



## Special City Council Meeting Agenda

**Monday, August 3, 2015 ~ 7:30 P.M.**

Louis J. R. Goorey Worthington Municipal Building  
John P. Coleman Council Chamber  
6550 North High Street  
Worthington, Ohio 43085

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*Bonnie D. Michael, President*  
*Robert F. Chosy, President Pro-Tem*  
*Rachael Dorothy*  
*Scott Myers*  
*David M. Norstrom*  
*Douglas Smith*  
*Michael C. Troper*

*Matthew H. Greeson, City Manager*  
*D. Kay Thress, Clerk of Council*

*If you have questions regarding this agenda please contact the Clerk of Council at 614-786-7347. This agenda and amendments that may be made to it can be found at [www.worthington.org](http://www.worthington.org)*

**CALL TO ORDER**

Roll Call

Pledge of Allegiance

**PUBLIC HEARINGS ON LEGISLATION**

**1) Ordinance No. 32-2015**

To Provide for the Submission of an Amendment to the Charter of the City of Worthington, Ohio, for a Vote of the City Electorate at a Regular Municipal Election to be Held on November 3, 2015.

Introduced July 20, 2015  
P.H. August 3, 2015

**NEW LEGISLATION**

**REPORTS OF CITY OFFICIALS**

Discussion Item(s)

**2) City of Worthington v Moody Nolan Inc., et al., Case No. 14CV010915**

**REPORTS OF COUNCIL MEMBERS**

**OTHER**

**EXECUTIVE SESSION**

**ADJOURNMENT**



Office of the City Manager

## **City Manager Report to City Council for the Meeting of Monday, August 3, 2015**

### **PUBLIC HEARINGS ON LEGISLATION**

#### **1) Ordinance No. 32-2015 – Amendment to City Charter**

The City has received a petition to amend the City's Charter and the Board of Elections has verified 692 signatures on the petition, which exceeds the required 351 valid signatures needed. This proposed charter amendment would, in summary, provide for a 60 day waiting period following passage by Council of all ordinances or other measures "amending the City's zoning code or changing the zoning for any property in the City" to afford the opportunity for a referendum petition to be filed within that time. It would also prohibit those types of ordinances from being passed on an emergency basis.

Once a petition to amend the charter, signed by ten percent of municipal electors, is submitted to the City, the Ohio Constitution requires the City, by ordinance, to submit the question to the electors at the next regular municipal election. This Ordinance submits the question for the election to be held on November 3, 2015.

The Constitution requires the Ordinance be passed by a two-thirds vote, so at least five affirmative votes are necessary. Additional information is included in the attached memorandum from the Law Director.

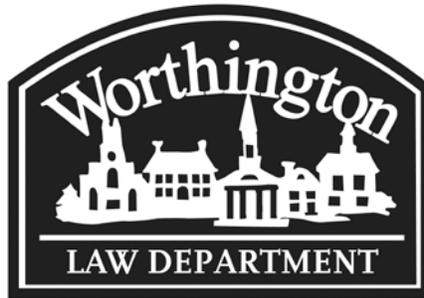
**Recommendation: Approval of Ordinance as Presented**

### **REPORTS OF CITY OFFICIALS**

#### **Discussion Item(s)**

#### **2) City of Worthington v Moody Nolan Inc., et al., Case No. 14CV010915**

The City has been in settlement discussions regarding litigation involving the Community Center. There is a possibility we will be ready to request authorization for a settlement at the meeting.



To: Matt Greeson  
From: Pam Fox  
Date: July 31, 2015  
Subject: Petition to Amend City Charter – Update

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On July 6, 2015, the City Clerk received a Petition for Submission of Proposed Amendment to Charter, consisting of 34 part-petitions and containing 781 signatures. The proposed charter amendment would, in summary, provide for a 60 day waiting period following passage by Council of all ordinances or other measures “amending the City’s zoning code or changing the zoning for any property in the City” to afford the opportunity for a referendum petition to be filed within that time. It would also prohibit those types of ordinances from being passed on an emergency basis.

The process for amending municipal charters is set forth in Section 9 of Article XVIII of the Ohio Constitution, and applicable statutes. If a petition to amend the charter, signed by ten percent of municipal electors, is submitted to the City, the City is required to, forthwith, provide by ordinance for the submission of the question to the electors at the next regular municipal election occurring between sixty and one hundred and twenty days after passage. The City Council must determine the sufficiency of the petition prior to considering the ordinance. A “sufficient” petition has been held to mean that it is in the proper form and otherwise conforms to the requirements established for petitions and petition circulation. A City Council may not refuse to place the question on the ballot for substantive issues that it has with the petition, such as the vagueness or overbreadth of the language, whether it calls into question any constitutional or statutory issues, or because Council may disagree with the amendment.

The petition was submitted to the Franklin County Board of Elections on July 9<sup>th</sup> for verification of the signatures. A petition to amend a charter requires ten percent of the total number of votes cast at the last preceding general municipal election. In 2013 (the last

general municipal election), 3,501 votes were cast by Worthington electors, which results in a total of 351 valid signatures needed for the petition. The Board of Elections has verified 692 signatures. The part-petitions appear to be sufficient in all other respects. Because the Constitution requires the ordinance to be passed by a two-thirds vote, at least 5 affirmative votes are necessary. Ordinances directing a question to the electorate are effective immediately upon passage and publication (Worthington Charter Section 2.19).

Failure of city councils to meet the deadline established by the Constitution (submission of the ordinance to the Board of Elections at least 60 days before the election), resulting in the call for a special election and the costs associated with one, has been viewed with strong disfavor by the courts. Further, the Law Department will be required to clear the ballot language with the Board of Elections during what is most certainly one of the busiest times of the year. The Ohio Secretary of State then must provide final approval of the language. Submitting the ordinance timely will allow for these processes to run more efficiently.

The ordinance provides for the charter amendment language set forth in the petition to be submitted to the electorate. In addition, Section 10.07 traditionally has been amended each time a charter amendment has passed to indicate the date of effectiveness of the amendment. That section is proposed to be amended as well, should the measure pass at the general election.

The City is required to provide notice of the charter amendment to its electors before the election, either by mailing each elector a copy, or by advertising the amendment in a newspaper of general circulation. If mailed, the clerk is required to post the mailings no less than thirty days prior to the election. If advertisement is the selected method, the full text of the amendment must be published once a week for not less than two consecutive weeks, or as provided in Section 7.16 of the Ohio Revised Code (a recently enacted provision for abbreviated publications), with the first publication being at least fifteen days prior to the election.

If you have any questions about the ordinance or the charter amendment petition, please do not hesitate to contact me.

ORDINANCE NO. 32-2015

To Provide for the Submission of an Amendment to the Charter of the City of Worthington, Ohio, for a Vote of the City Electorate at a Regular Municipal Election to be Held on November 3, 2015.

WHEREAS, on June 19, 2015 a petition committee comprised of five persons filed a certified copy of a Petition for Submission of Proposed Amendment to Charter with the Finance Director of the City; and,

WHEREAS, such copy set forth a true and exact reproduction of a proposed petition that the petition committee intended to circulate for signatures which would amend the Charter of the City by enacting a new Section 1.04 REFERENDUM AND EFFECTIVE DATE ON ZONING ORDINANCES OR OTHER ZONING MEASURES; and,

WHEREAS, on July 6, 2015 a Petition for Submission of Proposed Amendment to Charter was filed with the Clerk, comprised of 34 part-petitions containing 781 signatures; and,

WHEREAS, the Petition was submitted to the Franklin County Board of Elections on July 9, 2015 for verification of the signatures and on July 16, 2015 the City was notified by the Board of Elections that the Petition contains 692 valid signatures; and,

WHEREAS, Section 9.04 of the Charter of the City authorizes amendments to the Charter to be made as provided in Section 9 of Article XVIII of the Constitution of Ohio, which requires the City Council to submit to the electors of the City, by ordinance, a charter amendment proposed by petition of ten percent of the electors; and,

WHEREAS, according to the Board of Elections, there were 3,501 Worthington electors who voted at the last general municipal election held in 2013; and,

WHEREAS, the Constitution provides that the charter amendment question shall be submitted to the electors at the next regular municipal election if one shall occur not less than sixty nor more than one hundred and twenty days after passage of the ordinance; and,

WHEREAS, the next regular municipal election is to be held on November 3, 2015.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio, two-thirds of the members elected thereto herein concurring:

ORDINANCE NO. 32-2015

SECTION 1. That the question of amending the City Charter by the enactment of the amendment submitted by petition signed by ten percent of the electors of the City, and the amendment establishing the effective date of amendments to the Charter, as hereinafter specifically set forth, be submitted, as a single ballot question, to the qualified electors of the City at the Regular Municipal Election to be held on Tuesday, the 3<sup>rd</sup> day of November, 2015, at the regular places and times of voting in the City:

To Enact the following proposed amendments to the Charter of the City of Worthington:

Section 1.04 of the Charter of the City of Worthington to be enacted to read as follows:

**SECTION 1.04 REFERENDUM AND EFFECTIVE DATE ON ZONING ORDINANCES OR OTHER ZONING MEASURES.**

(A) Notwithstanding any other provision of this Charter, the power of referendum on any ordinance or other measure passed by the Council amending the City's zoning code or changing the zoning for any property in the City may be exercised in the manner provided by the laws of the State of Ohio except that the petition may be filed upon passage of any ordinance or other measure by Council and within sixty (60) days following publication in order to afford an opportunity during that period for the filing of referendum petitions thereon.

(B) Notwithstanding any other provision of this Charter, no ordinance or other measure passed by the Council amending the City's zoning code or changing zoning for any property in the City shall go into effect until sixty (60) days following publication in order to afford an opportunity during that period for the filing of referendum petitions thereon; nor shall any such ordinance or measure be passed on an emergency basis.

Section 10.07 of the Charter of the City of Worthington to be amended to read as follows:

**SECTION 10.07 WHEN CHARTER AMENDMENTS TAKE EFFECT.**

Amendments to this Charter shall be voted upon at a Regular Municipal Election held on November 3, 2015, and if approved by the electorate, shall become effective as of such date.

ORDINANCE NO. 32-2015

SECTION 2. That the ballot for said election shall conform to the election laws of the State of Ohio, and shall: (1) be entitled "Proposed Charter Amendments – City of Worthington;" (2) contain a statement that a majority affirmative vote is necessary for passage and approval of the amendment of the Sections as proposed herein; and (3) state the question to be submitted to the electorate of the City in condensed text form.

SECTION 3. That the Director of Law be and he hereby is authorized and directed to make such arrangements with the Board of Elections of Franklin County as are necessary for giving notice of said election and for placing the question on the ballot, and for printing the text of the proposed amendments for posting at polling places.

SECTION 4. That the Clerk of Council be and she hereby is directed to certify a copy of this Ordinance to the Board of Elections of Franklin County and to publish the full text of the proposed Charter amendments, as set forth in Section 1 of this Ordinance, once a week for not less than two consecutive weeks in a newspaper of general circulation in the Municipality or as provided in Section 7.16 of the Ohio Revised Code, with the first publication being at least fifteen (15) days prior to the election hereinbefore provided.

SECTION 5. That this Ordinance, directing a question to the electorate, shall take effect immediately upon its passage and publication as provided in Section 2.19 of the Charter of the City of Worthington.

Passed \_\_\_\_\_

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President of Council

Attest:

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Clerk of Council

Introduced July 20, 2015  
P.H. August 3, 2015