



CITY OF WORTHINGTON
Worthington City Council Minutes
February 20, 2018

6550 N. High Street
Worthington, Ohio 43085

CALL TO ORDER – Roll Call, Pledge of Allegiance

Worthington City Council met in Regular Session on Tuesday, February 20, 2018, 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: Rachael R. Dorothy, Douglas Foust, Beth Kowalczyk, Scott Myers, David Robinson, Douglas K. Smith, and Bonnie D. Michael

Member(s) Absent:

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, Director of Parks & Recreation Darren Hurley, Chief of Police Jerry Strait, Clerk of Council D. Kay Thress

There were five visitors present.

PLEDGE OF ALLEGIANCE

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

VISITOR COMMENTS – No Comments

PUBLIC HEARINGS ON LEGISLATION

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

Ordinance No. 04-2018

Amending Ordinance No. 41-2017 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund Unappropriated Balance to Pay the Cost of the Fleet Garage Floor Drain System and Lift and to Proceed with said Project. (Project No. 672-18)

The foregoing Ordinance Title was read.

Mr. Whited shared that this legislation is for an appropriation to repair the floor drains in our fleet garage as they are very outdated and severely damaged in some places. The repairs are necessary for safety reasons as well as for a new lift that we need to install. Much of drain repair work will be done in-house.

When asked by Ms. Dorothy when the work will begin, Mr. Whited replied that it will commence as soon as possible.

There being no additional comments, the clerk called the roll on Ordinance No. 04-2018. The motion carried by the following vote:

Yes	7	Robinson, Kowalczyk, Foust, Dorothy, Smith, Myers, and Michael
No	0	

Ordinance No. 04-2018 was thereupon declared duly passed and is recorded in full in the appropriate record book.

Ordinance No. 05-2018 Amending Ordinance No. 41-2017 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund Unappropriated Balance to Pay the Cost of the Fuel Dispensing System & Tank Farm Replacement and to Proceed with said Project. (Project No. 673-18)

The foregoing Ordinance Title was read.

Mr. Whited explained that the fuel system is extremely outdated and no longer needed. He explained that all City vehicles are refueled using a card system. This appropriation is for the removal of the in-ground tanks, removal of the dispensers, relocate and modernize our used oil storage, reroute some drain lines and water lines and repave the facility in the area where that system is located. Because the equipment is underground, there are some unknowns. There is some potential for migration of chemical and fuel materials underground that we will need to remediate. While we do not know the exact cost of this work, we believe the \$175,000 will cover it.

When asked by Mr. Myers if we have any ability to get funds from the state through underground petroleum storage or anything like that, Mr. Whited replied no. When staff looked into funding to do that they discovered that those regulations are getting increasingly more difficult to manage and rightly so because it is difficult to ensure the integrity of our older system. Mr. Myers reported that he works in the environ enforcement section so he is beginning to learn these things.

Mr. Myers asked about compressed natural gas or some other fuel source since Mr. Norstrom is no longer on Council to advocate for those things. He recalls staff looking at that several years ago but found it cost prohibitive on a standalone basis. We had also

looked at other municipalities who had installed a system or even COTA to see if there is some way we could utilize theirs. He only brings this up to keep the topic on the table. Mr. Whited reported that staff continues to look into other options but it is extremely cost prohibitive although smaller vehicles are being considered.

Ms. Dorothy reported that her question was whether or not we had explored any other fuel source. It looks like we are just replacing with some upgrades but it is good to hear that other options are being explored. Mr. Whited acknowledged her understanding as being correct. He added that they also looked at sharing some of ODOT's fueling systems but we couldn't get that agreement to work properly.

Mr. Greeson reiterated that we are not reinvesting significantly in fueling operations. We will be using cards and fueling at commercial locations like Speedway or wherever the accounts are available. He communicated to Ms. Michael that the cards are the long term procedure.

Ms. Dorothy shared that Sharon Township has a fueling station at the cemetery. She asked if we had looked at partnering with them. Mr. Greeson replied that the cards are the most flexible for us. They provide the best pricing and are common practice among municipalities. It also gives us the option of not having to manage a fueling operation. During an emergency we could always use Columbus or Sharon Township or even Ryder.

Mr. Whited reported that after investigating numerous options and discussing the topic, he and Fleet Manager Rick Creps have reached the conclusion that this is the most efficient and effective way to handle fueling for the time being.

Ms. Michael recapped that this legislation allows for the removal of the current system without rebuilding anything. The area will be remediated and credit cards will be utilized by staff for fueling vehicles/equipment. Mr. Whited agreed.

When Ms. Dorothy commented that this is a one-time cost, Mr. Whited concurred.

There being no additional comments, the clerk called the roll on Ordinance No. 05-2018. The motion carried by the following vote:

Yes 7 Kowalczyk, Foust, Dorothy, Smith, Myers, Robinson, and Michael

No 0

Ordinance No. 05-2018 was thereupon declared duly passed and is recorded in full in the appropriate record book.

Ordinance No. 06-2018

To Amend Part Seventeen – Title Two of the Codified Ordinances of the City Regarding Municipal Income Tax and to Reserve the Right to Challenge the Constitutionality of the Provisions of

H.B. 49 that Purport to Mandate Certain Amendments.

The foregoing Ordinance Title was read.

Ms. Michael reported on H.B. 49 for the benefit of those in the audience.

Mr. Lindsey shared that House Bill 49 purports to mandate that we adopt an ordinance that would then allow the state to collect our net profits taxes, not for the average wage earner taxes but rather those for companies where there are net profit taxes. The provisions of that bill and the fact that they require municipalities to take action in order for them to do what they believe is best suggests that they do not have authority to do it and are therefore requiring us to do it. They are however attempting to use their ability purporting to claim that if we do not pass that then we will not be able to collect municipal income taxes. It is a pretty heavy handed approach of what they are claiming they will do. While we have confidence in the argument set forth by the Frost, Brown, Todd law firm in support of over 140 municipalities, it is his opinion that there is no downside to move forward with this ordinance at this point so as to make sure that we do not lose our ability to collect our municipal income taxes. While he is very confident that the state has over reached and that ultimately the courts will rule in favor of the municipalities, he does not like to guarantee a result or put a client at risk which is why he strongly believes taking action now is the safest course.

Mr. Lindsey informed members that City Councils across the state have taken three different primary approaches to this situation as follows:

- 1) Schedule actions on ordinances similar to ours this week and prior to Judge Cain's ruling which is anticipated for Friday;
- 2) Waiting until receiving the results of that decision; or
- 3) Scheduling no action, which is the current position of the City of Columbus.

Mr. Lindsey reported that from a legal standpoint, the fact that at least one City is taking no action means that there will always be at least one potential plaintiff that will not be subject to any question of standing. Because the effect of the state legislation in requiring us to pass something is an ongoing effect on the City, it is his belief that we would have standing even after passage of this. The language in the ordinance makes clear that we are being compelled to do so, essentially coerced into passing it so as to protect our ability to collect taxes should we not prevail.

Mr. Lindsey shared that while his explanation was long, he wanted to make sure that Council understood why he feels strongly we ought to pass this legislation because he does not see any downside.

In response to Ms. Michael's comments, Mr. Lindsey remarked that any one of the three options are subject to change. Columbus could choose to take action in a month from now by passing an ordinance or cities that take action this week could choose to repeal

that ordinance at a later date. The ordinance as written does say that if the provisions set forth in H.B. 49 are ruled unconstitutional than our action in adopting those net profit changes to our tax code would automatically be stayed. The ordinance says “stayed” and not “repealed” because it also says that if the judge were to “stay” that enforcement then we would not want our ordinance to immediately undo itself. We will have the option at a future date depending on the outcome of that litigation.

Mr. Lindsey shared that another concern as indicated in his memo was that this litigation is most likely not going to end with Judge Cain. He would be very surprised if either side, the losing party would not seek at least review in the Court of Appeals. He sees no downside to taking action but there is at least that small chance of a downside should there be some sort of taxpayer claim if it was found that the General Assembly acted in its lawful authority.

Mr. Robinson reported that he understands the rationale and it seems prudent and wise. He asked if our ordinance could be written so that we would be stayed if the House bill was stayed and repealed if it was judged unconstitutional. Mr. Lindsey reported that this language was recommended by Frost, Brown, Todd. He explained that if Judge Cain were to find the bill unconstitutional and then a later court said that Judge Cain was wrong then we run the risk of our automatic repeal putting us into that category of a City that does not have a lawful tax code because we didn’t do what House Bill 49 required. Regardless of the initial outcome, he would recommend that we wait until all appeals are over before we appeal at that point. During that period of time though that ordinance has the effectiveness of those changes stayed.

Ms. Kowalczyk stated that practically speaking, while the House Bill 49 provisions are stayed and we pass this ordinance, what does this look like to the taxpayer. How do they know what they are supposed to do? Mr. Lindsey replied that the state has been notifying net profit businesses that House Bill 49 provides this option. The bill itself requires cities to take action, except for those cities that did so last fall. Those tax payers should be able to move forward once the state has its net profit collection system in place. He invited Mr. Bartter to comment further.

Mr. Bartter shared that he does not believe that the Regional Income Tax Agency (RITA) has at this point notified the businesses. Last he heard there have only been a minimal number of businesses that are opting in. At this point everybody is just kind of waiting.

Ms. Michael asked if this is option for net taxpayers in that they can choose to continue to pay as they have or they can go through the business gateway. Mr. Bartter agreed. Ms. Michael stated that only if it goes through the business gateway we get charged. Mr. Bartter replied only if they elect to go through the state, then the state will take the 5%.

There being no additional comments, the clerk called the roll on Ordinance No. 06-2018. The motion carried by the following vote:

Yes 7 Foust, Dorothy, Smith, Myers, Robinson, Kowalczyk, and Michael

No 0

Ordinance No. 06-2018 was thereupon declared duly passed and is recorded in full in the appropriate record book.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 09-2018 Authorizing an Amendment to the Final Development Plan for 350 East Wilson Bridge Road and Authorizing a Variance (Sean Clark of Danite Sign Co./ MedVet Associates)

Introduced by Ms. Kowalczyk.

MOTION Ms. Dorothy made a motion to adopt Resolution No. 09-2018. The motion was seconded by Mr. Myers.

Mr. Brown reported that the request is for an amendment to development plan that does have a variance associated with it for signage. Properties subject to a development plan where a variance is requested has to come to Council for approval.



350 E. Wilson Bridge Road is the administrative office and IDEXX Laboratory for MedVet (which is left and west of this property). There is no interconnection between these two buildings at this time.



Signage has become an issue over the last few months. Last June, City Council approved an ADP with a variance for this property to allow for additional square footage that allowed MedVet to expand their signage.

Since this sign was installed, clients traveling westbound on Wilson Bridge Road have mistaken this entrance of MedVet with the Emergency facility and are turning into the wrong entrance.

Since there is no interconnection, that mistake takes time away from their pet and/or could cause an accident.



The request is for a variance to increase signage by eighteen square feet to allow for veterinary emergency drive to be located on the top of the current sign and visible when traveling from the east to the west.

The City has installed small blue signs in both directions in the right-of-way that directs traffic to the facility.

This application went before the Municipal Planning Commission on February 8th and was recommended for approval on to Council. There is a representative of MedVet in the audience as well as DaNite Signs.

At Mr. Robinson's request, Mr. Brown showed the aerial photo of this site.

Mr. Brown thinks it is a great photo because it clearly shows that the building is over 400 feet off of the road. The sign for the Administrative Offices and IDEXX labs is at the road. The sign for MedVet is just west of this location. There is a grade different between the two parking lots so there could be a potential connection between the two facilities someday but not at this time.

There being no additional comments, the motion to adopt Resolution No. 09-2018 carried unanimously by a voice vote.

Ms. Michael shared that she had been given draft Resolutions No. 10-2018 and No. 11-2018 by Council member Smith.

Resolution No. 10-2018

Acknowledging the Receipt of the White Paper, Time Line, and Ancillary Information Provided by Worthington Alliance for Responsible Development (WARD).

Introduced by Mr. Smith

MOTION

Mr. Foust made a motion to adopt Resolution No. 10-2018. The motion was seconded by Mr. Robinson.

Mr. Smith shared that in the wake of our Council retreat a few weeks ago and in the spirit of communication and openness with the community, we have a very involved citizens

group that came and spent a lot of time and came to council with a white paper. He just wanted to take a moment with a resolution to acknowledge that members received it.

When asked by Ms. Kowalczyk is this is standard procedure to use resolutions to acknowledge things, Ms. Michael replied no.

When asked by Ms. Dorothy if there was any other case where a resolution was used as an acknowledgement, Ms. Thress confirmed that in most instances this type of request would be done by motion. She did not recall a resolution being used for this purpose.

Mr. Myers agreed with Ms. Thress' recollection.

Ms. Kowalczyk shared that while she is willing to acknowledge receipt of said document for the record, her question is procedural in nature. She wondered if a resolution is something Council should be doing since she believes members have already communicated it's acknowledgement of the document to WARD. Mr. Smith replied that the intent with this specific receipt is because we have already begun to embark on a comprehensive visioning strategy. Because this document in particular revolves around a very important piece of land that we have talked about for years and will continue to talk about through the visioning strategy is more or less an exception to other documents we have received to this point.

Ms. Kowalczyk observed that members haven't asked for any other documents or announced that the process has begun yet. She asked if future documents relating to this topic would be acknowledged in the same manner.

Ms. Michael thinks there is a question of protocol. She asked if members wanted to start a new precedent using resolutions to acknowledge receipt of something when in the past we have done motions.

Mr. Myers informed members that in the past public comment, e-mails, letters, etc. on specific issues have been acknowledged in the record that they have been received and reviewed. MPC does the same. He thinks adopting a resolution to acknowledge receipt of something is highly unusual. However, this entire issue for ten years at least has been highly unusual. He doesn't have a problem with this resolution given the context and the nature of the setting it is coming in. He also doesn't believe that Council is setting a precedent requiring that they do this for every project merely because of the unique nature of this project.

Ms. Kowalczyk commented that on the other hand, if Council did receive additional documents or other things from other organizations then we could do a similar resolution if we felt that was appropriate? Mr. Myers replied yes.

When Ms. Michael invited Mr. Lindsey to comment, he shared that from a legal standpoint Council has the authority to pass this resolution. Theoretically, an ordinance or motion or simply acknowledge receipt during your Council comment period would all do the same

thing. Any of those methods would work. You have a Council member who has put forward this resolution in this format and it would be a decision for Council to make. It would not be a binding precedent or practice that would have to be followed in the future.

Mr. Greeson noted that members are really talking about documenting receipt of something and making sure that we are thoughtfully acknowledging it. Staff could always be directed to prepare a letter for either the Council President or his signature thanking any party for submitting. That is a little more informal than the other options presented.

Mr. Foust stated that he is not so concerned about which of the three or four format options this takes. He thinks the intent and spirit is to recognize and acknowledge the significant work that went into it. He doesn't feel that members are setting a precedent here. He sees WARD as being a somewhat unique group in terms of their longevity and their size. He doesn't care how we get there but thinks it is important to not just receive it but acknowledge it and perhaps thank WARD for the work that has gone into it.

Ms. Rachael commented that she doesn't understand why this is a resolution and why this was brought up during the meeting without prior knowledge to all of Council members. She agrees that we need to document receipt of the white paper and it would be great to recognize the work that has gone into it by WARD. She thinks members should ask staff to prepare a letter of receipt and the City has it and will consider it as part of this ongoing issue that we have been working on for many years.

Ms. Kowalczyk agrees that it is important to acknowledge what WARD has submitted and she appreciates all of the work that has gone into it. Her question was more about procedure and process as opposed to whether a particular entity should be recognized. She doesn't have a problem with it pertaining to this particular subject matter.

Mr. Robinson agrees with Mr. Myers in that he doesn't see this as precedent setting. He thinks at this point in time UMCH is a singular issue. WARD is a singular organization and he thinks their effort warrants formal recognition which is why he thinks the resolution is a good idea.

Before Ms. Michael could call for the vote, Mr. Foust asked Mr. Lindsey what his preferred format would be. Mr. Lindsey replied that it is the sort of question that legally he wouldn't lose any sleep over. He would probably prefer a resolution over an ordinance. Between a motion and a resolution, he thinks the difference is one of how much do members want to set this above or different than maybe a standard approach with standard being a motion or a direction to staff to send a letter. By making it a resolution, it does elevate it and if the will of Council is to give this particular acknowledgement that level then that would be the appropriate action to take.

There being no additional comments, the motion to adopt Resolution No. 10-2018 carried by a voice vote of six (6) "ayes" to one (1) "nay" (Dorothy).

Resolution No. 11-2018

Directing staff to produce and maintain a packet of documents (or summary thereof) to be provided to entities interested in development opportunities in Worthington.

Introduced by Mr. Smith

MOTION

Mr. Foust made a motion to adopt Resolution No. 11-2018. The motion was seconded by Mr. Robinson.

Mr. Smith shared that in the wake of our recent Council retreat and in the spirit of communications to the community with our future visioning plan, he tried to determine what one step could be taken to help the conversation with the community and with developers that want to come in and seek some sort of development opportunity. He thinks this direction helps with that.

When asked by Ms. Michael how this isn't in conflict with the resolution that members passed telling staff that they have until next month to put together a comprehensive strategic community outreach for the long-term future of the City. This seems to be like a component of the bigger strategy so why would we want a separate resolution when the other resolution has already been passed.

Mr. Smith clarified that this resolution is to make sure that this component goes into the larger component.

Mr. Myers explained that as a lawyer who routinely defends public record actions, he could never vote for this resolution because we are creating a public record that does not exist prior to this. One of his go-to defense is that we do not have to create a public record that does not exist if it is asked for. All of these records are currently public records and would be available to anyone that asks. Creating a package of documents would be redundant. In his mind it creates issues we do not need to create.

Ms. Kowalczyk thinks it goes toward micro managing staff. She doesn't know exactly what is provided so she would wonder if the information wasn't already available. To Council member Myers point, it is questionable as to whether this is something that can be complied with because of the way it is written.

At Mr. Robinson request, Mr. Brown shared the current process which includes him working with Economic Development Manager David McCorkle. They share with a potential developer the Land Use Plans and then Outreach opportunities (interested neighbors and/or interest groups) that they should utilize in an effort to make the application process go more smoothly. Sometimes the developer listens and sometimes they do not. Staff can tell pretty quickly if outreach in the neighborhood has been done prior to a hearing.

Mr. Foust thanked Mr. Brown for the information. He appreciates the comments from the other side of the dais but the only thing that strikes him about the resolution that warms his heart is thinking of it in the context of the most recent acquisition in Worthington and the surprise conversation that followed it. We are scratching our heads about how this person thought this was a good idea based on knowing the history. When Ms. Michael asked if he was referring to Anthem/Blue Cross, Mr. Foust agreed that he was. How did we get from one understanding of knowing the intent there to a very different one without that developer understanding the recent climate here? Again, he is not saying this resolution is the answer but he understands the intent and wonders how we do that.

Mr. Brown shared the conversation that occurred pertaining to development and outreach when staff met with the developer after the trees were removed.

Mr. Smith in hearing what is being said and what was talked about at the retreat, asked how we formalize that process. If this resolution is not the way that is fine but he thinks we need something to say every single time to every single developer that comes to us, instead of just saying here is the comprehensive plan, that is our legal document and public record that you can look at and by the way here is a list of things that I'm just going to tell you, how do we get a formal process to that?

Ms. Michael thinks that part of it is included in the resolution that council passed. She thinks this is like a subset of that and premature. Mr. Smith disagreed.

Mr. Myers shared that at some point members have to trust people. He trusts staff because he has worked with them long enough to know. As he believes Council Woman Kowalczyk said, it seems like we are beginning to micro manage. In his mind it poses as many questions as it does answers. If you want to formalize a process to interact with a developer, the first thing that he wants to know is the definition of a developer. Does that mean a home builder who is remodeling a house or is it a homebuilder who is building a house or a homebuilder who is building two houses or a commercial developer who is rehabbing an office or a commercial developer who is building a one acre parcel, etc. Each one of those presents a unique situation that has to be approached in a unique fashion. That is what he trusts staff to do. His experiences by and large, they are consistent. They can distinguish between who might need that assistance and who might not and they do a pretty good job of it. Whenever you formalize you lose your flexibility, your ability to react to a new and unique situation. If we don't like the way staff is doing it then we recommend to the City Manager that staff be terminated. That is what the Board of Directors does. They do not tell the janitor how to run a mop. Council is the Board of Directors.

Ms. Dorothy thinks the take away from the retreat is that members do want to pro-actively communicate with the public and with developers but she doesn't think this is the right way to do it. Members are trying to improve our communication throughout the whole process and with the whole community.

There being no additional comments, the motion to adopt Resolution No. 11-2018 failed by a voice vote of one (1) “aye” (Smith) to six (6) “nays” (Robinson, Kowalczyk, Foust, Dorothy, Myers, Michael).

REPORTS OF CITY OFFICIALS

Policy Item(s)

- Permission to Bid - Municipal Building Chimney Repairs

Mr. Whited reported that tonight staff is asking for permission to bid on repairs to the four chimneys that are on the municipal building because they are sources of extensive leakage through flashing, and other penetrations that have occurred and other things that need to be repaired in order to repair those leaks. The cost estimate is \$70,000+ so the engineers estimate is \$86,674.50 that includes a 10% contingency. Staff would like to put this out and open the bids on March 9th. Plans are prepared and ready to go out for bid.

When asked by Mr. Robinson who did the assessment, Mr. Whited replied that the work was done by Mays Consulting and Evaluation Services. Some initial work was done in late 2016 with additional work more recently when they prepared the final plans.

MOTION Ms. Kowalczyk made a motion to permit staff to bid the construction of chimney repairs at the Louis J.R. Goorey Municipal Building. The motion was seconded by Ms. Dorothy.

The motion carried unanimously by a voice vote.

Information Item(s)

Mr. Greeson shared the following items:

- 1) Mr. Bartter distributed a draft debt policy. He welcomes members’ questions and comments. It will be added to a future Council agenda.
- 2) Comment – He would like a chance to digest Mr. Smith’s proposal and the conversation and reserve the right to come back if you think it is advisable.
- 3) Staff has been diligently working on the subject of Resolution No. 03-2018 which relates to the visioning community planning process. Staff visited another municipality who went through it recently and talked with their staff. If members will recall the direction was to come back the first meeting in March. He doesn’t think that staff will have its best foot forward by then but we are working on it and will have something for Council next month. We are envisioning more of a framework about how to move forward. It will outline the process.

Mr. Myers recognized that it was an aggressive timeline with everything else that was on our table. He wanted to keep staff’s feet to the fire and keep reporting back to members

so he thinks that certainly satisfies. As far as what you are proposing to give members, that is what he was looking for. He is looking for the roadmap of how we move forward but not necessarily for the answers.

REPORT OF COUNCIL MEMBERS

Ms. Michael shared that the City now has a Board of Education Liaison in Nikki Hudson who she welcomed to the meeting. Council looks forward to working closely with Ms. Hudson and the schools.

Mr. Foust reported that he placed an article at members' places this evening. This was from the Wednesday, February 14th Columbus Dispatch under the Heading, Not to be missed. The article is entitled, Eye of the Beholder. This is in New York City about a ruling that graffiti, a typically transient form of art was of sufficient stature as to be protected by the law. A US Judge in Brooklyn awarded a judgment of \$6.7M to twenty one graffiti artist whose work was destroyed in 2013 at the 5Pointz Complex in Long Island City, Queens. The jury decided that the real estate developer who owned 5Pointz broke the law when he white washed dozens of murals at the complex, obliterating what the artist had called "the world's largest open air aerosol museum." While the developer's lawyers had argued that the building was his to do as he pleased, the jury found that he violated the Visual Artists Rights Act of 1990 (VARA) which has been used to protect public art of "recognized stature" created on somebody's property. Block upheld the jury's decision and awarded the artist the maximum damages possible, saying that forty-five of the dozens of ruined murals had enough artistic stature to merit being protected. Eric Baum, a lawyer for the artists, hailed the judgment, calling it "a victory not only for the artists in this case, but for artists all around the country."

Mr. Foust thinks this information is worth keeping in front of members as it is just one data point as we go through the conversations about murals going forward. When we use terms like "business friendly" or "developer friendly" he thinks this one cuts both ways. Because if you create an environment that allows for a mural and then the new owner wants to remove it, is the City setting them up or the City as party to that up for having allowed it or having allowed the developer to eradicate it. It seems to him like there are a lot of moving parts here. He asked the City Law Director to maybe find out a little more about this one and perhaps provide some information to members as part of that conversation about murals.

In reading about New York City, Mr. Foust wondered what the relevance is to Worthington. The law is from 1990.

Mr. Greeson reported that almost all of the participants have been selected for the task force on murals and we will begin scheduling that meeting soon. We are a little slow getting out of the gate but that process should begin in March and provide for some interesting conversation. He shared the names of those who have agreed to serve so far and said he hopes to recruit at least one more.

Mr. Smith thanked members for indulging his two resolutions as he has never done that before and it was fun.

Mr. Smith shared with Mr. Hurley that according to several teenagers today, some lights at the skate park are out. This is a chance to prove that City government can work effectively and quickly.

Mr. Myers reported that the Holiday Inn is on this week's MPC Agenda. He will not be there so if anyone wants reports or feedback on what is going, they will need to show up for the meeting.

Mr. Myers asked that members indulge him as he would like to get on his soapbox on an issue that is very important to him. Wednesday night when he came home from work as many did, he sat with his twenty three year old daughter and watched school children racing out of a high school with their hands in the air and surrounded by SWAT officers. That is the thirteenth school shooting this year. As his daughter said, that could happen at Worthington. There were bomb threats when she was there. If you look at most of the school shootings they are in suburban school districts. Two days later he was standing in front of St. Paul's church when two flag draped coffins were moved into the church. He was doing pretty well with that one until they got Sam out of the car and he followed them in and he is getting pretty sick of hearing bagpipes at funerals. He just has to ask himself and he wants to ask this group, how much longer are we going to sit back and let this happen. He is really tired of it. As Governor Kasich said, Congress isn't going to do anything. We know that the General Assembly isn't going to do anything because in fact if Council passed an ordinance and it is challenged and the person that challenges wins, we have to pay their attorney fees. That is somewhat unheard of in government. Since 2008 when Justice Scalia wrote D.C. vs Heller, we continue to hear the battle cry, the constitutional right to own guns. Well what about others rights? What about his right to go to a softball game at McCord Park and not be intimidated by a man who has an AR-15 on his shoulder. He hopes members know that they cannot bar guns from parks in Worthington thanks to the Ohio General Assembly.

What about the right of every parent sending their child to school and know that they are safe. What about the rights of the four daughters in Worthington who sent their father off to work and their expectation is that he is going to come back alive. Why do we allow a nineteen year old child that has red flags to buy a semi-automatic rifle? In good conscience, as elected officials sworn to protect the public, he cannot sit here and do nothing. If he only leaves one legacy before he leaves Worthington Council it is that at least we tried no matter how futile the effort. He owes that to seventeen Florida children, and two Westerville officers. So he is asking for Council's support in instructing staff to explore any and all possible options for what we can do to make a statement. He understands that their hands are tied. He understands that as a City we can't do much but we can do something. We spent a great deal of time several years ago debating whether to ban the use of cell phones in cars. They probably spent three months debating that. This is a hell of a lot more important than that. He has some ideas. Council cannot regulate guns as Congress, the Courts and the General Assembly will not let us do it. He

would love to ban all guns in Worthington but we can't do that. He doesn't even know if Council can ban bump stocks, which he doesn't understand the purpose. In fact he doesn't understand the purpose for an AR-15. He doesn't think one is needed to kill a deer and he certainly doesn't think someone needs that to protect their home. But he would ask a few things that he thinks Council might be able to do.

- *Chief Strait – He doesn't know how the City buys its weapons but one approach is that communities ban together in a consortium like purchasing and in their RFP they have required gun manufacturers and distributors to comply with certain standards before we would buy their weapons. He understands that law enforcement only represents about 15% of all guns purchased but at least we are a reoccurring customer and they might want to keep us. Maybe that is something we can look at. He knows that it is out there.*
- *Mr. Lindsey – One thought he had was that we have an aggravated trespass statute which says you have to prove intent. Can he stick something in there that says if you trespass on his property with a gun there is a presumption that you intend to cause harm?*

The Supreme Court just approved California's ten day waiting period to purchase a gun so we know we have some wiggle room. In fact, Scalia said it in his opinion. He didn't shut the door to regulation.

- *Mr. Bartter – He would like to know what PERS' portfolio looks like. He wants to know if they invest with gun manufacturers and distributors. If they own their shares and if they do he wants to know what we can do to convince PERS to divest of those shares.*

Mr. Myers doesn't think anything that he is proposing is going to get a gun out of the hands of a troubled teenager and he certainly understands that the other side of this coin is the fact that we have a deplorable mental health delivery system in this country but he would ask each council member to stand up right now and join with him and instruct staff to endeavor in this exercise so that we can at least say that we tried something. He appreciates it.

President Michael thanked Mr. Myers. She thinks his comments are right on topic. We are hearing not only some of the different rights that he mentioned but also students' rights to attend safe schools. She would like to ask our City's safety committee to maybe look and see if there are some ways. Maybe work with the schools to see if there are some things that could be done to make at least the Worthington Schools safer in these areas.

MOTION

Mr. Myers made a motion to ask staff to engage in this endeavor but with no particular timeline. The motion was seconded by Mr. Robinson.

The motion carried unanimously by a voice vote.

Ms. Michael shared that a Worthington resident approached her recently and asked if there is some way that we can celebrate our first responders in a positive way at least once a year. Maybe we could just celebrate them with blue lights. She asked if maybe the Community Relations Commission could take a look at that. Mr. Greeson reported there being a number of opportunities to do that and we can work together to identify the best one.

Ms. Dorothy thanked Mr. Myers for his remarks. She acknowledged receipt of an e-mail from a constituent about Rush Run and Mr. Whited's work in looking at the overall complexity of the situation. It is going to take a lot of time and effort to take care of that. She just wanted to acknowledge that staff is working on it and it is a big deal.

Ms. Kowalczyk:

- 1) She also thanked Mr. Myers for his comments as she really truly appreciates what he shared. She can share Council's directions to staff with her children, which she really appreciates.
- 2) She reported that the Old Worthington Partnership Board met on February 13th and both she and Kevin Williams were approved as new board members. The Board was interested in learning more about the mural process and had communicated to Mr. Greeson about that. She added that the Partnership is co-sponsoring an event with Sacred Space Church to raise funds for the Family Mentor Foundation. The event is called Slice of Worthington. We are honoring our many pizza places in the City as at least twelve will be featured on March 15th from 5:30 p.m. to 7:30 p.m. at the Shops at Worthington Place. Tickets are available at Experience Worthington.com
- 3) WARD had reached out to her to meet with them to discuss their white paper. She really appreciates that because she is probably the one council member that has the least history on the issue so she appreciates being invited to come and hear more about that proposal.
- 4) She shared that her community engagement efforts occurred in a Coffee and Conversation event that she held in January at Over the Counter. She scheduled about two hours for citizens to share their issues and ask questions, etc. Quite a few people did attend, including Ms. Dorothy who she really appreciates her being there having had the experience of being on Council and knowing the issues much more in-depth than she does. Issues that were brought up included beekeeping and City requirements, concerns about the crosswalk at Evening St. and SR-161 and some ideas about how to resolve issues, questions about how we are addressing issues about older residents and then the opioid crisis and what we can do on City Council about that. There was a lot of good discussion but no concrete answers. They also asked about the mural task force so there is interest across the community about those issues. She will be holding another Coffee and Conversation in March and members are welcome to join her. While the location

has yet to be decided, she does like to frequent places around the City. She thanked Over the Counter for accommodating her on this venture.

Mr. Myers shared that he doesn't mean to pick on the schools. That was just a context. He hopes Ms. Hudson didn't take his comments the wrong way. Ms. Hudson confirmed that she didn't. Actually with her new role she has been trying to speak up and take some action as well. She is inspired to see members do the same and will attempt to carry that forward at her next Board meeting.

EXECUTIVE SESSION

ADJOURNMENT

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 8:46 p.m.

/s/ D. Kay Thress
Clerk of Council

*APPROVED by the City Council, this
19th day of March, 2018.*

/s/ Bonnie D. Michael
Council President