84-2017 in its entirety and presented him with a certified copy. Mr. Greeson presented him with his Council Chamber nameplates that were framed.

**The motion to adopt Resolution No. 84-2017 carried unanimously by a voice vote.**

*Chief Highley thanked everyone for the last twenty four years. It is always good to work in the fire service because one of the bigger battles you have is that people want to do more rather than less. You usually have to go slow and get it done right because everybody wants to do as much as they can for the community. This group is no different.*

*They put a lot of time and effort into their jobs and taking care of Worthington. It has been a good twenty four years and a good group of people. He thinks they will do well in the future.*

## **PUBLIC HEARINGS ON LEGISLATION**

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

### **Ordinance No. 47-2017**

Amending Ordinance No. 41-2017 (As Amended) to Adjust the Annual Budget by Providing for Appropriations From the Capital Improvements Fund Unappropriated Balance to Pay the Cost of the 2018 New and Replacement Equipment Items and for Certain Projects as Identified in the 2018 Five-Year Capital Improvements Program and all Related Expenses and Determining to Proceed with said Projects.

**The foregoing Ordinance Title was read.**

*Mr. Greeson reported this being a routine annual legislation. Members will recall that at the end of the year after Council adopts the Five Year Capital Improvements Program, that CIP is not only a plan for five years but also Council's direction to begin action on the 2018 CIP projects and equipment purchases. This ordinance appropriates funds for equipment purchases that were approved in that plan as well as funds for a number of projects that are under the bid thresholds.*

**There being no additional comments, the clerk called the roll on Ordinance No. 47-2017. The motion carried by the following vote:**

**Yes 6** Foust, Troper, Norstrom, Smith, Myers, and Michael

**No 0**

**Ordinance No. 47-2017 was thereupon declared duly passed and is recorded in full in the appropriate record book.**

### **Architectural Review Board Appeal - Mural at 627 High Street**

*President Michael reported that City Council received a request to withdraw an appeal by the Old Worthington Partnership on the decision of the Architectural Review Board to deny a request for a mural on the south side of La Chatelaine at 627 High St. At this point Council needs to either make a motion to accept the withdrawal the appeal or to not accept the appeal.*

**MOTION**

Mr. Myers made a motion to accept the withdrawal of the appeal by the Old Worthington Partnership. The motion was seconded by Mr. Foust.

**There being no additional comments, the motion carried unanimously.**

*Ms. Michael recognized Mr. Foust who made the following motion:*

**MOTION**

Mr. Foust made a motion that Council requests the City Manager to develop a recommendation to City Council outlining a proposed AdHoc task force comprised of a representative group of interested parties for the purpose of providing input on the development of a policy on murals and that it be returned to Council the first meeting of January if at all possible. The motion was seconded by Mr. Myers.

*Ms. Michael asked if there were any questions. She believes everyone has received letters both pro and con regarding this. She thinks it makes sense to have community dialog.*

*Mr. Norstrom commented that what the group is returning with is a recommendation of how to proceed. He asked if that was correct. Mr. Foust reported it being a recommendation with regard to composition. We select a group who represents those who have voiced concerns both for and against.*

*Mr. Myers recapped that as he understands it, what Mr. Foust is proposing is essentially a study group that hopefully will produce recommendations to Council on how we should proceed. Mr. Foust agreed. Mr. Myers clarified that the Task Force would prepare recommendations as opposed to staff having recommendations on how to proceed by the first meeting of the year. Staff would have an outline of what a committee would look like and who might possibly be on it for Council's recommendation and that committee would be charged with coming forth with a draft set of guidelines on how to proceed. Mr. Foust agreed.*

**There being no additional comments, the motion carried unanimously.**

**NEW LEGISLATION TO BE INTRODUCED**

**Resolution No. 79-2017**

To File with the Ohio Department of Commerce, Division of Liquor Control an Objection to the Renewal of the Liquor Permits for C & B Machinery Inc., dba Monkeys Bar & Grill at 6116 Huntley Road.

**Introduced by Mr. Foust.**

**MOTION**

Mr. Smith made a motion to adopt Resolution No. 79-2017. The motion was seconded by Mr. Norstrom.

*Mr. Greeson reported that the City was recently noticed of the opportunity on whether we wanted to object to any of the liquor permit establishments and their renewal of liquor permits for the upcoming year. In review of the responses and activities of our Public Safety operations to liquor establishments, staff recommends that we object to the liquor permit renewal of the Monkeys Bar & Grill. We have enclosed a staff memorandum that includes information and background that talks about our responses, our efforts and our patrol patterns related to that facility. Members are certainly aware of recent events although those have not been the only events. The Chief of Police, he and the law director are available to answer any questions members may have. He invited Mr. Lindsey to talk about the process and Chief Strait to talk about the reasons he sees for objecting.*

*Mr. Lindsey shared that the Ohio Revised Code sets forth a process for us to file this objection. It requires that we have certain grounds under the statute. Council has to adopt this resolution in order to initiate that process. It does not in and of itself guarantee whether or not a particular liquor permit will or will not be renewed. The Division of Liquor Control ultimately makes that determination but it is through this process a municipality can express its concern about a particular liquor permit. Staff has outlined that process in the memo. We do need to file the resolution along with a statement from the law director or chief legal official for the City prior to January 2, 2018 which is why we brought it forward tonight for Council's consideration. Chief Strait can go into more of the details in terms of the various runs at that location and why we feel that it meets the legal standard for us to file that objection.*

*Chief Strait reported that over the past few years staff has had increasing problems at this establishment; everything from disturbances to the double homicide we dealt with most recently. There have been assaults, a previous stabbing, fights, disturbances, and numerous suspicious person calls. He believes that part of the reason there hasn't been more violence is because every night that they have had a large size crowd, we have requested additional personnel to sit on the lot. That accounts for over 150 different times that we have had an officer sitting on that lot for an hour at a time to prevent additional problems. It has been up, it's been down. We have spoken with the owner and the management of the business. We have advised them of the concerns and problems that we have seen. We have spoken to the City of Columbus and the Ohio Investigative Unit. Everyone is aware of what has been going on there. We have done our best to prevent it but as you are well aware it has escalated and that is what we were concerned about.*

*When asked by Mr. Norstrom the definition of "alarm drop", Chief Strait replied that it is when someone reports an actual alarm going off, either business or house.*

*Mr. Norstrom realizes that Council can take action regarding the liquor license and it is obvious that he and his staff have taken action over 150 times. He asked if there is*

*anything else that could have been done to stop this business from continuing. Mr. Lindsey replied that the ability to file nuisance related activities, usually the threshold and the number of instances, whether they be criminal conduct occurring at the scene is significant before you would be able to, in most instances, have a judge of common pleas, environmental or municipal court to issue an injunction that would affect the ongoing operations at that establishment. Based on the instances we have, we believe this approach, in terms of the liquor license, if the liquor license is denied, will have the impact of stopping operations at that location and even if it is not; this would create a dialog expressing the City's concern and hopefully the establishment would increase its efforts to police its own activities.*

*When asked by Mr. Norstrom how often a liquor license comes up, Mr. Lindsey replied that he isn't sure of the actual number but we get notified periodically. Mr. Greeson thinks we can object annually. Members will most often see a change in ownership or a change in the type of liquor permit. In each of those instances we have to act. We have to say we don't object to them. In addition to that we are provided an annual opportunity where we can object if we see problems. When asked by Mr. Greeson if that was correct, Mrs. Thress agreed. Mr. Greeson added that we can object annually if we see problems. That doesn't require any actions on our part. It is only if we believe we need to act and object.*

*Mr. Norstrom stated that going forward, two people died recently and it is clear that this is a bad place. He thinks what the chief did went a long ways there but the question he has for staff is could we have done something better. It sounds like there are some tools that we have. This was unknown at least to him as a Council member but when he looks at these numbers it is very clear that the Monkey Bar is a dangerous place. It turns out it is an extremely dangerous place. So going forward, what can we do to flag a place before a couple of homicides occur? Mr. Greeson thinks in fact we had. We had not only reached out to the owner but had also increased enforcement patrol as part of our patrol operations. Unfortunately there is a good chance we would be at this conversation regardless of the homicides but certainly they warrant taking this action.*

*Chief Strait explained that officers were actually doing bar walks and they had personal contact with not only the manager but the owner. They have had personal conversations and it actually got better for a short time because they made them well aware of what they would bring to this body if it continued. They did hire security during the summer, which in some counts made it better for a while but the security that they provided with the types of people we were getting really had little effect. These individuals were not concerned about security guards. They were also actively enforcing any law violations so they made it very clear that they were there to stay. They never saw something that showed a zoning violation or where they were over capacity where they could have brought the fire department in. They were looking for all aspects and would have been totally inclusive if they would have seen any of those violations. The only thing they had were unsavory folks who were appearing at night. He doesn't think it was based strictly on the bar but rather just a location for them to hang out.*

*Mr. Foust asked if we have any experience with anything that approximates this in terms of intensity in his memory in the City. Chief Strait replied that it has been a long time. Prior to his coming in 1987 there was another bar that to his understanding had some of the same growing pains and issues and a little bit of a drug problem. Mr. Foust concluded that staff doesn't have much practice at this. He wouldn't be second guessing the chief or the department's actions on this. Again, it is just not something we have dealt with regularly in the past so he is comfortable with the conversation.*

*Mr. Troper asked if we have ever objected to the liquor permit in recent history. Mr. Greeson replied not in the last decade. Ms. Michael doesn't remember objecting in the twenty two years she has served.*

*Mr. Myers stated this is pretty simple. We do not have many options. He is pretty familiar with the nuisance statute as he wrote one of the definitive cases on that statute. It has to go on for a long time and be really a grievous. His case concerned an adult book store and the only thing that happened was that it was shut down for a year and you get to confiscate their equipment. So we would get a bunch of kegs and taps and they would be shut down for a year and back up and operating next year. If nothing else maybe this will at least bring them to the table or it might get them to consider selling their license.*

**The motion to adopt Resolution No. 79-2017 carried unanimously by a voice vote.**

**Resolution No. 80-2017**

Approving Appointments and Re-Appointments to the Worthington International Friendship Association Board of Trustees.

**Introduced by Mr. Foust.**

**MOTION**

Mr. Norstrom made a motion to adopt Resolution No. 80-2017. The motion was seconded by Mr. Smith.

*Ms. Michael stated the appointments and re-appointments are as follows:*

Re-appointments

Wade Duym  
Beckie Dicke  
Jeff Fickell  
Meredith Southard

New Appointments

Kathryn Paugh  
Gretchen Turner  
Christina Clark  
Lora Mitchell  
Alan Osman

**There being no additional comments, the motion carried unanimously.**

**Resolution No. 81-2017**

Adopting a Job Description for Help Desk Specialist and Amending the Job Descriptions of Systems Administrator and IT Technician.

**Introduced by Mr. Troper.**

**MOTION** Mr. Myers made a motion to adopt Resolution No. 81-2017. The motion was seconded by Mr. Foust.

*Mr. Greeson reported that with Council's adoption of the budget and the City's staffing chart, members added the position of Help Desk Specialist that staff recommended and we are appreciative of that. We also discussed making some changes to some of the existing positions in the organization. So while funds have been appropriated and it has been added to the staffing chart, it still requires that we adopt a job description so that is what is presented to you along with some other minor changes to existing descriptions consistent with previous legislation that was adopted. Mr. Gene Oliver our IT Director is here if members have any questions from an operational standpoint.*

**There being no additional comments, the motion carried unanimously.**

**Resolution No. 82-2017** Adopting a Job Description for Parks Crew Leader and Amending the Job Descriptions of Parks Manager, Parks Supervisor and Parks Technician.

**Introduced by Mr. Myers.**

**MOTION** Mr. Troper made a motion to adopt Resolution No. 82-2017. The motion was seconded by Mr. Foust.

*Mr. Greeson reported that similarly as part of the budget process we accounted for this financially in the budget document and then within the classified pay resolution and staffing chart. He invited Mr. Hurley to touch on this and address questions.*

*Mr. Hurley shared that this is a relatively small change. It basically does not add a position but rather shuffles the deck a little bit. We have had a three tier system of management in our Parks Division with a Parks Manager, a Parks Supervisor, and five full-time Parks Technicians. Some of you know our Parks Supervisor, Shawn Daugherty has been with the City for quite a while and has always kind of naturally gravitated to many of our projects, our arbor activities and many of our landscaping activities that works across departments with Planning and Engineering. He works with our Arbor Committee and has really also helped us as we've stated to engage our Master Plan from a project standpoint. But the original intent of his position was more of a crew leader to run those Parks Technicians and our seasonal employees. As he has transitioned to manage more and more of those projects it has fallen to our Parks Manager, which has pulled him out of overseeing administration so we are essentially taking one of our Parks Technicians and giving him a slight elevation so that they can run that crew and work with our seasonals that come in the summer and to make sure our day to day operations are rolling smoothly. They will still be in the field and be very hands on.*

**There being no additional comments, the motion carried unanimously.**

**Resolution No. 83-2017**

Adjusting the Annual Budget by Providing for a Transfer of Previously Appropriated Funds.

**Introduced by Mr. Norstrom.**

**MOTION**

Mr. Smith made a motion to adopt Resolution No. 83-2017. The motion was seconded by Mr. Myers.

**There being no comments, the motion carried unanimously.**

**REPORTS OF CITY OFFICIALS**

Policy Item(s)

**Request for Proposals – Video Streaming**

*Mr. Greeson reported that one of the goals of this Council has been to increase communication and transparency of our government and to generally increase access to information and meetings including the City Council meetings. At members urging staff has been evaluating how we could video stream these meetings. He invited Mr. Oliver to the podium to address members' questions. But essentially staff has developed a Request for Proposals for video streaming services. We discussed at a previous meeting that we believe we will be able to use some of the community technology fund to help pay for this. But this is the RFP with the technical specifications and expectations we have of proposers and we want to make sure since this has been a council initiated effort that we answer all of your questions and that it meets the expectations of the City Council for this service.*

*Mr. Norstrom thanked Mr. Oliver as he has been talking about this for over a year and we are finally going to do it. Secondly, item 9 - support for meeting transcription within 24 hours of meeting completion. He asked if that means that we will have a written transcription, i.e. minutes of what we have. Mr. Oliver replied yes. Mr. Norstrom stated that he is looking at Ms. Thress and saying congratulations. Mr. Oliver explained that it would be a transcription of everything that was said. He thinks the minutes probably include things that don't necessarily reflect everything that was said about every item. Mr. Norstrom thinks it will make minutes quicker and make Ms. Thress' job much easier if we get that in the form that we should. Mr. Oliver agreed.*

*Mr. Troper asked if the video is a public record. If it is a public record and someone wants a copy of the video then we will have to provide a copy of the video to that person. He asked if we have any idea how much that will cost and how much we will charge. Mr. Lindsey confirmed that the video would be a public record and would be subject to any retention schedule that would be adopted by the Records Commission for that video. It would have to be maintained during that period. Somebody making a request would be*

*entitled to that video. Ms. Stewart added that the anticipation is that those videos would be available via the website. They will be streamed live but then previous meetings would be available through the City's website.*

*Mr. Myers asked if the archived video will be held on servers off-site. Mr. Oliver agreed that they would be at the vendor's servers.*

*Mr. Myers asked if there is a provision in the RFP for us to access those at any time and then is there a provision for that vendor to transfer to the next vendor in case we switch vendors after a year. Mr. Oliver replied that the City retains the right to download those videos and to shift them to wherever we would need to. Mr. Myers stated that his point being, before we would finally accept a contract at the end, he doesn't know what our records retention schedule is for meeting minutes. It would seem to him that the video would correspond to our meeting minutes for records retention. Mr. Lindsey explained that in general audio recordings in the past are not viewed as the minutes. Minutes are not by nature verbatim what is said during a meeting. So usually there is a separate retention for minutes versus a recording. In fact it is not unusual that the retention period for minutes far exceeds the retention for recordings.*

*Mr. Myers stated that leads to his next comment. We have set a retention of five years on these. In his mind that almost seems a little excessive. He would ask that it be looked into to see how it compare to other retention. He would also like to know, because we can only charge a reasonable cost of producing the record, which isn't truly the cost, what the actual cost would be if someone asked for a disk of one of our meetings. Basically the same questions Mr. Troper is asking about public records. Mr. Lindsey agreed that we are only allowed to charge actual costs under the Public Records Law. Once again to the extent that these are available on the website, our actual cost would be zero because we are allowed to direct people to the website.*

*Mr. Myers commented that gets into the issue of what format we have to reproduce it in, if that is sufficient and he is still trying to catch up with all of the electronic public records. He is fine with this. He is glad that Mr. Norstrom made it an issue for way more than a year. But he would like before we actually adopt the contract, some answers to the public records questions. Mr. Lindsey replied that he will be happy to provide them.*

*When asked by Mr. Foust if staff will use any outside third party to analyze the RFP responses or will it be done entirely in-house, Mr. Oliver replied that the plan is to do it internally. Mr. Foust commented that the RFP was written in-house as well. Mr. Oliver agreed. Mr. Foust seemed pleased.*

**MOTION**                      Mr. Norstrom made a motion to approve the issuance of an RFP.  
The motion was seconded by Mr. Myers.

**There being no additional comments, the motion carried unanimously.**

## Monthly Financial Report

*Mr. Barter presented the November 2017 Financial Report - Highlights are as follows:*

- Fund balances for all funds increased from \$23,225,624 on January 1, 2017 to \$27,827,371 as of November 30, 2017.
- The General Fund balance increased from \$11,628,193 as of January 1, 2017 to \$14,514,335 as of November 30, 2017.
- Expenditures across all funds are tracking at 91.33% of appropriations.
- General Fund expenditures are tracking at about 90.59% of appropriations.
- Year to date income tax collections are above 2016 income tax collections by \$1,446,054 or 6.27% as of November 30, 2017.

**MOTION** Mr. Troper made a motion to accept the November 2017 Monthly Financial Reports as presented. The motion was seconded by Mr. Foust.

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

### Information Item(s)

*Mr. Greeson shared that when Ms. Michael and Ms. Dorothy attended the National League of Cities annual conference they brought back a vendor name and idea around bike sharing. There are now numerous vendors around the world who operate dockless bike sharing systems as opposed to systems like COGO in Columbus that is docked. Those dockless bikes are monitored by GPS and booked/unlocked by app similar to CarsToGo. Staff has had some follow-up conversations with Lime Bike, who is also presenting to the Central Ohio Greenways and Trail Board. They are meeting with us and some of our Bike and Pedestrian Advisory Board members tomorrow because they are very interested in moving into the Central Ohio market. We will be exploring with them as to whether it would be a good thing for us to pilot a dockless bike sharing system in Worthington. Staff will report to Council on those conversations and be prepared to talk about moving forward if that is something that the Bike and Pedestrian Advisory Board is interested in.*

*Mr. Norstrom recommended that staff touch base with someone in Columbus. Mr. Greeson agreed to do that. He asked Mr. Hurley to touch base with any knowledge he has about it. Mr. Hurley shared that he attended MORPC's Central Ohio Greenways meeting today where Lime Bike did a presentation as did several other entities around the area. He thinks there is a lot of interest. Staff and Bike & Ped Board members will*

*be hosting Lime Bike tomorrow morning. The plan is to vet the information during the January planning session with a report ready for Council soon after.*

Ms. Michael shared information on Lime Bike from the Conference.

*Mr. Greeson added that the dockless systems appear to require very little if any investment from the municipality which is significantly different from the other types of systems. Mr. Hurley agreed that this system would be a much lower risk financially if the City decided to do a pilot program here. He added that the lime green color might be an interesting Worthington discussion.*

*Mr. Lindsey reported that Council member Norstrom had asked him at some point about the process for objecting to the tax exempt status of property. He shared that the statute does permit cities to file a complaint regarding the tax exempt status of a piece of property if it is no longer felt to be worthy of exempt status. The process of filing has to be done prior to December 31<sup>st</sup> so he did want to bring that to Council's attention if there was an interest or desire to do so. That would be a policy decision but there is a process by which we could do it.*

*Ms. Michael shared that she received a text from a tax attorney, who is also a Worthington resident this weekend who suggested doing that on a piece of property. They reported that an individual resident, not necessarily a city, could also bring something forward. Mr. Lindsey agreed.*

*When asked by Mr. Smith if December 31<sup>st</sup> is the deadline on an annual basis, Mr. Lindsey replied yes. He shared some additional information from his recent research regarding exempt properties. If members decide to pursue this issue, he will probably engage further research to make sure there is a basis for that.*

*Mr. Norstrom shared that he came up with the idea relative to the piece of property across the street. Currently there is no carrying cost for them and we have had no activity for several years. Today he found out that December 31<sup>st</sup> is a key date after talking with Mr. Lindsey, rather than let that sit for another year he would suggest that Council go ahead and file and try to get that property removed from the non-profit status.*

*Mr. Myers asked what event would change it from a non-taxable to a taxable property. Mr. Norstrom thinks there are two things. Mr. Lindsey just shared about a property that is going to be used for a non-profit can be taken off of the rolls at the time that happens. If we use that same logic, since we know that the property across the street has been in discussions with a developer then that means that they are looking at not keeping it a non-profit status. The trigger was thinking a couple of months ago, what could we do, if anything and that is how he approached Mr. Lindsey. Through Mr. Lindsey's research it looks like there is something we can do.*

*Mr. Myers shared that he understands the desire to move the ball. He just wants to make certain that we can file any objection in good faith and he is not there yet. He would like*

*to hear a little more from Mr. Lindsey about the flip side. He indicated that he wasn't clear on that yet, because they were granted tax exempt status and it was used for a tax exempt purpose. It has been used for a tax exempt purpose for over 100 years and now there is no use. He asked if that triggers the loss of a tax exempt status. If there was a use. He doesn't know that you can say a contemplation of a possible future use that is not tax exempt. That may be too speculative.*

*Mr. Norstrom contends that it has been decided the other way based on the research that Mr. Lindsey has done. Mr. Myers reiterated his prior point and he knows that the answer will not be known tonight. Mr. Lindsey agreed that he hasn't found the back end. The prospective use is triggered because the property owner files a request for the exemption stating its intention and therefore difficult to challenge that intent. On the backend he thinks the challenge would be to clarify what is the triggering event that would remove the exempt status. Is it their declaration of their intent to entertain developers or is it the actual sale of the property, etc. Mr. Myers wondered if the abandonment of the exempt activity is sufficient. When they shut down the foster care and then moved their. . . he asked if there were still employees there. Mr. Bartter replied that he is not aware of any.*

*Mr. Norstrom said he looks at it and he apologizes to Council for coming so late in the year with this but to wait another year and he understands Mr. Myers hesitation but he thinks it would be worthwhile to at least attempt to pursue something.*

*Mr. Myers replied that he doesn't disagree with that. He just wants to make certain that if we were to do something as a government entity that is frivolous and unsupported by the law or good faith attempt to change the law, in his world that is unethical so he wants to make certain that we have a supportable basis even if it is only a good faith argument. Mr. Lindsey has a week to figure it out.*

*Ms. Michael commented that if Mr. Lindsey gets information regarding this between now and next Monday, it would be nice if council members could get the materials so that if we have to make a decision we could do so at that meeting. Mr. Lindsey told Mr. Myers that he would not be filing anything unless he felt like he had a good faith argument to make. If in fact there is an interest and direction of Council to do further research and prepare what would be needed, we can bring that for Council action next Monday or if members wanted to make that sort of conditional direction based on establishing that good faith argument through research and directing either the City Manager or he to proceed with that filing. He supposes members could do that type of motion tonight as well.*

*Mr. Foust stated that the law is the law and that will drive what is the right thing to come out of this. That said, he would want to know a great deal more in advance of next week as to what our true driver is in this. He doesn't know what the delta is in the actual tax revenue is to the City. How much of this is about trying to evoke some action and if that is the case, is this the right way to go about doing it. Are we trying to move forward in some spirit of cooperation or are we trying to force a hand or somewhere between those two things. Again, this is sort of hitting members pretty suddenly with a very short*

*timeframe. He is not saying it is a bad idea or bad conversation to be had but there are some moving parts that he doesn't think have been considered.*

*Mr. Norstrom stated that as a group he agrees with him. Individually, he disagrees.*

*Ms. Michael thinks the question is whether or not Council wants staff to invest time in researching this during the week or waiting until next year. Mr. Myers disagreed. He thinks it is broader than that. He thinks it is whether Council wants to do it at all. He thinks that is the question that Mr. Foust is presenting. Mr. Foust agreed but he doesn't know what he doesn't know.*

*Ms. Michael again asked whether members want staff to spend time researching this issue during the next week or not.*

*Mr. Troper shared that he doesn't think that it would be a good use of time because we don't know whether it is something we want to pursue and he thinks it would take a huge amount of time to investigate the issue.*

*Mr. Smith thinks it is an interesting idea and he would like to learn more about the concept and process but he doesn't think it would be a good use of time at this time. He also thinks there are more people that should be engaged in this conversation than just Council.*

*Mr. Myers asked what the intended consequences would be of a revocation of tax exempt status. In his mind it would then force them to sell the property quicker because now they have carrying costs. Mr. Foust agreed that it could. Mr. Myers stated that they will have to come up with the money somewhere and he has no idea what their financial condition is. He has no idea of what the revenue is or any of those questions but let's assume they couldn't afford the carrying costs. That would then force them to a quicker sale. He asked if that is what members want.*

*To Mr. Foust, this is a strategic conversation that revolves around whether members are interested in working in partnership and what message we send or are we trying to be the aggressor. To him, the status quo is a good place to be until Council has that conversation.*

*Mr. Norstrom stated that we have tried for a year to have conversation with the entity and they are not talking. Mr. Foust replied that the fact that they are not talking tells him that they are not in a position to make a decision. He thinks it would be ill advised for Council to try to force their hand. Mr. Norstrom disagreed.*

*Mr. Myers agreed that it would be nice information to have. To know that Council could pull that trigger if members chose. It doesn't mean we have to but it would be a nice trump card in our back pocket in case negotiations ever got to that point. He would like to know the answer to the question because it sounds like members are undecided about where we would want to do anything with it this year.*

*When asked by Mr. Foust what his questions are, Mr. Myers replied: 1) what would trigger the loss of an exempt status. Is it the intention to maybe sell it to a for-profit? Is it the abandonment of the not-for-profit activity? He would like to know those answers because he thinks Mr. Norstrom strategically raises a pretty interesting point. It may be that is something that would be nice to have available if we wanted to kind of get over the hump in some negotiation or conversation with them.*

*Mr. Foust stated that he would also like to know the financial impact because it affects us and it affects them. He believes the financial impact information is a key part.*

*When asked by Mr. Norstrom for an explanation, Mr. Foust replied that the decision to move forward with something like this and he has no idea what the number is but whatever that number “x” is, that is a cost to the property owner. That affects them negatively. He thinks the impact on the owner needs to be taken into account if we are interested in maintaining a relationship with them. This move would not enhance that relationship.*

*Mr. Troper thinks if this is an issue then schools would be doing this all of the time and we would know about it because they have much more to gain than the City.*

*Mr. Smith asked what this would actually be. Is this asking to revoke their non-profit status or is this allowing them to keep their non-profit status but force them to pay taxes on a property that the non-profit owns. Mr. Lindsey replied that this is related solely to the property tax exemption. Mr. Smith concluded that they could still operate as a non-profit. Mr. Lindsey agreed.*

Members requested that Mr. Lindsey do additional research on the topic.

*Mr. Lindsey commented that based on the discussion he will pursue getting the answer to the question as to the trigger that might apply and therefore our ability to file it. He will try to get that information to Council yet this week if possible. He understands that it is a separate policy decision as to whether or not to tactically do it and the amount of time to think through that may not permit you to move forward this year but he will do his best to make sure that members have the legal information to make that decision.*

## **REPORTS OF COUNCIL MEMBERS**

*Mr. Myers told Chief Highley that he was really going to miss his Garcia ties. He hopes in five years he sees him in California in a van.*

*Ms. Michael shared two thank you notes that members received: (1) from Coach Simonetti of the Thomas Worthington High School Field Hockey Team, and (2) Superintendent Dr. Trent Bowers.*

## **EXECUTIVE SESSION**

**MOTION** Mr. Myers made a motion to meet in Executive Session to discuss Appointments to Boards and Commissions and Employee Compensation. The motion was seconded by Mr. Troper.

**The motion carried by the following voice vote:**

**Yes 5** Smith, Foust, Myers, Troper, and Michael

**No 1** Norstrom

Council recessed at 8:41 p.m. from the Regular meeting session.

**MOTION** Mr. Norstrom made a motion to return to open session at 8:50 p.m. The motion was seconded by Mr. Troper.

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

**MOTION** Mr. Norstrom made a motion to go back into executive session to discuss appointments to Boards and Commission, compensation of personnel and appointment of a public official. The motion was seconded by Mr. Smith.

**The motion carried by the following voice vote:**

**Yes 6** Smith, Foust, Myers, Troper, Norstrom and Michael

**No 0**

Council recessed at 8:51 p.m.

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

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

*President Michael read the following Resolution No. 85-2017 title:*

**Resolution No. 85-2017** Establishing the City Manager's Annual Base Salary Effective January 1, 2018.

**Introduced by Mr. Troper.**

**MOTION** Mr. Smith made a motion to adopt Resolution No. 85-2017. The motion was seconded by Mr. Norstrom.

*President Michael explained the Resolution includes a 2.5% increase for the City Manager for a salary of \$153,834 effective January 1, 2018. The resolution also ratifies other provisions on the employment agreements dated November 5, 2007 and the first amendment dated March 6, 2017.*

**The motion to adopt Resolution No. 85-2017 carried unanimously by a voice vote.**

**ADJOURNMENT**

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

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

President Michael declared the meeting adjourned at 9:18 p.m.

/s/ D. Kay Thress  
Clerk of Council

*APPROVED by the City Council, this  
2<sup>nd</sup> day of January, 2018.*

/s/ Bonnie D. Michael  
Council President