



CITY OF WORTHINGTON
Worthington City Council Minutes
January 14, 2019

6550 N. High Street
Worthington, Ohio 43085

CALL TO ORDER – Roll Call, Pledge of Allegiance

Worthington City Council met in Regular Session on Monday, January 14, 2019, 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 p.m.

ROLL CALL

Members Present: Rachael R. Dorothy, David Robinson, Douglas Foust, Beth Kowalczyk, Scott Myers, Douglas K. Smith, and Bonnie D. Michael

Member(s) Absent:

Also present: City Manager Matt Greeson, Assistant City Manager Robyn Stewart, Director of Law Tom Lindsey, Director of Finance Scott Bartter, Director of Service & Engineering Dan Whited, Director of Planning & Building Lee Brown, Director of Parks & Recreation Darren Hurley, Chief of Fire John Bailot, Chief of Police Jerry Strait, Clerk of Council D. Kay Thress, Assistant City Clerk Ethan Barnhardt

There were 39 visitors present.

PLEDGE OF ALLEGIANCE

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

VISITOR COMMENTS

There were no comments.

SPECIAL PRESENTATION(S)

- Oath of Office – Fire Captain and Fire Lieutenant

Mr. Greeson expressed his honor and pleasure in administering the oath of office. He asked Captain Chris Craig and Lieutenant Pat Toole to come to the podium.

Chief Bailot described his honor in witnessing two talented members of the Division taking on new roles. It is important to note how many people from the Division are in attendance to express their support. The Division staffs three 24-hour shifts called Units, each led by a Captain responsible for the daily activities of the Unit. The rank of Captain fits in the hierarchy above Lieutenant and reports directly to the Assistant Chief. Being able to work together with the senior team is important in maintaining focus and direction.

The Lieutenants are the line supervisors in charge on either the engine or the ladder. Each is responsible for the crew on the apparatus they are assigned to and makes operational decisions as the first-in supervisor on a variety of emergency calls that are responded to. Lieutenants report directly to the Unit Captain and works with them to manage the daily operations.

The process to fill the Captain position has been in the works for a long period of time and all four Lieutenants were involved in the process. Unfortunately, there was only one opening which made the decision more difficult because there is so much talent in the Division.

Chief Bailot expressed his pleasure to recognize Captain Chris Craig. Captain Craig started his career as a Firefighter-Paramedic with the City of Worthington in 2001 and he also served in Orange Township for several years. He holds multiple qualifications including Fire Officer One and Two, Incident Commander, Incident Safety Officer, Weapons of Mass Destruction Specialist, and Instructor. He is also a paramedic and has done extensive research and work in health-related emergencies. He is a graduate of Worthington Kilbourne High School and is a current Franklin University student in their bachelor's degree program in Emergency Management and Homeland Security.

Lieutenant Pat Toole started his career in Berea, Ohio, which is in the Cleveland area, in 1996. He then worked in Rockledge, Florida in 2005 before coming to Worthington in 2007 as a Firefighter-Paramedic. He has numerous qualifications including Fire Officer One, Structural Collapse Rescue Technician, and Fire Investigator. He is also working on a business Bachelor of Arts degree. He was recipient of the Columbus Citizen Distinguished Service Award in 2011 for actions taken during a multi-vehicle accident with fatality.

Mr. Greeson administer the Oath of Office to Captain Craig and Lieutenant Toole.

President Michael expressed how proud and thankful the Council is for the Division of Fire and EMS. She explained the importance of the day to day services that the Division provides to the Worthington Community.

REPORTS OF CITY OFFICIALS

Information Item(s) - Financial Report – December 2018

Mr. Bartter provided the following highlights for the City's financial report for December:

- *The Fund balances for all funds increased from \$26,697,378 on January 1, 2018 to \$30,338,812 as of December 31, 2018.*
- *The Fund balances for the General Fund increased from \$13,491,664 as of January 1, 2018 to \$14,667,073 as of December 31, 2018.*
- *The Fund balances for the General Fund unencumbered balance increased from \$13,613,822 as December 31, 2018 which represents approximately 49% of prior year expenditures.*

Mr. Robinson asked about the reduction in income tax collections and if it was related to the decrease in net profit collections and the State's portal. Mr. Bartter responded that has a lot to do with the State, whether that is net operating loss or centralized collections. He explained how about 20 businesses make up a significant of that drop in 2017 to 2018. He believes that is a combination of both State action and the finances of those companies. Mr. Robinson stated that it appears that year to date collections through the end of December were down slightly but above estimates. He inquired why that is. Mr. Bartter explained that the estimate was low, and collections were higher. Mr. Robinson asked why the estimates were below. Mr. Bartter detailed how the estimate was based on the impact of the net operating loss in conjunction with the loss of Anthem.

MOTION Ms. Kowalczyk moved, Ms. Dorothy seconded a motion to accept the Financial Report.

The motion carried unanimously by a voice vote.

Policy Item(s) - Mural Task Force Report & Discussion

Mr. Greeson explained how there was a significant discussion over a year ago about the stance that the City should have towards murals in our community. A Mural Task Force was created with volunteers who diligently worked to research murals and frame options that would be available to the City. For a variety of reasons, including the many activities that Council undertakes in the fall, this issue has not been on the agenda. We are attempting to bring everyone back up to speed and take an issue that has been on the plate and bringing everyone's education level back up on this important issue. We are not asking for action on this issue tonight, but instead to prepare Council for a more focused agenda item in the future.

Mr. Brown remarked how the main goal was to provide City Council options on how to move forward on this topic. There was a comprehensive Mural Task Force that was created to research and work on this topic, contacting jurisdictions in different cities and states regarding their policies on murals.

As background, in Fall of 2017 there were requests for two murals sent to the Architectural Review Board (ARB) and they were both denied because there needed to be more guidance from City Council and greater discussion from the community to determine if murals were

appropriate for Worthington. From March through July 2018, the task force met monthly to discuss murals in the city. In August a memo was sent from the Task Force to the City Manager and in September that memo went to City Council.

An issue that kept coming up was that of First Amendment rights. The City cannot regulate the design and content of a mural. The other thing discussed was the Visual Arts Rights Act, which that discussion was about the artist's rights on their work how they cannot be painted over in the future because there is permanent ownership.

Signs and murals fall under the same definition currently in Worthington and the murals that that came to ARB did not meet the City's definition of a sign. The Task Force examined other jurisdictions and how they define signs and murals.

Finally, within the legal discussion was an easement program. The City of Portland, Oregon utilized an easement program where the city would buy easement rights from certain buildings where they wanted to see murals. Since it is a city easement program, they have the ability to regulate the content, design, and location.

When looking at where murals should be located a lot of the conversation centered on the Historic District. There was also the discussion of appropriateness of murals in the commercial, industrial and residential areas. Further, there was an emphasis on murals in the Architectural Review District. The consensus was that murals were not appropriate in residential areas. That led to a discussion if the commercial district could be seen from a residential area, how does that come into play.

There was an examination of commercial areas and areas that were visible from the public right-of-way. Issues of visibility also tied back to the Village Green and certain murals would not be appropriate to be seen from there. The main consensus with residential was that they would not be appropriate there. There were additional questions about murals in commercial areas that back up on residential that needed to be examined going forward.

There was a general consensus in the group regarding the size of murals and they needed to be appropriate to the building's size. There also did not need to be a plethora of murals in the City. He referenced the Portland easement program again and how they limited and rotated the artwork. The maintenance of murals was a topic that also popped up and using the property maintenance code for enforcement. One concern is if the mural is going to be there for an extended period of time, who will be maintaining it.

President Michael asked about the artist's visual rights and ownership of the artwork, would somebody else have the ability to go and touch up artwork. Mr. Brown described how there was a discussion about that and there could be a waiver of some sort to allow for maintenance.

Mr. Brown described the different types of buildings and materials for the murals. They looked at the shrink wrap material and whether it would be appropriate on things such as stone, wood, brick, and other materials so there would not be painting on the actual

building. He referenced the shrink wrap material that is used at CoHatch and Zaftig Brewing. There was concern about making sure not to damage the structures. The group thought there was room for improvement with murals but did not want to damage buildings.

The Task Force looked at times lines for murals, some programs were set up where they were permanent, others were rotated on a set timeframe. There was discussion about whether or not to place a timeframe on the murals, that would depend on the type of programs we go with.

Ms. Dorothy asked if there was a consensus that murals were acceptable in industrial areas. Mr. Brown replied that the discussion was focused more on residential such as Old Worthington, High Street, and the 161 area. There was less concern about murals in industrial areas and would not be as tightly regulated. There were also discussions about having little pockets of murals throughout the city where one mural leads to the next. Would be hidden gems in the City that could improve the pedestrian experience, without detracting from the architecture of the buildings. Ms. Dorothy asked about having murals along the Olentangy Trail. Mr. Brown responded they did not look at the Olentangy Trail.

Mr. Brown explained how the task force did not come up with a yes or no on the answer of whether or not allow murals but gave a series of recommended options.

The group went into detail looking at the steps to consider going forward or not going forward. The next steps are to answer questions tonight, to discuss it at the upcoming at council retreat, and invite public comment on the topic. Depending on what choices are made it would necessitate a change to the City Code and

#1	#2	#3	#4	#5
Status Quo	No Murals Permitted	Murals Permitted	Murals on Private Property - Easement	Murals Only on Public Property
Change nothing in the Code	Draft Code language to strictly prohibit murals	Draft Code language to permit murals	Create an Easement Program	
		Determine Preferred Location: <ul style="list-style-type: none"> Citywide Old Worthington Outside of Old Worthington Outside of the Architectural Review District 	Determine Preferred Location: <ul style="list-style-type: none"> Citywide Old Worthington Outside of Old Worthington Outside of the Architectural Review District 	Determine Preferred Location: <ul style="list-style-type: none"> Citywide Old Worthington Outside of Old Worthington Outside of the Architectural Review District
		Permitted in Commercial & Industrial Areas	Permitted in Commercial & Industrial Areas	
		Prohibited in Residential Areas	Prohibited in Residential Areas	
		Determine visibility from the public ROW: <ul style="list-style-type: none"> High Street Granville Road (SR-161) Village Green Drives Other Roadways 	Determine visibility from the public ROW: <ul style="list-style-type: none"> High Street Granville Road (SR-161) Village Green Drives Other Roadways 	Determine visibility from the public ROW: <ul style="list-style-type: none"> High Street Granville Road (SR-161) Village Green Drives Other Roadways
		Number of Murals	Number of Murals	Number of Murals
		Mural Material	Mural Material	Mural Material
		Type of Building	Type of Building	Type of Building
		Maintenance	Maintenance	Maintenance
		Size of Murals	Size of Murals	Size of Murals

the Worthington Design Guidelines.

President Michael asked about Portland, Oregon example and how they have some controls. Mr. Brown described the Portland Easement Program where their arts committee had 10-12 predetermined locations that were deemed appropriate. The committee and the City would then discuss an easement with the owner of the property for the side of their building. It could then rotate. That was one option discussed as a group.

Ms. Dorothy asked if they discussed how the City of Columbus, the Short North as an example, handled things. Mr. Brown described how many of the jurisdictions in place have guidelines in place and money budgeted for the arts. Some jurisdictions used an arts committee to approve designs, others had it go through their architectural review district, some went through their planning commission. In Portsmouth they can regulate more since it is on government property. Bucyrus went through their planning commission. Uptown Westerville's murals for example went through a town review committee and they did variances. However, most jurisdictions have lots of positive discussions and community input with overall positive experiences.

President Michael asked if there is a town review committee, can they regulate what is put in the murals. Mr. Brown said no, that content cannot be regulated. They can review location, how it is sized, and how it is attached to the building. However, the easement program or public buildings are a little easier to monitor and regulate.

Ms. Kowalczyk mentioned the positive value of murals. She asked if any of the jurisdictions commented on what they valued about having murals in their jurisdiction. Mr. Brown said it was about telling the history of those communities. Many of them had buildings torn down and parking lots put up, leaving a big blank wall that could be masked. Ms. Kowalczyk asked if South Worthington was discussed as an area to be beautified. Mr. Brown said the focus was primarily the historic and business district. The conversation focused mainly of the central business district, but it did stretch the whole of High Street up to 270 and there was some discussion about not only murals, but also public art.

Mr. Smith said he is neutral on the topic, he likes art but not all art. He explained that if we have good architecture, then we do not need murals. He mentioned the idea of a sun setting clause on murals. Mr. Brown replied that other jurisdictions had it rotating with different art that could be controlled through a planning commission or review boards.

Mr. Robinson asked if we can regulate the content of signs. Mr. Brown said we can regulate font sizes, font types, font colors, and lighting, but we cannot legally look at the content of the signs.

Mr. Myers stated that he personally enjoys tasteful murals. He was sitting with ARB when they were looking at the two proposed murals. They did not like the colors and design of Mr. Duffy's proposal. But, they liked the colors and design of the other mural proposed by the Partnership but did not like the location. The ARB discussion went into things that we are not able to regulate, and he tried to direct them away from discussing that. The

lawyer in him says that this is a really slippery slope because we cannot control content. He goes back to Portland solution which creates a whole myriad of regulation that would be a big task. He appreciates the work of the task force and they keep coming to the same questions he keeps coming to. It is not an easy at all and the easy decision is to just not do anything.

President Michael asked for the general consensus on how to move forward with this or if there is a flat no and don't want any changes. She expressed how she is unsure how much time we want to put into this.

Mr. Foust asked *whether the Task Force discussed the likelihood of a direct relationship between the desirability of a particular location from the artist's or advocate's perspective, i.e. something centrally located or highly visible, and the potential for that location to be a lightning rod for public comment and possible discontent.* ~~the task force discussed the desirability for a mural and the public discontent for the content of that same mural.~~ If we were to do it, would we want to tip toe in with something other than the Historic District. He is also concerned about being unable to regulate content. He wishes we knew what the public wanted and mused whether or not this could be a small subset of the community visioning process. ***AMENDMENT MADE MEETING JANUARY 22, 2019**

Ms. Kowalczyk agreed that this could be a part of the visioning process. She would be interested to see if the people are interested in us pursuing this and it is worth talking about further.

Mr. Myers asserted that we can do this at a Council meeting. He is concerned about mission creep by combining this with the visioning process. He also does not want to spend too much time at the retreat on this. We could set a public meeting to get input. It could also be sent back to the ARB.

Ms. Dorothy likes Mr. Foust's idea about the location not being in the Historic District to begin with. She thinks there is obviously support from the public for this, but we also had people against it, so there is some controversy. She is personally in favor of more public art in Worthington and would like to spend more time on this.

President Michael described how she hears the desire for a couple public meetings. It would be good to also have the ability for the public to go online to share their thoughts as well.

Mr. Robinson agreed with Mr. Smith's sentiment that he likes art, but he sees many practical problems that Mr. Myers identified. As he thought through the possibilities and the decision-making grid, he cannot get his mind around what an actual program would look like. He requested that someone who is a proponent of murals to put together a program of how this would work to give an example Council could look at, assess, and critique. As of now he has many unanswered questions.

Mr. Myers inquired if the Portland ordinances had been pulled. Mr. Brown replied that they were. Mr. Myers said the Portland example is the one that allays his fears the most because he wants to control the content and the location. He looks at the two proposals from 2017 and one is piece of art, but the other is a tasteful commercial. He asked what we do with those. He asked for the Portland program framework to be circulated because it is someplace to start.

Ellen Scherer - 112 East New England Avenue

Ms. Scherer commented how she was impressed with the Mural Task Force's job. It was very thorough and helpful. The discussion tonight has been good.

Mr. Foust commented on how one of the proposed murals was a commercial. He questioned whether the art become a promotion for the artist, and he is uneasy with that. Advertising is a real sensitive issue we want to be aware of when a mural becomes an advertisement for anyone or anything. Mr. Myers responded that is the problem because we cannot regulate content. Most are commercials for something.

President Michael is also concerned about going crazy without control. She emphasized that this would be a future agenda item with more information.

Mr. Lindsey commended Mr. Brown and Ms. Bitar for helping to put together a framework for the Task Force to discuss. The Task Force had many different perspectives, and this is a challenging topic to come to a final point on. Under the task that was given to provide options to Council, the matrix provides at least a framework. The Portland situation came out of a problem related to the commercial aspects of a mural that under their provisions, was then banned on a content basis which the First Amendment prohibited them from doing. The easement approach allowed the City to control the content because it was City's speech that is being permitted because it is the city speaking on the sides of buildings. It is the City's building in the sense that they own easement right to put mural on that building. It is a program they went forward with and it served their purpose. Eventually they went back to a more open-ended program, so they had two programs. Many of the cities seem to be willing to take the risk, or are oblivious to the risk, of having a mural they might not like. This is a starting point and a good discussion of interests to find what the community wants. Staff's position was to allow the discussion to happen as opposed to narrowing it down too quickly with the task force coming in with a specific recommendation.

He described how commercial speech is still available to have limitations that otherwise may not apply to non-commercial speech. If you have to look at the sign, in a non-commercial context, to determine whether the regulation applies or does not apply, then you are in the realm of a content regulation. Anything we do moving forward will be somewhat guided by those principles.

Mr. Greeson reminded Council that the Community Relations Commission is once again hosting a Martin Luther King Day celebration at the United Methodist Church.

President Michael noted that next week's City Council meeting will be on Tuesday because of Martin Luther King Day on Monday.

Mr. Greeson detailed how during the budget process there a robust discussion about the Convention and Visitors Bureau (CVB) and the recommendation was that they dissolve and merge with Old Worthington Partnership. Pursuant to that discussion he and Mr. Lindsey have been working with them to affect that transition. Last Friday, the CVB board entered into a contract with the Partnership to continue executive director services through the first quarter as the transition occurs. Beth Dekker has served in that interim role for the past six months or so. The board also approved a corporate resolution to dissolve no later than March 31st when next there will be a full transition. The next steps in that process will be that there will be an ordinance introduced at the next meeting allowing the City to accept funds, dispersed from the CVB, and appropriating a portion of those funds, approximately \$45,0000, to the Partnership to perform CVB services for the remainder of the year. The Partnership will present at the February 4 meeting on how those funds will be used. They have been working on updated by-laws they are looking to add new board members with tourism background and creating a subcommittee to focus on CVB issues.

REPORTS OF COUNCIL

President Michael stated that Mr. Robinson has requested an executive session regarding economic development and personnel.

Mr. Smith shared a portion of his conversation with Dr. Marlowe this past week. He explained how if we are not reaching at least 80% of Worthington residents in one way or another, we will have failed. He shared that sentiment with Dr. Marlowe.

Ms. Dorothy mentioned the calls with Dr. Marlowe, and how she appreciated his time while teeing up for the upcoming retreat. She thanked everyone involved in the snow removal over the past weekend.

Ms. Kowalczyk went to one of the public hearings on electric aggregation and there were four community members in attendance. It was a very good meeting and she she learned a lot. She also emphasized how we want to contact underrepresented individuals, agreeing with Mr. Smith's earlier sentiments.

President Michael mentioned how McDonalds had their grand re-opening today. She commented on the new technology in fast food service, but how this restaurant is smaller but employs more people than before. The Central Ohio Mayors and Managers Association met last week, and it was discussed how in the future there will be a legislative agenda coming. Going forward city issues may be falling on ears that are listening. She added real estate to the reason for executive session.

EXECUTIVE SESSION

MOTION Ms. Kowalczyk moved, Ms. Dorothy seconded a motion to meet in Executive Session to discuss economic development, personnel, and real estate.

The clerk called the roll on Executive Session. The motion carried by the following vote

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

No 0

Council recessed at 8:49 P.M. from the Regular meeting session

MOTION Mr. Smith moved, Ms. Dorothy seconded a motion to return to open session at 9:36 P.M.

The motion carried unanimously by a voice vote.

ADJOURNMENT

MOTION Mr. Foust moved, Mr. Myers seconded a motion to adjourn.

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned at 9:36 P.M.

/s/ Ethan C. Barnhardt
Assistant City Clerk

*APPROVED by the City Council, this
22nd day of January 2019.*

/s/ Bonnie D. Michael
Council President