



**CITY OF WORTHINGTON**  
**Worthington City Council Minutes**  
March 18, 2019

6550 N. High Street  
Worthington, Ohio 43085

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

Worthington City Council met in Regular Session on Monday, March 18, 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, Beth Kowalczyk, Scott Myers, David Robinson, Douglas K. Smith and Bonnie D. Michael

**Member(s) Absent:** Douglas Foust

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

There were 29 visitors present.

**PLEDGE OF ALLEGIANCE**

**VISITOR COMMENTS**

There were no comments provided.

**SPECIAL PRESENTATION(S)**

- Parks and Recreation Presentations and Recognitions

*Mr. Hurley explained how he is excited to celebrate a few positive things in the Parks and Recreation department tonight. Since 2013, the department has been actively trying to seek sponsors for programs and concert events. The summer Concerts on the Green has been the most popular event and last year our friends at FC Bank became our first full series sponsor. This year, they have stepped up once again and are sponsoring the 2019 Summer Concerts on the Green for \$15,000. He invited Parks and Recreation staff*

*involved with organizing the concerts and Jenny Saunders and her team from FC Bank to come up for the check presentation.*

*Ms. Saunders stated how FC Bank is so excited to be able to help give this gift back to the City. It is an amazing thing to be involved with the Concerts on the Green and they are excited to be a part of it. The staff does a phenomenal job and week after week people come back, and new people come. She introduced her staff from FC Bank who came along for the check presentation ceremony. She explained how many of them are out at the concerts every single week, they are not there talking about the bank, but just helping to enhance the experience. She thanked everyone for the opportunity to be a part of this in the community.*

*Mr. Hurley added how FC Bank also sponsors other smaller events and activities for the City. This is not the only way they support the City and the Parks and Recreation Department.*

*President Michael expressed hers and Council's thanks for their support of the community. It is greatly appreciated.*

*Mr. Hurley said that staff was excited to learn last year that Shawn Daugherty had been awarded the Great Blue Herron award by the Franklin County Soil and Water Conservation District. He introduced Jennifer Fish from Franklin County Soil Water Conservation District, and Deirdre Donaldson and Laura Fey from the Friends of the Lower Olentangy Watershed (FLOW) who are here to say a few words and present the award to Shawn. Ms. Fish explained how the District promotes responsible land use decisions for the benefit of soil and water conservation. The Great Blue Herron award recognizes outstanding contributions and the protection of natural resources in Franklin County. She is pleased to recognize Mr. Daugherty who has been a strong supporter of improvements at Worthington parks, a partner with FLOW for the removal of honeysuckle in the Olentangy Parklands in 2017 and has facilitated planting events at playgrounds and the Olentangy trail. He has also planned honeysuckle removal at Rush Run at Park Boulevard Park to be followed up by a restoration planting. The removal of honeysuckle is important because it is invasive, not allowing other species to take hold. Ms. Donaldson thanked Shawn for his work with FLOW and detailed how he is at the forefront of undertaking initiatives and maintaining great relationships. There were six different projects last year and eight scheduled this year. Mr. Daugherty explained how it is a pleasure working with Jennifer, Deirdre, and Laura. Partnering with these groups really enables us to do more, benefitting the residents of Worthington and it is a big win for the environment.*

*President Michael expressed thanks and recognized Mr. Daugherty's hard work.*

*Mr. Hurley announced how he wanted to recognize the special events team made of Melissa Hindman, Susie Blanton, and Julie Sergent who were recognized by the Ohio Parks and Recreation Association at their annual conference as part of their Awards of Excellence program. There were 150 programs and projects submitted and 14 received a first-place*

*award. We came away with both a first and a second place. The first-place winner was the Key to the City where keys were hidden in the parks in order to promote getting into parks across the City. The second-place award was for the Border Battle event that was in cooperation with a community center in Michigan based on who had the most participants come workout.*

## **APPROVAL OF THE MINUTES**

- Regular Meeting – March 4, 2019

**MOTION** Mr. Robinson moved and Mr. Smith seconded a motion to approve the aforementioned meeting minutes as presented.

**There being no comments or corrections, the motion to approve the minutes as presented carried unanimously by a voice vote.**

## **PUBLIC HEARINGS ON LEGISLATION**

**Ordinance No. 06-2019** To Amend the Official Zoning Map of the City of Worthington, Ohio, to Change Zoning of Certain Land from C-4, Highway and Automotive Services to PUD, Planned Use District (7007 North High Street).

*Mr. Greeson explained how this item and several following items relate to the Worthington Gateway project that was formerly the Holiday Inn property.*

*Mr. Brown presented how this request is to rezone from C-4 which is for highway and automotive services to a Planned Use District (PUD) with development plan and development text that go hand in hand. They are also requesting the subdivision of the parcel into three different parcels.*

*In February 2016 the applicant had their first meeting about redeveloping this site. It has been through Architectural Review Board (ARB) several times, it has gone through the Municipal Planning Commission (MPC) for conditional uses, and it has been through the Board of Zoning Appeals for variances. In December the demolition of the Holiday Inn site began. This rezoning was packaged together in a text and development plan to come to Council as it goes forward. A PUD requires any additional change to go back to MPC and to City Council.*

*The project was originally proposed with five buildings; however, it has evolved multiple times as it went through the process. Approved by the ARB/MPC and BZA is four buildings along West Wilson Bridge Road, a building envelope along High Street and Caren that must come back to MPC and Council for approval in the future, and then one hotel that is four stories in height with 111 rooms. There is also right of way dedication along Wilson Bridge and along High Street for streetscape improvements. They worked with owner of*

*the Shops at Worthington Place and of Ville Charmante to help realign the intersection which will be a great improvement. As part of those improvements there will also be new mast arms, streetscape improvements, and street lights. The site will increase from 1.3 acres of open space to 1.6 acres with planting beds and lawn installed as part of the project.*

*There will also be improvements with modern stormwater technology. The current site developed in the early 1970s. At that time stormwater technology and EPA requirements were very limited. They will be installing large underground storage tanks so when there is a stormwater event it will not overflow to neighboring properties. There will also be use of pervious pavers and bioretention areas on the site.*

*This project will have a mixture of office space, retail, and hotel space. Part of utilizing a PUD is that we can look at uses and control those uses in the development task. We knew that we wanted a minimum of 18,000 square feet of office space. The previous zoning category allowed for only limited retail which is another reason to move away from the C-4 zoning. We are not permitting drive-thrus for restaurants or fast food.*

*Mr. Brown went through and listed the square footages for the different buildings being proposed. We are getting a minimum of 18,000 square feet of office, approximately 30,000 square feet of retail and restaurants, no parking deck, a four-story hotel, and a future building pad at Caren and High that must come back in the future.*

*We are also doing streetscape improvements at Caren and High as part of the right-of-way dedication along High. The current span wires will be going away, there will be new mast arms, brick at the intersections, knee walls similar to those at 161 and High Street at the Village Green, and some landscape improvements.*

*Mr. Brown explained how the applicant is requesting to split off three different sections. The four buildings along Wilson Bridge Road is lot number one. Lot number two is the site with the proposed hotel. Lot three is the area that is a future building pad. With all of this we have a cross access parking agreement so no matter who owns what, that cross access agreement goes forward.*

*President Michael asked about the parking and if it allows anyone to park in one of the lots. Mr. Brown responded that anyone can park there.*

*Mr. Brown reported how this plan matches up with the Comprehensive Plan, the 2011 City Council adopted plan for the West Wilson Bridge Road Plan, and the 2016 standards adopted for the Wilson Bridge Road Corridor. The MPC/ARB has recommended it for approval.*

*Mr. Robinson asked about the cross-access parking and the transfer of ownership if the parcels are sold off. Mr. Brown said that is in the agreement and also in the development text. Mr. Robinson asked if it would also apply to other terms of the PUD in terms of usage of the property. Mr. Brown said that the uses being approved in the development text tonight, everything goes forward until there is amendment that would come to Council for*

*approval. Mr. Robinson asked about the High Street parcel and what terms and qualifications are built into the parcel being sold since there is no plan. Mr. Brown replied that it is built into the PUD text and development plan, with that plan being modified it would have to come back for approval. What would be shown here as a development pad, the building was proposed to be a one story, so it could meet parking for the site. It could be up to a certain square footage. It could come back as two separate buildings. It is proposed to be 23 feet from the southern property line to Caren, and then after taking away the right-of-way being dedicated along High Street, it could be ten feet from that new property line. So, you have those parameters built in, whether that be one building or two buildings. We would still look at whatever is being proposed to make sure the parking works and that cross access was not interrupted. Mr. Robinson asked if the maximum footprint is as illustrated here. Mr. Brown said that would probably be the maximum footprint you could put. He is not saying it could not go up to a second story, but you would have to figure out how that would impact the traffic, the parking, and the cross-access agreement.*

*Ms. Kowalczyk mentioned the traffic study that was done and if there are concerns about traffic at Caren and High. She asked what things are being done to address that. Mr. Brown said that there will be timing improvements at the intersection. Streetscaping improvements will also help. He referenced chatter on social media and how people are impatient at that intersection and want to run through it. He expressed that if people are waiting for the signal there should not be an issue with being hit. The traffic consultant did not see any issues or concerns at least with this current layout and the improvements on West Wilson Bridge Road and/or the ones at High and Caren.*

*Mr. Myers asked if that was not also a consideration for having the improvements at the Wilson Bridge Road access and for that to become the primary entrance for this property. Mr. Brown said that the four buildings and hotel would be addressed with a West Wilson Bridge Road address, driving most of the traffic to the main entrance. The entrances at Caren and High would be secondary.*

Steve and Jayne Rosandich – 140 Caren Avenue, Worthington, Ohio

Mr. Rosandich expressed his concerns about building number six and the tunneling effect, making sure those buildings are pushed back. He detailed how the intersection of Caren and High is the worst intersection in all of Worthington. Putting the buildings right at the edge of the street, you cannot look around the corners. He cannot express how bad of an idea it is to put building number six there. He addressed how the main entrance/exit is supposed to be at Wilson Bridge Road, but the bottom line is when it comes time to leave, they will be waiting through three lights. That means that they will most likely come out at Caren and come through the neighborhood. Ms. Rosandich discussed traffic caused by the construction, and that is not considering the developments at the Anthem building or possible development of the UMCH site, which will increase traffic at the intersection. They appreciate the foresight of the agreements and the parking, but it is not going to be enough.

The Rosandichs showed video and photos of their property and the water flowing down their driveway when it rains. The runoff coming from the Holiday Inn property has caused destruction to their driveway. Mr. Rosandich explained how he did the calculations and that one storm produced over a million gallons of water on their property. The City has put up drainage, but it did not work. Ms. Rosandich showed how the water has caused their patio retaining wall to collapse. She knows that the destruction to the driveway has made the bottom base of their retaining wall unsubstantiated. They have talked with Mr. Patel about this for 4-5 years and have not gotten anything. Mr. Rosandich said that they have had to do a lot of work on their property, but with even a small amount of water, they have to redo everything. Ms. Rosandich explained how the erosion that has happened is immense and cannot be ignored any longer. What concerns her is what happens when they start digging to put in their big cistern and their retention area. She asked how it will impact them again. They've been patient about this, but Mr. Patel does not return phone calls. They've been made promises and it didn't happen. The integrity of the driveway has now caused the wall to fall down. Mr. Rosandich said that he is doing everything he can do, but it keeps manifesting and compounding.

Jack Reynolds – 37 W. Broad Street, STE 460, Columbus, Ohio

Mr. Reynolds indicated how this process started a long time ago. Council should be proud of the work done by the ARB, BZA, and MPC. We went through quite a few iterations of the plans that were initially submitted. The boards took it upon themselves to make a better product. There were probably 15 different public meetings and a larger number of private meetings with staff to further hone the product. The proposal before Council tonight is a package that has been thoroughly vetted.

This process was started in 2016 and there were over 200 people at the first meeting. They have worked with the neighbors and would like to continue to work with the neighbors. What is presented is a document that will fix problems that our neighbor has been experiencing. The building was constructed in the 1970s and surface and subsurface drainage was inadequate. They would like to solve the problem and have presented a stormwater management program that will handle all the stormwater onsite and release it according to the OEPA, State, and City requirements. They are here tonight to get approval for rezoning, allowing the lots to be subdivided, and to take the first step with TIF document. The splitting of the lots will be helpful for financing purposes.

Mr. Reynolds expressed how this will be a much better development. Time is of the essence to begin work and they would like to solve these problems. They would like to be under construction prior to winter of this year.

*President Michael asked if the plan submitted would fix the drainage situation presented by the Rosandich family. Mr. Reynolds said that their engineers have submitted their plan and by code, they have to retain water on site and release at a predevelopment rate. They do not want water going over the sides and this is something to solve their problems. Mr. Brown commented that MS Consultants has been conducting the stormwater review. This has been reviewed and approved by them. When asked by Ms. Rosandich if they were aware of what was happening on their property, Mr. Brown confirmed that they are aware.*

Mr. Patel described how this was started several years ago. The original intention was for this to be approved and to have a building completed here by today. When first starting this project, the number one concern was the neighbors and how this would be perceived and integrated into the Worthington community. He has sat in living rooms, hosted meetings, and more to engage the community and to understand what was going to work and what was not. He acknowledged that they are not going to make 100% of people happy with everything, but they have whittled their way down to a plan that works.

When this property was purchased in 2001, they did not know about drainage issues and the neighbors did not know about them either when they bought their property. They have done what they could, working with the City Engineer, to install walls and drains without having to redevelop the entire back of the site. He explained how he has sat with Rosandich family about this problem, and he discussed how he can spend thousands on band aid fixes for it to rain and everything washes out, but they need to fix the problem. It was never the intention not to address their issues. Time is of the essence and they need to get final approval to get building plans approved and get the site work done to get the drainage fixed as soon as possible. It is currently a race to beat the winter. He remarked in regard to his promise to fix the issues, and how he has not been able to engage over the past six to eight months because when doing business at the Witness Group, it is important to have mutual respect. When there is no mutual respect it is best to disengage. However, he will continue to hold up their promise and would like to fix the source of the problem rather than put on band aids throughout the process. He hopes for an approval today to move forward with a solution.

*Mr. Robinson said he is interested in Mr. Whited's opinion regarding the options being discussed to handle the water drainage concerns and if it will get to the underlying issue. Mr. Whited reported his specialty is in stormwater. There are two primary inlets in vicinity of the property in question, there is an increase in perviousness to be accomplished on the sites. He was also concerned with our downstream sewer near the river where they are tying this in. We worked closely to make sure they are decreasing the peak flow rates in that area as well. He expressed how he is comfortable with their approach.*

*Mr. Smith asked for a refresher on the traffic issue, specifically the traffic lights that the City controls. Mr. Whited acknowledged we control the lights at the intersection of Caren at High and we coordinate with ODOT and the City of Columbus those lights north of there at High Street and Wilson Bridge and over the overpass. Mr. Smith asked about the retention basin and the pervious pavement, and if there is a chance of overwhelming those systems. Mr. Whited said no, the seepage would go into pipes into underground storage area. Any system can get overflowed so if there is a 500-year storm that overwhelms the system, the flow would go into the street rather than to the properties there.*

*Ms. Rosandich asked about the material of the retention system. Mr. Brown said it is all underground and you will never know it is there. Mr. Rosandich asked for specifics on the drainage on the site. Mr. Whited reported there are catch basin and pipes that lead to the*

bioretention area and underground. However, he did not know the size of the bioretention pond. Ms. Dorothy shared that it is listed as 31,200 square feet.

Ms. Dorothy thanked everyone involved in this process including community members, the applicant, and staff for going through this process. It sounds like we do have a good solution for the stormwater problem. It also looks like we are making the area more pedestrianized. When we had our walkability expert come out, they explained Caren and High reads as fast because they are wide open without street trees or pedestrians. The addition of the trees and buildings will slow down traffic to the posted 35mph. Obviously, High Street does not read that speed and we have many speeders through there. She expressed how she is happy that we have more pedestrianized zoning with the one-story building at Caren and High. She thanked the applicant for working with the City on the out parcel uses. It has been quite a process and she is glad we are here at this moment and hopes we can keep on moving forward.

Mr. Robinson expressed his thanks for being able to talk with Mr. Patel and his commitment to addressing the Rosandich's water damage caused by prior runoff. Mr. Patel said that when they both bought properties, neither knew this was going to come up. He cannot fix everything, but he is willing to come halfway, assess the process, and bring in the right contractors to determine the right fix. This redevelopment will only help the community in terms of property values and more.

**There being no additional comments, the clerk called the roll on Ordinance No. 06-2019. The motion carried by the following vote:**

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

No 0

**Ordinance No. 06-2019 was thereupon declared duly passed and is recorded in full in the appropriate record book.**

**Ordinance No. 07-2019** Approving the Final Plat and Approving a Subdivider's Agreement for the Worthington Gateway (7007 North High Street).

**There being no comments, the clerk called the roll on Ordinance No. 07-2019. The motion carried by the following vote:**

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

No 0

**Ordinance No. 07-2019 was thereupon declared duly passed and is recorded in full in the appropriate record book.**

**Ordinance No. 08-2019**

Authorizing the Acceptance and Conveyance of Certain Parcels of Real Property in the City of Worthington, Ohio in connection with a Tax Increment Financing Program in Order to Facilitate the Redevelopment of Certain Real Property Located at 7007 North High Street.

*Mr. McCorkle explained how this is part one of two for the Tax Increment Financing (TIF) legislation. This is a 30-year Urban Redevelopment, non-school TIF, meaning we will not be touching the school’s revenues. It will allow us to deem both off site and a couple on site improvements as eligible costs. The second part of this legislation will come before Council on April 15<sup>th</sup> for public hearing.*

*He explained the economic impact projections for the City, Schools, and County.*



**Annualized City Revenues**

• Bed tax revenues (6%):	\$216,000
• Income tax revenues (office):	\$112,500 (new)
• Income tax revenues (hotel):	\$ 20,000
• Income tax revenues (retail):	\$ 87,500 (new)
<b>TOTAL:</b>	<b>\$436,000</b>

**Average Annualized School Revenues (@ \$17.5M valuation)**

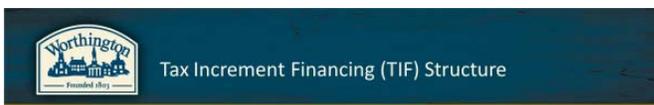
• Property tax revenues:	\$555,000 (was \$173,432 for 2018)
<b>TOTAL:</b>	<b>\$555,000</b>

**Annualized County Revenues**

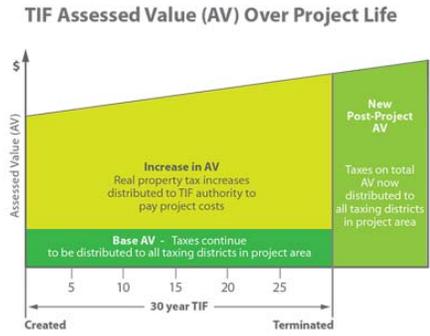
• Bed tax revenues (4%):	\$ 144,000
• Sales tax revenues (hotel):	\$ 270,000
• Sales tax revenues (retail):	\$ 731,250
<b>TOTAL:</b>	<b>\$1,145,250</b>

*As for the TIF structure itself the current baseline value is frozen at \$6.5 million. Anything additional is what is TIF-ed and is redirected into a separate pot. If the County Auditor picks up a \$20 million valuation, anything above that \$6.5 million is what is TIF-ed. The property owner continues to pay taxes on the full valuation, called Payments In-Lieu of Taxes (PILOTS) which are collected and then sent back to the City into a TIF fund to be used to reimburse the developer as funds are*

*available. It is pay as you go. The developer is not reimbursed until dollars become available in that TIF fund. Reimbursements would never exceed the amount available in the TIF fund.*



**Tax Increment Financing (TIF) Structure**

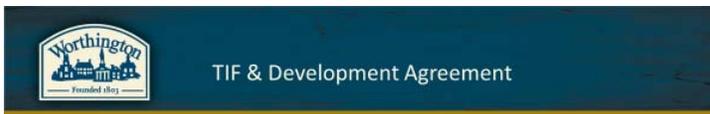


*With an Urban Redevelopment TIF, the City can declare any improvement to be a public purpose as long as the City held the fee title to the parcel prior to the adoption of the TIF ordinance, which is coming before Council on April 15. Additionally, if the fee of the parcel is conveyed before the adoption of that TIF ordinance. We are specifically specifying it is 30-year, 100%. We are required to provide the school board a 14-day notice,*

which was provided on February 27, 2019. School board approval is not necessary since this is a non-school TIF, only notice is required. There is no compensation agreement with schools because they are getting what they are supposed to be getting. City Council will give us direction to create the fund, and Mr. Bartter will create a Tax Increment Financing fund. As dollars come into that fund they will be reimbursed to the developer. He detailed how he is also required to submit an annual report to the Ohio Development Services Agency. Finally, the TIF commences upon the effective date of the ordinance.

The use of a development agreement ties the PUD to the TIF. We have certain things we want and expect as a result of the PUD. Since the developer is expecting reimbursement, we want this document to tie TIF reimbursements to the PUD. If the developer violates the PUD, we do not have to reimburse on the TIF because we are using the development agreement as a mechanism to do that.

The TIF is expected to generate \$6.2 million over a 30-year period and approximately \$5.2 of the \$6.2 would be reimbursed to the developer. While we are capping at \$3.4 million, it takes it up to \$5.2 with the additional interest. We are paying 4% interest on the off-site improvements. We are not paying interest on the on-site improvements.



- Development Agreement ties the requirements of the PUD to the TIF reimbursements;
- TIF projected to generate \$6.2M over 30-year period. Reimbursement to developer projected to be \$5.2M (including interest) during same time period;
  - City to reimburse developer up to \$3.4M + 4% interest on off-site improvement principal amount (\$2.6M);
- TIF cap based on sliding scale –principal portion of TIF reimbursements capped based on the valuation of the property:
  - Valuation of \$12,500,000 = \$1,500,000 TIF cap + 4% interest on off-site costs
  - Valuation of \$15,000,000 = \$2,150,000 TIF cap + 4% interest on off-site costs
  - Valuation of \$17,500,000 = \$2,750,000 TIF cap + 4% interest on off-site costs
  - Valuation of \$20,000,000+ = \$3,400,000 TIF cap + 4% interest on off-site costs
- Total to be reimbursed to developer cannot exceed amount available in TIF fund;
- Developer to provide a guarantee on the public improvements that is consistent with what they will receive from their contractors. This is likely to be (1) year. City will have work inspected and be reimbursed by TIF before developer is paid; and
- Developer has an agreement with Ville Charmante and the Worthington Mall for the land needed for the intersection improvement.

We adjusted the cap of the TIF based on the valuation of the auditor. If the auditor only picks up the \$12.5 million valuation, the TIF is capped at \$1.5 million. We were trying to make sure we didn't have the property valuation to sit at \$12.5 million for the first 20 years and not generating much and then in the last five years have the valuation increase allowing them to get the full reimbursement amount. They must maintain those bands for

five consecutive years to be eligible. The developer has agreed to a one-year guarantee on the improvements, which the City will be able to inspect. We will reimburse ourselves from TIF fund first. The developer also has agreement with Ville Charmante and the Worthington Mall for the land needed for the intersection.

Eligible improvements include onsite improvements and offsite improvements that are true public infrastructure.



On-Site Improvements	Cost
Building Demolition	\$ 400,217
Asbestos Remediation	\$ 15,000
Flood & Drainage	\$ 300,890
<b>TOTAL</b>	<b>\$ 716,107</b>

Off-Site Improvements	Cost
Signalization	\$ 504,000
Intersection Realignment	\$ 678,000
Street Lighting	\$ 229,000
ROW Compensation	\$ 111,250
Streetscaping	\$ 327,000
Professional Fees	\$ 764,300
<b>TOTAL</b>	<b>\$ 2,613,550</b>

<b>TOTAL ELIGIBLE COSTS</b>	<b>\$ 3,329,657</b>
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Ms. Dorothy said she was confused about whether the money was going to the schools or not to the schools. Mr. McCorkle replied that the schools are whole, every dollar the schools is entitled to will be going to the schools. Ms. Dorothy clarified that all the county money stays in Worthington. Mr. McCorkle explained that we are not taking away dollars that they are already receiving today. It is only the excess amount that will go towards the TIF.

Mr. Robinson asked about how the 4% interest rate was determined for offsite improvements, it seems high. Mr. Lindsey explained that the City is not putting funds into this. It was a negotiated rate, both sides stated their cases to the amount. The City is not funding the development, we are basically having the street improvements, intersection improvements, and streetscaping all being done by the developer with the developers' dollars. We do not have any funding costs to go out to the bond market to pay for those improvements. It is more than the rate of interest that the City may otherwise earn on money. This was negotiated less than what they may incur in their cost. Mr. Robinson asked what we are paying on money and could we expect the private entity to pay more than we are paying. Mr. Bartter explained how we just issued one-year notes at 2.1%. He would think a private entity would pay higher interest.

**There being no additional comments, the clerk called the roll on Ordinance No. 08-2019. The motion carried by the following vote:**

**Yes 6** Dorothy, Smith, Myers, Robinson, Kowalczyk, and Michael

**No 0**

**Ordinance No. 08-2019 was thereupon declared duly passed and is recorded in full in the appropriate record book.**

**Ordinance No. 10-2019** Amending Ordinance No. 52-2018 (As Amended) to Adjust the Annual Budget by Providing for Appropriations from the General Fund Unappropriated Balance.

Mr. Greeson explained this is a relatively straightforward correction to the budget.

**There being no additional comments, the clerk called the roll on Ordinance No. 10-2019. The motion carried by the following vote:**

**Yes 6** Smith, Myers, Robinson, Kowalczyk, Dorothy, and Michael

**No 0**

**Ordinance No. 10-2019 was thereupon declared duly passed and is recorded in full in the appropriate record book.**

**NEW LEGISLATION TO BE INTRODUCED**

**Resolution No. 15-2019** Authorizing the Acquisition of Certain Real Estate Interests Involving Parcels 7 and 15 for the Northeast Gateway Intersection Improvement Project. (Project No. 602-14)

**Introduced by Mr. Myers.**

**MOTION** Ms. Dorothy made a motion to adopt Resolution No. 15-2019. The motion was seconded by Ms. Kowalczyk.

*Mr. Greeson explained how this is for the acquisition of several significant parcels for the Northeast Gateway project.*

*Mr. Lindsey reviewed how this would be the first of several brought to Council for this project. Under an earlier ordinance, it set forth the process where certain parcels would be brought back based on the dollar amount and fair market estimate. These both exceed the \$30,000 valuation outlined and an increase over what the City Manager has authority for. Both were reviewed by the ODOT district team. Both came in at a reasonable amount and staff urges approval, particularly, parcel 15 is a critical piece. This needs to occur to allow for utility relocation work to transpire this summer/fall so construction can proceed.*

**There being no additional comments, the motion to adopt Resolution No. 15-2019 passed unanimously by a voice vote.**

**Resolution No. 16-2019** Expressing the Support of Worthington City Council for the Proposal to Increase the Ohio Motor Fuel Tax.

**Introduced by Mr. Smith.**

**MOTION** Mr. Myers made a motion to adopt Resolution No. 16-2019. The motion was seconded by Ms. Dorothy.

*Mr. Greeson explained how several organizations, such as the Ohio Municipal League, the Central Ohio Mayors/Manager Association, and the Mid-Ohio Regional Planning*

*Commission have been lobbying on behalf of municipalities for road and related expenses. The resolution is related to Governor DeWine's proposed motor fuel tax increase of 18 cents per gallon, that is the position that the Ohio Municipal League is advocating. There is a House adopted version that is somewhat different currently up for discussion in the Ohio Senate.*

*In terms of the revenue, the City is projected to receive \$587,000 of funding in 2019. Under the Governor's proposal, that would increase to over \$1,000,000. This funding is allocated to the City's Street Maintenance and repair Fund and the City's State Highway Fund. Both are subsidized by the General Fund coming from income tax revenues. Historically funds from the State have been relatively flat for us, but the expenses have been climbing because road maintenance does not get cheaper. It has been believed for a long time that State revenues, for both roads that municipalities maintain as well as road projects in the area, need additional revenue. The State's TRAC program currently does not adequately fund major projects. We were fortunate to get US-23 and I-270 funded when we did because in the current environment it probably would not have been funded due to insufficient revenues. Likewise, we benefit from some of these funds for projects such as the Northeast Gateway. So future State programs that we may be able to access will benefit from this as well as our daily operations.*

*Mr. Robinson asked if the increased revenue would come out of ODOT in some manner. Mr. Greeson said there would be a distribution formula where much would go to ODOT and then some would be allocated to cities, townships, counties. Mr. Bartter added that he does not believe it passes through ODOT, but he is not sure. Mr. Robinson said that the benefits to the City are phenomenal. Personally, he can support an increased gasoline tax, gasoline is a fossil fuel and he would like to discourage its use. However, his problem is that a gasoline tax is a regressive tax and he is not enthused about supporting it.*

*Ms. Kowalczyk recommended that we add something to suggest that we support investment in public transit, the proposed House bill does have significant federal funds increase towards public transit and there is advocacy going on towards state funds increase in public transit. She would like a simple statement that we also recognize the importance of public transit and want to support increase investment. Mr. Greeson said that in the House versions that is one way they aimed at addressing the regressive nature of fuel taxes. He acknowledged the regressive nature of fuel taxes, but there has not been another transportation-based funding source of any significance offered.*

**MOTION** Ms. Kowalczyk moved, seconded by Ms. Dorothy to amend the resolution to include that the Council of the City of Worthington, Ohio supports additional funding for public transit in the State of Ohio.

*Mr. Smith asked if this should come from the increase in the Gas Tax. Ms. Kowalczyk replied that it is supporting increased dollars for public transit, which is important for us to state. It is supporting the proposals coming up in the transportation bills.*

*Mr. Greeson said we would also want to reference that support in the title, adding a whereas clause that public transit is important for the mobility needs for the City's citizens.*

**There being no additional comments, the motion to amend Resolution No. 16-2019 passed unanimously by a voice vote.**

*Mr. Greeson explained how last year, Ohio counties were given the ability to levy an additional \$5.00 fee on motor vehicles registered in their jurisdiction. Cities have been lobbying for that same permissive authority but have not been granted that authority. This would be advocating for the authority, if as a body Council decided to do so, for a fee on each registration of each licensed vehicle. Counties last year were given the ability to raise \$5. Cities asked for it and were not given it.*

*Mr. Smith clarified that the state laws need to change for us to come back with an ordinance to establish such a fee.*

**MOTION** Mr. Smith moved, seconded by Ms. Kowalczyk to amend the resolution to include the language regarding the additional motor vehicle registration tax.

**There being no additional comments, the motion to amend Resolution No. 16-2019 passed unanimously by a voice vote.**

**There being no additional comments, the motion to adopt Resolution No. 16-2019 (As Amended) passed by a voice vote.**

**Ordinance No. 11-2019** Amending Ordinance No. 52-2018 (As Amended) to Adjust the Annual Budget by Providing for Appropriations from the 2003 Bicentennial Fund.

**Introduced by Mr. Smith.**

**Ordinance No. 12-2019** Accepting the Deed of Dedication for Additional Right-of-Way at 181 East Wilson Bridge Road.

**Introduced by Mr. Robinson.**

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

## **REPORTS OF CITY OFFICIALS**

### Policy Item(s)

- Architectural Review Board Appeal - 137 East Granville Road

*Mr. Greeson reviewed that Council needs to determine whether it wants to hear the appeal of this ARB decision and then schedule that appeal if necessary. Typically, you would make that decision based on the record and review of the requester, who in this case is Councilmember Robinson.*

*Mr. Robinson said that this appeal arose following his attendance and observations of the February 28, 2019 ARB meeting and conversations afterwards with ARB members voting both for and against the Certificate of Appropriateness.*

*As a quick summary, this signature historic building in 2015 had minor work done, including the replacement of 3 basement windows without ARB approval as is required. After the removal of bushes in 2018 that had covered the windows, a public complaint was received in December 2018 which lead to the Memorial Hall's request for approval. On February 28, 2019, the result was a 4-3 vote in favor of a Certificate of Appropriateness. The consideration tonight is not the appeal itself, but whether Council determines the appeal has sufficient merit that we elect to discuss it and the issues it evokes at a later date within the prescribed 60-day time period.*

*Mr. Robinson emphasized that this request for an appeal is not a criticism of the general operations of the Sharon Memorial Hall, with whom he holds in high esteem for their devoted work on behalf of active service members, veterans, and the community at large. He explained how there are two criteria a request for appeal should meet in order to proceed with a hearing. First, it is not frivolous. Second, that in the preliminary assessment, it is possible that the ARB missed something and erred in some manner either in the facts considered or the underlying standard used in formalizing their judgement. He stated that he believes both criteria are met. The case is not frivolous because first on procedural grounds, the normal means for the public to obtain approval was not carried out, and thus this case could establish the precedent that preapproval is not necessary or inadvisable from a practical point of view. This is not frivolous substantively, namely that relates to a highly visible historic building in the heart of our historic district. As for the second criteria, the possibility that the ARB missed the mark. There is a question if the Board issued the Certificate of Appropriateness without reference or adequate support for their decision from the relevant City Code 1177.01 establishing the Architectural Review District, its purpose, and established the means of effecting its perpetuation. He stated his belief that the Board did err in this manner, not intentionally, but by what he would call an increasingly appeal to subjectivity, which gets to the heart of what he hopes will be discussed as a body through this appeal.*

*We have two documents at the core of the issue, the City Code itself passed in 1967 and the Design Guidelines passed by resolution in 2004, which were created to minimize and restrain subjectivity within the Architectural Review District. The Code is straightforward and explicit that the purpose of creating the ARB is first to preserve property and property values, and second to promote, preserve, enhance the distinctive village character of our community and the means of doing so is the regulation of design and materials. The ARB was concurrently established to administer and enforce this code. Secondly, the Design Guidelines, rather than endorsing or enabling subjectivity, was painstakingly prepared by*

*members of the community explicitly to help inform the public and the Board as to what historic is in each case in order to minimize subjectivity. The purpose of the guidelines is to better enable compliance with the code and not to be used as a means of circumventing them by appeals to subjectivity. These are the relevant issues at stake and if the appeal is heard will be at the heart of the Council discussion. He asked that Council hear and discuss the appeal, enabling public consideration of these issues.*

*President Michael read Mr. Foust's emailed comments:*

I regret that I will not be there this evening. My only comment would be that this is a signature building in a key location. As I understand it, all we (you) are deciding tonight is whether to have a public conversation on the merits. Since we have recently discussed the need for better direction from Council to our boards and commissions, and there is some ambiguity here, I believe it's right that we at least have that public conversation. If I were there to vote, I would be in favor of us having the public dialogue followed up with a reaffirmation of our position on these matters in general to those who look to us for direction. I think the standard for hearing the appeal has at least been met.

#### Mark Goyer and Valerie Kerbler – Sharon Township Memorial Hall

Mr. Goyer described how this is about Sharon Township Memorial Hall and maintaining historical integrity of that building. It honors all veterans. Built 1865 as a house, in 1945 the Sharon Township took it over. There are currently nine members unpaid on the board with responsibility to maintain the building to the best of their ability with the limited funds available. Currently, there are a multitude of community organizations using the building. The board takes the stewardship of this memorial very seriously. They understand and respect the City of Worthington's ARB and its attempt to maintain the historical value and features within the Worthington downtown area.

This issue came before us two months ago when we decided to remove the old decaying landscaping for replacement. One resident noticed the three basement windows were not of 1865 era. At the time the windows were replaced, our board was unaware of the requirement for approval by the ARB. The windows that were replaced were previously covered with boards. The three basement glass block windows were put in place to provide privacy, security, and heat retention. He explained how they have already remodeled the windows with white aluminum framing as requested by the ARB. The landscaping is to be completed within 60 days and it will hide those windows as it had in the past. He asked Council to uphold the ARB decision and not to appeal this decision. He stated that he did not know what 1865 era windows are like or what they would cost. He mentioned that should they be asked to remove and replace the existing windows, when once the new landscaping is in place no one will see the new windows.

Ms. Kerbler said that the reason the president two times ago replaced the windows was because the wood framing was rotten, and the glass was cracked. It was a safety issue. They were able to put in some vents for air circulation because previously there were

boards placed on the windows and the circulation was terrible. They did not know they did not go to the ARB.

*Mr. Robinson stated for the record that it is hard to separate the request for the appeal from the appeal itself, but he emphasized that he would not support the removal of the glass block windows.*

*Mr. Myers said that we have had this come up before and he has made this argument before. He disagreed with Mr. Robinson's characterization of what substantive is and the quoted words non-frivolous and important building are nowhere in the statute, in the code, or in the guidelines. What is in our ordinance is aggrieved. Saying that we want to keep the architectural standards of Worthington, which he does not believe is enough specificity to meet the aggrieved standard. He does not believe that the standard for an appeal has been met. He looks at this much as he does in his profession and appeal to a court. When you receive a decision, you do not find favorable in a Common Pleas Court, you appeal to the Court of Appeals. There is a presumption that the Common Pleas Court got it right. For an appeal to prevail, there must be some find that the Common Pleas Court either committed an obvious error of law or they abused the discretion they were vested with. We have vested our Board with discretion to interpret a subjective set of guidelines. Nowhere in our guidelines is glass block mentioned. They say you should match the character and style of what the building was, which these do not, he grants that. However, there is some historic precedence for glass block. For example, the Michigan Statehouse has a glass block floor in their rotunda. To him, the bigger issue on whether to decide this appeal is did our ARB abuse the discretion that was invested in them and they did not. If you look at the minutes, you cannot tell why they voted the way they did. He explained if that had been the appeal, he may have been on the side of the appeal because he finds that to be very frustrating. There were three nay votes, and nobody said why. One suggested to put a fake window over the new windows. That is not a real solution. The other two nay votes did not say why they voted that way. He cannot tell if they applied the guidelines or not.*

*He asked if this is what we really want to fight about. We have three windows that sat there for four years and nobody knew about them. They should have applied, and they understand that. Nobody saw it and now you want to say it is significant. Once the new shrubs are up, they will be hidden again. This is not significant. This is a question of how we approach the guidelines and how we enforce the guidelines because this is an interpretation. We can strictly comply or construe our guidelines, or we can change them to be stricter. If that is the case, most of the houses in the district will need to be altered. We would have to get rid of asphalt shingles because they did not come around until the turn of the century. We would need to get rid of vinyl siding. One of the preferred outside materials that ARB is very favorable of is hardy plank. We encourage people to replace aluminum and vinyl siding with hardy plank, but that did not come on the market until 1980 and it is hardly a historic material.*

*He asserted that government is a balance of competing goals and we cannot have strict adherence. If this is the route we go, a better result is that we go through legislation, not adjudication. Adjudications applies to one party for one situation. Legislation applies to*

*all people. As for the argument about precedence for people not asking first, he referenced a situation where we made people who did not ask permission, remove a skylight. This is insignificant and not worth fighting for. It is not going to set a precedent for people not to abide. The standard is aggrieved, not non-frivolous. He concluded that he does not believe this merits an appeal.*

*Mr. Smith referenced something Mr. Myers brought up about how they should have come to ARB in the beginning and they did not. That's where his mind is, not about the aesthetics or project materials. It is about the process and we have potential developments coming up who could easily say "oops." It leaves a little wiggle room for those who do not have good intentions.*

*President Michael noted that this is not the only house with glass block windows in the historic district. She asked if we bring all these other people in.*

*Ms. Kowalczyk explained how this is about three windows that were covered, and nobody saw them, and they will be re-covered. She agreed with Mr. Myers wholeheartedly. About understanding when you have to come to the ARB, if this is supposed to teach that lesson, perhaps we should make sure these developers who are coming in know this process up front. She has heard of situations where people buy homes and did not know they are in the Architectural Review District. They need to take steps, so they know the requirements. It may not seem like something a new homeowner would know about. Let's talk about that as a policy than this particular case about three windows.*

*Ms. Dorothy agrees with Ms. Kowalczyk and Mr. Myers with an emphasis that people need to know they are in the district and when they do something to the property they must know to go to the ARB, and they need to follow through with the guidelines. We need to get out and reiterate that. She expressed how she also agrees with Mr. Myers that this does not meet the standard of being aggrieved.*

*Mr. Robinson said that nobody is calling for architectural police. He thinks what is at stake, is not three windows, but it is the direction we are heading in terms of our commitment to the Architectural Review District as spelled out in code. He thinks what he is hearing, which is at the heart of the problem, is that the task of the ARB is not the application of the guidelines, they are not tasked with applying the guidelines. They are to enforce and administer the code. The guidelines were written as a reference point for the public when developing plans or considering changes to their property and for the Board to recognize what is historic. They are not a subjective set of guides, they are essentially a history book about architecture and materials. If the ARB's task is to apply subjective guidelines, we will continue to see a gradual degradation of the village character of our community. For example, look at the home immediately east of Dewey's on East New England. He posed whether that house meets the standard of distinction for the village character. The basic practice has long-term significance for the identity of our community.*

*Ms. Dorothy said she is also concerned about our guidelines and code and upholding the village character.*

*President Michael explained that she is hearing whether the ARB's view is to interpret the guidelines because that has always been her understanding. They are also considering code. The question is what should be happening in this particular case. Mr. Robinson responded that he hopes if we hear the appeal and grant it, we will send it back to the ARB/MPC in a non-onerous way. Mr. Myers said that the remedy would be they do not have their certificate and would have to tear the windows out. President Michael said they applied for and were granted a certificate, so if the certificate is removed, they would have to remove what the certificate granted. Mr. Myers stated that Council would issue a final order, there would be no continued state of appeal. We would be reversing ARB and there would be no Certificate of Appropriateness, which means they cannot have the windows. Mr. Robinson asked if they could reapply to the ARB/MPC. Mr. Myers said they would be in violation the minute Council votes. Mr. Robinson stated they had been in violation for years before.*

*Mr. Myers said he is frustrated with this case because we have hammered on ARB on this subject. Staff has rewritten their memos and consistently points out to the ARB that our members are saying yes or no, and they do not apply the guidelines or quote the code. That is the issue. This is not about the windows. He is not punishing a veteran's group who did not know they were doing anything wrong. He affirmed that he may have an issue with the ARB and maybe it is time that Council uses their power of appointment to shake things up. Right now, when he reads the minutes, the ARB is not doing their job and it frustrates him.*

*Mr. Robinson submitted that he withdraws his appeal under the reasoning and words from Mr. Myers.*

*President Michael added that our City Charter as amended, required ARB and MPC to refer to it. Mr. Myers said that was for land use decisions, for these decisions they do not have to. This is something this Council has told ARB. He said this is one more reason that we must bring our Commissions in and talk to them. The issue is bigger than glass block windows.*

*President Michael asked with the appeal being removed, if there needs to be any sort of vote. Mr. Lindsey replied that the person having filed the appeal has indicted his desire to have the appeal withdrawn, it is appropriate to vote on the acceptance of the withdraw of the appeal.*

**Council voted unanimously to accept the withdraw of the appeal.**

- Liquor Permit - New (Shades Nail Bar LLC)

**MOTION** Ms. Kowalczyk motioned not to request a hearing. Seconded by Ms. Dorothy.

**There being no comments, the motion to not request a hearing passed unanimously by a voice vote.**

- Community Visioning

*Mr. Greeson explained how Council needed to discuss getting the application on the internet which is time sensitive. Mr. Smith said that the application mirrors what has been discussed to this point.*

**MOTION** Mr. Smith moved, seconded by Mr. Robinson to approve the announcement.

*Ms. Dorothy asked what the differences are between what our normal application is and this new application. Mr. Greeson said several sections added were those questions posed by Council at the last session. We have also created a web section that uses language already adopted to announce that this opportunity is available and steer people to this site. Ms. Dorothy asked if this was for every single person who wants to be on. Mr. Myers said it would just be for the six selected by Council.*

*Ms. Kowalczyk asked if the expectations for the committee were included on the website. Mr. Greeson noted there being a Visioning background, with words from Council's work. Ms. Stewart added that the language on the website is from Councilmember's Smith work, a little from RFP, and a little from resolution. Go into visioning committee description, you get into the job description and the description of what the committee's purpose is, as well as the previously distributed application. Ms. Kowalczyk asked about the deadline for applications. Ms. Stewart reported the timeline needs to be discussed tonight.*

*Mr. Smith said that the submitted timelines were based on the general idea they would go in tandem with the RFP, and concurrent ending at the same time. He thought that three weeks would be enough before closing out on April 4th. Mr. Myers asked when we would go live with the webpage. Mr. Greeson said we would add pictures and then go live later this week as soon as the application is approved. Ms. Dorothy said April 4<sup>th</sup> would only be two weeks. Mr. Smith said April 4<sup>th</sup> would be two weeks, and then we would review applications following the Council meeting on the 8<sup>th</sup>. That would be a preliminary review and come back to make decisions at the following meeting. Ms. Dorothy asked if that would align with when we are making decisions about who we would have help facilitate. Mr. Smith stated he believed that we will be at this in May as well.*

*Ms. Kowalczyk asked when in this timeline Council would make their appointments. Mr. Smith replied at the last meeting of May. Ms. Dorothy clarified that the first two meetings of May would be for interviews and the last meeting would be selection. Mr. Smith said there would be some flexibility to push that into June if necessary.*

*Mr. Myers said if we are talking about doing interviews in May, he is concerned about just a two-week window. He wants to make sure it gets out there and we have plenty of time to get qualified applicants. Mr. Smith said there is no reason why we could not extend the application deadline out a week or two weeks. Mr. Myers suggested we move it out and see what kind of applications we get in.*

*Mr. Greeson said we would use our mediums to promote its availability. We will try to add some pictures to it. Noticeably absent is a logo, branding, or a particular name for this process. He stated that may be something left up to the committee.*

*Ms. Stewart brought up how we have requested proposals from consultants that are due April 10<sup>th</sup>. Council will have to work through how they want to screen those and interview.*

*Mr. Greeson detailed how Ms. Stewart attended the OSU Airport open house. The comment period for the FAA closes soon. We have not heard anything about making formal comments, if we desire to do that, we need to know tonight. Should the City want to formally comment, we could comment to the project team or to OSU leadership further on as they move through the decision-making process.*

*We also issued the RFP last week to a consultant roster of about 35 firms. It is posted on the website and the bid section of the American Planning Association website. We are already starting to get inquiries and we are expecting that it will get forwarded and sent to many different entities.*

*Mr. Greeson described how we received our first batch of small cell applications not too long ago and we have worked through that process and issued permits. Several are already under construction. Ms. Stewart shared that there are three locations approved for American Cell. They are looking to construct one in the vicinity and North and High, near the Executive House office buildings, and near the Econo Lodge.*

*Mr. Greeson requested an executive session to discuss economic development and incentives.*

## **REPORT OF COUNCIL MEMBERS**

### **EXECUTIVE SESSION**

**MOTION** Ms. Kowalczyk moved, Ms. Dorothy seconded a motion to meet in Executive Session to discuss land acquisition and economic development incentives.

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

**Yes 6** Robinson, Kowalczyk, Dorothy, Smith, Myers, and Michael

**No 0**

Council recessed at 10:10 P.M. from the Regular meeting session

**MOTION** Ms. Dorothy moved, Ms. Kowalczyk seconded a motion to return to open session at 10:38 P.M.

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

**ADJOURNMENT**

**MOTION** Mr. Smith moved, Mr. Robinson seconded a motion to adjourn.

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

President Michael declared the meeting adjourned at 10:38 p.m.

/s/Ethan C. Barnhardt  
Assistant City Clerk

*APPROVED by the City Council, this  
1<sup>st</sup> day of April 2019.*

/s/ Bonnie D. Michael  
Council President