



CITY OF WORTHINGTON
Worthington City Council Minutes
February 4, 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, February 4, 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, Douglas Foust, Beth Kowalczyk, Scott Myers, David Robinson (*Arrived at Approximately 7:35 p.m.*), and Bonnie D. Michael

Member(s) Absent: Douglas K. Smith

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, Chief of Police Jerry Strait, Clerk of Council D. Kay Thress, Assistant City Clerk Ethan C. Barnhardt

There were nine visitors present.

PLEDGE OF ALLEGIANCE

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

APPROVAL OF THE MINUTES

- Regular Meeting – January 22, 2019

MOTION Ms. Kowalczyk moved and Ms. Dorothy seconded a motion to approve the aforementioned meeting minutes as presented.

The motion to approve the minutes as presented carried unanimously by a voice vote.

PUBLIC HEARINGS ON LEGISLATION

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

Ordinance No. 02-2019

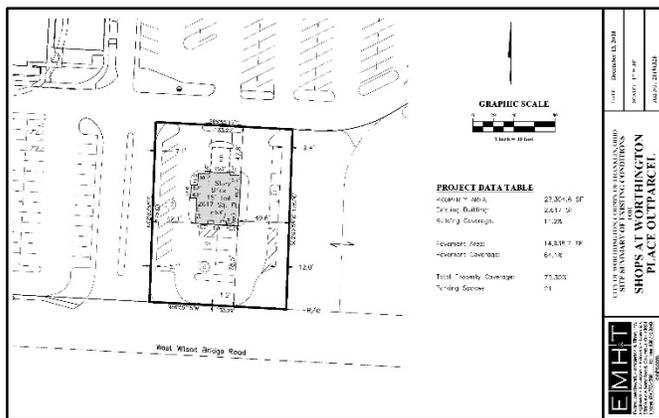
Subdivision of Property, Authorizing Variances and Amending Section 1177.02 of the Codified Ordinances of the City of Worthington (Worthington Square Venture, LLC)

The foregoing Ordinance Title was read.

Mr. Brown explained how this ordinance is for the subdivision of property that includes variances associated with it. If approved, it would also amend the Architectural Review District boundaries to recapture this parcel.



This is the former Telhio site, which is a little over a half acre in size. The overall mall is a little over sixteen acres in size and is in our community shopping district category. In the C-2 district the requirements for minimum lot width to create a new lot is 150 ft in road frontage, one acre in lot size, 50-foot front setback, 30-foot rear setback, 20-foot minimum side yards, 25% lot coverage related to structure, and a maximum of three stories in height. What is requested are three variances relating to lot size, road frontage, and rear setback. As part of this process we worked with the applicant to get a reciprocal easement for parking and ingress and egress to the site so that they can share parking and to allow for no direct access to West Wilson Bridge Road. This went before the Municipal Planning Commission (MPC) and was recommended for approval to City Council with these three variances. It is subject to the 60-day waiting period.



President Michael asked if someone was interested in purchasing this site. Mr. Brown deferred to the owner Mr. Carter.

When asked by Ms. Dorothy if we were looking at re-zoning, Mr. Brown replied that it will be staying as a C-2 zoning category. If it were to come in for

redevelopment it would have to meet the standards outlined in the C-2 zoning district. Ms. Dorothy asked if we are also requesting that it meet the MPC guidelines. Mr. Brown responded that was correct.

Ms. Kowalczyk asked if there were drawbacks to approving this proposal. Mr. Brown said that from a staff perspective, when you begin dividing up parcels and then re-assembling them later, it can be difficult.

Tom Carter – 2178 Castle Crest Drive

Mr. Carter described how this is landlocked between the Chase, who owns their property and the drive aisle which is protected as long as Kroger is there. So, for all intents and purposes it is a separate parcel. There have been challenges finding tenants for that building because they cannot sell it. Most people who have pads want to own them. There have been several banks interested who ultimately did not want it because they could not own it. It will be more marketable and there will be a long term, better tenant as a result of doing this. He stated how he believes that the Bank of America ATM that is coming in, is not a full bank because they cannot own it. He does not know what the future holds, but it provides for better options if we go forward with this.

Mr. Myers pointed out that what is there now will be there tomorrow. This will become an ATM only location. This will be a seamless change along Wilson Bridge Road. Once the Architectural Review Board worked out the technicalities, that's the way they looked at it, physically there will be some improvement once they are done from what it is now.

There being no additional comments, the clerk called the roll on Ordinance No. 02-2019. The motion carried by the following vote:

Yes 6 Robinson, Kowalczyk, Foust, Dorothy, Myers, and Michael

No 0

Ordinance No. 02-2019 was thereupon declared duly passed and is recorded in full in the appropriate record book.

Ordinance No. 03-2019 Directing the Deposit of Certain Receipts into the Convention and Visitors' Bureau Fund and Amending Ordinance No. 52-2018 (As Amended) to Adjust the Annual Budget by Providing for Appropriations from the Convention and Visitors' Bureau Fund Unappropriated Balances.

The foregoing Ordinance Title was read.

MOTION Mr. Myers moved, and Mr. Foust seconded a motion to amend and approve Ordinance number 03-2019 As Amended.

The motion carried unanimously by a voice vote.

Mr. Lindsey explained how this ordinance was introduced previously with blanks, Council motioned to amend it to include those blanks including the amount of money anticipated to be transferred by the Convention and Visitors Bureau (CVB) upon its dissolution of approximately \$150,000 after final expenses. The request from the Old Worthington Partnership (OWP) for \$55,830, covers their anticipated expenses for the remainder of this year once the current contract with the CVB expires on March 31. The ordinance indicates that future payments from the hotel tax will go into the special fund that Mr. Bartter has created. The payment from the CVB will go into that fund. Appropriations for CVB expenses through the OWP will be appropriated from that fund. Credit goes to the CVB since they planned ahead to make sure there would be funds available to continue to provide services. The construction timeline for the hotel is not clear, but there is 2.5 years of funding available.

Old Worthington Partnership – Aaron Brown, President and Nina Parini, Executive Director

Mr. Brown thanked staff for all their help working up to this point. He overviewed the foundation that has been established over the past six months. There has been progress on the things they wanted to do as an organization after taking on these new responsibilities. They have changed their bylaws to add the tourism mission. They are in active interviews for new board members and should have them in place soon. Additionally, they want to keep the former CVB board members apprised of what is going on and will update them quarterly and receive their input.

Since there is overlap in the mission of the OWP and the CVB, dollars can go further with greater efficiencies. He explained how they have worked together on improving the digital presence. This is where people come to see and connect with Worthington, if that is not updated regularly somebody may decide to go to a different part of our community. Partnership events are already generating traffic and they are amazed at the events that draw from outside the 43085-zip code. They are also leveraging relationships with the ability to collaborate with other organizations in the community. Those organizations will help leverage what is competitively, compared to other communities, not a lot of money.

Impacts from CVB Contract June 2018-January 2019

- Social Media Boost
 - Instagram presence—600+ new followers
 - Facebook engagement is up 750%
 - Honing our “look” and “feel” to encourage visitors to learn more
- Experience Columbus
 - Hosted 3 FAM (familiarization) Trips
 - 3 Bus tours
- Active in CATA (Columbus Area Tourism Association)
 - Hosted CATA Holiday event at The Whitney House
- Ohio Travel Association
 - Worthington’s first time attending State-wide conference
- Visual Identity
 - New look, fresh materials, aligned with website
 - Updated Group Tour Profile Sheet distributed to 100’s of national tour guides

Ms. Parini explained how they are hosting a new signature event called Worthington First Wednesdays, a monthly event similar to First Friday events in other communities. CoHatch has partnered on this, so the Partnership will be doing some activities each month

and then CoHatch will also host a volunteer opportunity each month for a different charity. This month they are working with NC4K, which is an organization that supports families of children fighting cancer. Other main street communities in the area have these First Fridays and they are a real economic driver. That is what is hoped for Worthington First Wednesdays.

The budgeting and marketing calendar have been distributed to Council. It is something that was put together using past budgets from the CVB and layering on that additional social media content. That is the direction that is needed since there is not a major convention or meeting space to attract groups. There is the need to target people who are coming here for a day or half of a day through social media and boosted blog posts.

She detailed how they are introducing a new idea for a tourism ambassador program. It is a little different, where we will capitalize on the community volunteer list, reaching out to residents and working with Worthington merchants, and educating them on what tourism is and what it can do for the community and economy. There will be hospitality training for Worthington businesses, and they will work together to create educational opportunities for people to learn about tourism.

Ms. Dorothy thanked the OWP for making this as seamless as possible and doing such a great job. She looks forward to seeing what can be done with full funding when we have a hotel that produces the Hotel Tax for this endeavor. However, at the moment this looks phenomenal.

Mr. Myers explained how this conversation about the transition has been ongoing for five or six years. It seemed to make sense to combine these two organization. The question to both the OWP and the CVB is what the benchmarks will be and how will you report on the deliverables. He expressed how he wants to see if you can demonstrate through your efforts that there is an economic impact. Ms. Parini responded that through use of social media, it is easy to tell who is engaging with you. There are reports that can be run that will give more solid data. They can ask if there have been increased sales for local business. Mr. Myers discussed how tourism is supposed to drive money spent in our town and to promote our brand beyond Worthington. He is not sure if we previously measured the impact for the dollars committed. Ms. Parini explained how their relationship with businesses is closer than the CVB had in the past. They meet monthly with Old Worthington businesses, they are in the process of meeting with businesses beyond the Historic District to build relationships. It is about maintaining those relationships. They do surveys with businesses to ask if sales are up year over year and if efforts are working.

President Michael shared that one of her concerns is making sure that this gets beyond Old Worthington because the CVB promoted the entire city. She expressed how she wants to make sure the mission meets the whole city because that's the reason we had the CVB. Ms. Parini explained how the challenge is figuring out how to do that. They have a new person, Ms. Dekker, who is going out and meeting with businesses. There is an upcoming board retreat where these issues will be discussed. President Michael noted how much time and effort has gone into this whole thing, it has been a community effort.

Mr. Foust described how the Partnership is loosely almost an extension of city staff. It is good to have fresh eyes, it is an exciting time, and he wishes them well.

There being no additional comments, the clerk called the roll on Ordinance No. 03-2019 (As Amended). The motion carried by the following vote:

Yes 6 Kowalczyk, Foust, Dorothy, Myers, Robinson, and Michael

No 0

Ordinance No. 03-2019 (As Amended) was thereupon declared duly passed and is recorded in full in the appropriate record book.

Ordinance No. 04-2019 Amending Ordinance No. 52-2018 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund Unappropriated Balance to Pay the Costs of the East Wilson Bridge Road Waterline and all Related Expenses and Determining to Proceed with said Project. (Project No. 678-18)

The foregoing Ordinance Title was read.

Mr. Whited discussed how this is an exciting project and it is one of many more that will be seen in the future. It will be a complex project considering the other infrastructure in the area. The waterline will be replaced from the railroad tracks down to Old Wilson Bridge Road for a total of about 7/10 of a mile replaced. There is a detailed maintenance of traffic plan that will be utilized to maintain traffic at all times, and it will be sensitive to rush hour traffic in the corridor. The project will begin in early spring with a total of 90-100 days of construction.

Following the project as part of the resurfacing program, there will be resurfacing on that portion of the road. The new piping will have an approximately 60-year lifecycle. In the future there will be an RFP for an evaluation of all the waterlines in the City to help determine which waterlines to repair first. The successful bidder for this was Columbus Asphalt out of Gahanna, Ohio for approximately \$905,441 and with a 10% contingency included that brings the total to \$995,985.

Ms. Dorothy asked if we delayed resurfacing so we would not have to tear up brand new roads. Mr. Whited said that is correct and we are also coordinating with utilities working in the corridor.

Mr. Myers asked if repaving would be just for that and does not include streetscaping enhancements that have been discussed. Mr. Whited said that was correct, it will be a resurfacing project only.

There being no additional comments, the clerk called the roll on Ordinance No. 04-2019. The motion carried by the following vote:

Yes 6 Foust, Dorothy, Myers, Robinson, Kowalczyk, and Michael

No 0

Ordinance No. 04-2019 was thereupon declared duly passed and is recorded in full in the appropriate record book.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 06-2019 Authorizing an Amendment to the Final Development Plan for 54 West Wilson Bridge Road and Authorizing Variances (Bank of America).

Introduced by Mr. Myers

MOTION Ms. Dorothy made a motion to adopt Resolution No. 06-2019. The motion was seconded by Ms. Kowalczyk.

Mr. Brown described how this is a request for amendment to development plan with a variance plan for lighting and signage at this site. With the previous approval to split up the lot, since it was part of an original Development Plan it will carryforward, so anytime there is a need, it will have to come back to Council.

The request is for the old Telhio site that will become Bank of America. The existing 2,000 square foot building will be converted to two unmanned ATMs. The first request for variance is for wall signs. The code allows for one wall sign, but they are requesting five. The toppers on top of the ATMs are considered wall signs. The logos on the side of the ATMs also count as signage. The other variance request is for lighting and as part of the Wilson Bridge Corridor Plan a variety of factors were looked at. There are five new poles going on their property with new lighting, some of which are existing locations. The lighting will be brought down in height to 15 ft which is compliant with the code requirements. Staff recommends approval for the lighting variance; however, staff differs from MPC's recommendation for approval of the signage.

President Michael clarified that staff wants to approve the lighting but not the signage. Mr. Brown said that staff did not agree with the MPC's recommendation relating to the number of signs. President Michael asked if there would need to be a motion to amend the resolution. Mr. Brown affirmed that was correct. Mr. Robinson asked for a summarization of what staff recommended for signage. Mr. Brown responded that in the past they have not approved the two logos on the sides of ATMs at other bank locations. Staff was okay with approving the toppers on the front of the ATMs, the point of disagreement is over the side logos. Mr. Robinson asked about the wall sign. Mr. Brown explained they were in agreement that it should be allowed.

Mr. Myers asked if staff recommended not approving the signs on the sides and the ARB approved it anyways. Mr. Brown said that was correct.

Ms. Kowalczyk inquired about the lighting on the site and if it is sufficient from a safety and security perspective. Mr. Brown said that was a part of the argument from Bank of America for having additional lighting. In talking with Bank of America and their needs, that is one of the reasons why they came to agreement on the light levels for safety. Mr. Myers said that we have never approved the light level originally requested by a bank, the MPC and ARB always asks to tone it down. The end result is that they get less than they want, and we get more than we want.

Mr. Foust stated that he was a bit confused and wanted to know exactly what signs were being recommended by staff. Mr. Brown showed the topper on the walk-up sign and explained how there is no problem with that. The topper for the drive-up ATM is the second sign and the side logos count as two additional signs under our sign code. Mr. Foust clarified that staff's issue is with the side signs. Mr. Brown said the argument is about why there is the need for more logos. Mr. Greeson emphasized that the concern is consistency and application of our regulations with like businesses. Mr. Foust summarized that there would be signs on both ATMs, a sign facing west, and a stand sign out at the street. Mr. Brown described how that is the hard part, working with banks. Oftentimes the ATMs do not always make it before the ARB. They go through a changeout and there have been issues with the banks concerning what was originally approved and what was installed with the latest turnover and technology change.

Mr. Robinson expressed his support for the explanation of Mr. Brown's rationale.

Paul Wolenski, Bank of America – 55 E. Case Dr., Hudson, Ohio

Mr. Wolenski described how they worked with staff extensively. The bank does have very stringent lighting requirements for safety and security purposes, tied closely to several states by law who require certain levels of lighting in the vicinity of ATMs. He stated how he believes it will be a nicely lit property that will look great. As for the signage, they prepared the sign package with the wall sign intended to match with the brick and the free-standing sign. The ATM graphics relate to the topper and the sides. Normally, these are lighted but at the Planning Commission it was agreed that they would not be lit as well.

Mr. Myers asked about the proposed freestanding ATM with the side logos. If Council were to vote those logos down, he asked what they would be replaced with. Mr. Wolenski said that would have to be a custom fabrication from the ATM manufacturer, it would be a red acrylic panel. He would need to work with the manufacturer if the side logos are not approved.

President Michael asked if anyone wanted to amend the resolution. Currently the resolution approves all of the signage and the lighting. Mr. Robinson questioned what was meant by all of the signage. President Michael responded it means all five signs.

Ms. Kowalczyk asked if there were concerns with the five signs aside from the precedent with other banks. Mr. Brown explained how the staff argument regarding signage is that less is more, and they did not see the need for additional logos. President Michael asked what the difference would be between the solid red panel versus a red panel with a logo on it. Mr. Brown explained how the logo is classified as a sign per the sign code and the solid red panel would not be a sign.

Mr. Myers described how he is torn because he typically defers to our boards and commissions, and absent some compelling reason, we should defer to their judgement. However, with that being said he sees Mr. Brown's position because most of the sign packages are typically cut back by the ARB. Every business that comes in here wants more signage than what Worthington is willing to bear. He can see in this instance Mr. Brown's point, that it is not about the aesthetics, it is about the next applicant wanting seven signs instead of five. He reluctantly supports Mr. Brown's position.

Mr. Foust said he is supportive of this endeavor and he wants to be supportive of staff, it is what we entrust them to do. He expressed that he is leaning towards amending.

Ms. Dorothy stated that she is happy to see improvement in the neighborhood and the investment in the community. She is concerned about having additional signage, we open the door to additional signage if someone wants to put in some piece of equipment. Once the individual sign is approved, that would keep opening up more and more signage. She agreed that she would like to reduce the number of signs.

Mr. Lindsey pointed out that if this is a logo, it would be approving a sign. It could be words or other things because as said in other contexts, we cannot judge the content of the sign itself. Whether it is logos or words, approving it would allow five total wall mounted signs which could be different than the logo. Mr. Robinson clarified that at this location in the future, it could be changed from a logo to words. Mr. Lindsey explained that our provision regarding ARB type approval may still require it to come back, from a sign ordinance defense standpoint it would be a challenge as to approving a sign because we cannot judge for content of that sign. Secondly, this resolution is drafted to permit more than one wall mounted sign per business, it is based in this format upon an approved plan coming to Council from the board. He would suggest that section two of this be amended to instead of reading "to permit more than one wall mounted sign per business", it read "to permit three wall mounted signs", striking "per business".

MOTION

Ms. Dorothy motioned, seconded by Mr. Myers to amend the drawing and exhibits of Section I to specifically exclude the two logo panels designated as signs on the east and west faces of the freestanding ATM and to amend Section II to be limited to three wall mounted signs.

The motion carried unanimously by a voice vote.

There being no additional comments, the motion to adopt Resolution No. 06-2019 (As Amended) passed unanimously by a voice vote.

Resolution No. 07-2019

Amending the Job Description for the Position of Traffic Signal Technician and Amending the Pay Resolution to Accommodate Said Position.

Introduced by Mr. Robinson.

MOTION

Mr. Foust made a motion to adopt Resolution No. 07-2019. The motion was seconded by Mr. Myers.

Mr. Greeson explained how job descriptions are updated when there is a retirement so that we can be in the best position to advertise and recruit for a replacement.

Mr. Whited described how Bill Halfen has been with us for over 34 years. Mr. Halfen is a standup guy, he has done fabulous things, and is extremely responsive. He is responsible for our actuator signs on all of our traffic lights. He will be missed immensely.

There being no discussion, the motion to adopt Resolution No. 07-2019 passed unanimously by a voice vote.

REPORTS OF CITY OFFICIALS

Policy Item(s)

- Community Relations Commission Non-Discrimination Draft Legislation

Community Relations Commission – Jack Miner, Chair and Angela Courtwright, Vice-Chair

Mr. Miner described how this ordinance has been in the works for over a year and it is at the heart of what the Community Relations Commission (CRC) is. Folks are often surprised at how we have had such a strong history of a CRC but did not have a non-discrimination ordinance. When thinking about the why for doing this, it hearkens back to the history of the CRC. Worthington itself and the CRC has had a really strong foundation in equality and standing up for their citizens.

The CRC has really tried to think about a number of pieces. First is they brought a draft ordinance to Council as introduction. Part of the concept around that was really about the community engagement and community conversation. One of the things they quickly realized was when you talk about it in concept, there are often people with reservations. When they actually saw the proposal on paper, it made sense. The other piece is to not immediately go towards the enforcement and penalty. Other communities who have done an ordinance like this, have very little enforcement issues that come up. The more important piece is sending a message about what type of community we are. This is an

opportunity to speak about our values in black and white, as part of our City’s charter and as part of who we are as a community. The enforcement piece then becomes secondary.

Mr. Miner explained who is covered by this ordinance. It is a combination of classes that are already covered by state or federal guidelines and some that are specific to Worthington such as sexual orientation, gender identity or expression, marital status and familial status.



Proposed Non-Discrimination Ordinance

Who is covered

The proposed ordinance provides protection from discrimination because of a person’s race, sex, sexual orientation, gender identity or expression, color, religion, ancestry, national origin, age, disability, marital status, familial status, genetic information, or military status.



Proposed Non-Discrimination Ordinance

Protections

The protections extend to housing, employment and public accommodations throughout Worthington. Essentially, persons may not be treated differently or denied services, credit, housing (sale, lease or rental), or employment (hiring, terms or conditions of employment) because of their protected characteristic.

Ms. Courtwright detailed how the proposed ordinance provides protections in housing, banking, employment, and public accommodation. Essentially employers cannot treat someone differently because they are in one of those protected categories. The complaint procedure is somewhat of a hybrid procedure.

The option for someone who believes they have been discriminated against can file a charge with the City Clerk within 180 days of alleged violation. The Law Director will then make sure that a copy is served upon the respondent business. If the charge alleges a class that is currently protected by state or federal law, then the Commission reserves the right to either proceed with investigation or instruct the person making a complaint to file a charge with the Ohio Civil Rights Commission (OCRC) or the Equal Employment Opportunity Commission (EEOC).

If the charge is deferred to the OCRC or the EEOC, the Commission reserves the right to independently investigate as well or may allow the state or federal agency to conduct the investigation. Once the state or federal agency concludes the investigation, the complainant has the ability to come back to the City to ask that the decision be reviewed. The Law Director then has the ability to review the decision of the state or federal agency to decide as to whether it is arbitrary or capricious. If it is not, then the decision of the state or federal agency is upheld.

The Commission always has the ability to independently review and come to its own determination. If the complaint is based upon a protected characteristic that is outside of those outlined, then the procedure would be first to offer voluntary mediation through a

mediator designated by the City. If the parties decline mediation or it is not successful, then the Law Director will contract with an outside counsel to conduct the investigation. As the investigation is concluded, a finding is issued, and a notice of determination hearing will be issued before the Commission. The Commission will then preside over the hearing or designate an agent to preside over the hearing, such as a law firm or reaching out to the City of Columbus's Community Relations Commission. Once the determination is made, if it is made by a designee, it not final until it is adopted by the Commission.



Proposed Non-Discrimination Ordinance

Complaint Procedure

Persons that believe they have been discriminated against because of a protected characteristic may file a charge with the Worthington City Clerk. Depending upon the specific nature of the allegations, the CRC will either proceed with an investigation or instruct the person filing the charge to re-file the charge with the Ohio Civil Rights Commission or Equal Employment Opportunity Commission. If the CRC retains the matter, voluntarily mediation is available.

Ms. Courtwright identified the penalties under the ordinance. If a violation is found, a cease and desist order is issued. There is also the authority to issue a fine. First would be \$1,000 for the first offense, going up from there. This could also be a misdemeanor of the first degree if they fail to comply with the cease and desist order.

Mr. Miner presented that regardless of the type of case that is filed, or type of discrimination someone feels like they have experienced, it may go someplace else for some resolution, but it always comes back to Worthington for validation. Much of this has been an opportunity to have a community dialogue and to build on existing partnerships. This draft ordinance has been shared publicly, specifically with the faith community of over 40 pastors and faith leaders who have been overwhelmingly supportive. This is really the value that they hope that Worthington has always been. It was interesting to hear from one of the pastors that has an openly LGBT staff member and that person was protected in the City of Columbus but not in their own church. They also reached out to larger employers and received strong feedback from them. Almost all of them already have a non-discrimination statement in their organization that mirrors the classes and guidelines that we are outlining.

He detailed how the next proposed step would be to share and introduce the ordinance at the February 19th City Council meeting. They would continue to engage the community, including a dialogue with the Chamber of Commerce and a community dialogue offering the same opportunity. One reason this is being shared with Council tonight, with the concept of introducing it on the 19th, as well as those community conversations, is that it is an opportunity to continue to craft it in a way that is inclusive of the language and values of our community. The intention would then be for a public hearing and a vote at the March 4th City Council meeting.

Mr. Foust asked about Section 5, Subsection A, Article 2 which details how the Commission reserves the right to proceed with an investigation or instruct the complainant to file a charge of discrimination with the OCRC or the EEOC. He stated how he is wrestling with

the either/or notation and how it seems to him that if something falls legally under the jurisdiction of the OCRC or EEOC, his leaning would be for the Commission to step back and take a backseat, letting it run its course rather than this either/or. If it is an either/or, he wondered what kind of standards the Commission would use to determine whether or not to stay engaged in this process. Ms. Courtwright explained how the rationale behind the either/or is to bring it back home. If the Commission determines this is a matter that needs attention here in the City, we would retain our ability to conduct our own investigation. This is also a matter practically speaking, an individual could file with both the OCRC or EEOC, and the Commission here. This allows the City to conduct its own investigation to make sure there are no violations here.

President Michael posed when the EEOC makes their own ruling and asked why we are not respecting their ruling and why would there be a need for a second ruling at the Commission. Ms. Courtwright responded that the reason why it could defer back to the City would happen one of two ways. First, a request for review from the complainant or the Commission could independently decide to review the decision. There will only be a contrary finding issued if the OCRC or EEOC decision is found to be arbitrary and capricious or not in accordance with the law. Often the OCRC or EEOC, due to limited resources, are unable to conduct a full investigation, so they simply dismiss the charge with no finding either way. In that situation it could come back to the Commission to do the investigation, if the OCRC or EEOC are unable to.

Mr. Myers explained how multiple different scenarios were discussed here with one that never gets beyond investigation. If it goes to the Commission and they find no probable cause, he wondered if it was not Res Judicata when it comes back here. He described if he were representing the defendant in this action, he would not let it come back here. He does not know if we have the authority to second guess a state agency and if we do walk down the path he questioned if we were inviting the General Assembly to call foul.

He explained how he sees three different commissions in this ordinance, but we have not defined the word commission. So, when it is said something comes to the commission, he does not know what is being talked about. There is some actual drafting that still needs to be finished on this. He detailed examples of appeals and the type of appeals that can be imposed. He is concerned about the types of defenses when they come back. He posed whether it has to come to the full Commission or a full quorum of the Commission. Those are the kinds of things he is wrestling with. That is one of the reasons when this was first brought to Council, there was the question about what we wanted to do about enforcement. He has to get his head around us doing the enforcement ourselves and he really then has to get his head around us trying to second guess. He understands we want to keep it local. He asked if we would be paying for a mediator. Ms. Courtwright responded that is not addressed in this draft. Mr. Myers said he assumes that everything in this entire process is on the City's dime. We would have to prepare transcripts of the hearings. Most of his concerns are on the enforcement side and that is a debate Council should have about how far down the road enforcement we want to get. He thinks that the mediation is where all of these are going to go more than likely. He hopes complaints in this town would be fixed as soon as they are brought to light.

Mr. Myers inquired about disabilities because there are certain disabilities such as alcoholism and bi-polar disorder that are designated as disabilities, but there are typically exclusions for those disabilities that would have a substantial impact on the position applied for. He asked if we are creating a situation where hypothetically, a business such as Worthington Industries has to hire an alcoholic, or they cannot drug test once they are hired. Ms. Courtwright responded that the same state law or federal law would apply, governing the ADA. In that situation an employer is not required to hire an applicant that is unable to fulfill the essential functions of the job. If there is someone who is bipolar and has created a safety risk for other employees, the employer is permitted to terminate the individual. Another issue that has not been discussed regarding disabilities is whether an accommodation has been provided. Mr. Myers proposed putting language in this to that effect, so that we do have those exclusions from the general rule listed.

Ms. Kowalczyk expressed her thanks for bringing this forward. She recalled there being some different options that could be pursued, and she knows of other municipalities that are considering similar ordinances. Mr. Miner observed there being a little bit of a struggle between the actual enforcement practice and what is needed to be built into the ordinance to give permission for the practice. One thing allowed for in this is that the City can hire an investigator rather than perform the investigative role themselves. The other piece is that the City can choose to hire an arbitrator to hear cases rather than the Commission hearing them. You could possibly contract with the EEOC to hear everything. In this draft both of those options are provided.

Mr. Myers clarified about if we contracted out for a hearing officer to do the hearing. He asked if the final decision would still be with the Commission. Mr. Miner replied that was correct. That is the way they are viewing the relationship with the EEOC as well. They give an opinion, but it is still the Commission saying they are affirming that. Mr. Myers said that under Home Rule he could not agree more, but the State of Ohio would not agree. Ms. Courtwright said in her research, in Ohio it is a different jurisdiction, Res Judicata does not apply in that situation. Mr. Myers discussed how there would still be abstention, the federal court would not go forward if state law issue, that doctrine could apply here with a different twist. We have certain prohibitions that do not exist at the state level or the federal level. It is a stronger argument we would decide those issues. Something such as discrimination based on gender identity, the state would dismiss it, but we would not.

President Michael noted within the definitions that commission is not defined.

Mr. Foust commented that he would like to learn more about the penalties and whether that is something borrowed from elsewhere. Mr. Miner said that there are about 20 municipalities in Ohio with a similar ordinance and that is fairly similar to most of those. A few cities have taken a different spin, but it is mostly mirroring other cities.

Ms. Dorothy stated that she would like to know who has had an opportunity to review this. Mr. Miner detailed how it has been on the City's website for a month, it has been shared

with the faith community, and the biggest employers. The next steps are to have the conversation with the community and to get direct feedback.

Mr. Myers asserted that the schedule that has been presented is quite aggressive. Mr. Miner asked if Council were comfortable with the schedule. Mr. Myers replied that he probably is not. He would be more comfortable if there were a public meeting or two and then reported back to Council.

President Michael said the more you can get the word out, maybe through Anne Brown and the Facebook page for the City, more people will know this is available to be checked out. That is an effective way to reach more people. She asked if the schedule could be revised to come back later. Mr. Miner said they could be ready to come back in March.

President Michael and Mr. Myers thanked Mr. Miner and Ms. Courtwright for all their work.

Mr. Greeson described how there were a couple middle school meetings last week. Their bond issue resulted in revenue to support improvements at all of their middle schools including the three in the City of Worthington. They covered some of the rationales and concepts related to that. They will be significant and important improvements at each of the middle schools in the city.

He reviewed how Mr. Bartter has worked hard on the final printed budget, the CIP, and the annual financial report.

He thanked those who had the opportunity to come to the Groundhog Day breakfast. He will send out his remarks for Council's information.

The next Committee of the Whole meeting will be robust, including conversations on the OSU Airport master planning, the consultant for the Bicycle and Pedestrian master plan, and Mid-Ohio Regional Planning Commission talking about complete streets.

There is a revised drop-in included with the agenda packet. He welcomed any questions about that.

The Council is scheduled for a retreat this Friday and Saturday and an agenda from Dr. Marlowe is at Council's seats. It begins at 6:00pm Friday and at 8:00am Saturday morning. The agenda, background reporting, updated community visioning draft proposal and UMCH evaluation document have been provided. All of that will be posted on the web and distributed to stakeholders tomorrow.

REPORT OF COUNCIL MEMBERS

Mr. Foust reported he would be not in attendance next week for the meeting.

Ms. Dorothy expressed her thanks for everyone keeping the streets cleared in the recent inclement weather.

Ms. Kowalczyk echoed Ms. Dorothy's comments regarding the streets. She asked for more discussion regarding compliance on sidewalk clearing responsibilities. She encountered some challenging efforts trying to walk on the sidewalks after Friday's snowfall. She has made it her mission to continue looking at the issue and finding out how to get better compliance.

EXECUTIVE SESSION

MOTION Mr. Robinson moved, Mr. Foust seconded a motion to meet in Executive Session to consider appointment of public officials, the employment and compensation of public employees, and negotiations for economic development assistance.

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

Yes 6 Dorothy, Myers, Kowalczyk, Robinson, Foust, and Michael
No 0

Council recessed at 9:17 p.m. from the Regular meeting session.

MOTION Mr. Robinson moved, Mr. Myers seconded a motion to return to open session at 9:51 p.m.

The motion carried unanimously by a voice vote.

ADJOURNMENT

MOTION Mr. Foust moved, Ms. Dorothy seconded a motion to adjourn.

The motion carried unanimously by a voice vote.

President Michael declared the meeting adjourned at 9:51 p.m.

/s/ Ethan C. Barnhardt
Assistant City Clerk

*APPROVED by the City Council, this
19th day of February, 2019.*

/s/ Bonnie D. Michael
Council President