



CITY OF WORTHINGTON
Worthington City Council Minutes
March 16, 2020

6550 N. High Street
Worthington, Ohio 43085

CALL TO ORDER – Roll Call, Pledge of Allegiance

Worthington City Council met in Regular Session on Monday, March 16, 2020, 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: Peter Bucher, Rachael R. Dorothy, Scott Myers, David Robinson, Douglas K. Smith, and Bonnie D. Michael

Member(s) Absent: Beth Kowalczyk

Also present: City Manager Matt Greeson, Law Director Tom Lindsey, Chief of Police Robert Ware, Chief of Fire Mark Zambito, Clerk of Council D. Kay Thress

There were two visitors present.

PLEDGE OF ALLEGIANCE

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

VISITOR COMMENTS

There were no visitor comments.

SPECIAL PRESENTATION(S)

President Michael announced that those who are live streaming will notice that Council members are spaced out to help ensure social distancing as recommended by the Health Department. Ms. Kowalczyk is out ill this evening but we understand that she is on the mend. The Special Presentation to recognize Bob Burpee and Amy Lloyd for their years of service to the City is being postponed until such time as it is safer for them and their families to attend.

APPROVAL OF THE MINUTES

- Meeting Minutes – March 2, 2020

MOTION Mr. Bucher moved, and Mr. Smith seconded a motion to approve the meeting minutes as presented.

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

President Michael shared that we have a special presentation tonight from Columbus Public Health regarding the Coronavirus. To those who are watching on-line, feel free to e-mail any questions you may have to the Council@worthington.org e-mail address and the Clerk will share them at the appropriate time. She invited Mr. Greeson to provide the introductions.

Mr. Greeson commented that prior to those introductions, he would like to share with members about COVID-19 and their City's response to it. Due to COVID-19 unprecedented in our lifetime, emergency management measures are being taken to protect the health and safety of citizens across this country and here in Worthington. Emergencies work across departmental lines and impact the community in many ways. All local governments have a system for managing emergencies using a cross functional structure called Incident Command. Last week we invoked our Pandemic Response Plans and staff moved into its Incident Command system for managing this event. Chief Ware and Chief Zambito join him this evening as part of what we call the Unified Command. He reported that all departments and many staff are working well together to address critical needs during this pandemic. We are diligently making necessary adjustments to facility access, services, programs, response protocols and taking other measures to accomplish several goals: First, we want to support sound public health strategies which you will hear about in a moment to reduce the likelihood of spread in our community, fulfilling our City's core mission of protecting the health and safety of its citizens. Second, we are focusing on maintaining critical essential services that are necessary to respond to this rapidly evolving crisis. To do so we are taking various measures to protect essential personnel. Third, we know many services are critical to life in Worthington and we are cognizant that disruption of them has an impact on our citizens quality of life. We are creatively approaching work and services and how we provide them to foster social distancing but also to make progress where possible and lay the ground work to an eventual return to community normalcy. For information with all the changes in facility access, City services and programs, he recommends that people study the Worthington.org website as it is being updated on a regular basis.

Information is also being posted related to the City's response to COVID-19. Our efforts to achieve the goals that he outlines are supported by each of our many governmental and not for profit partners in the community. One of those partners is Columbus Public Health. He is pleased to have one of our region's top health officials and the leader of Worthington's contract health department, Dr. Mysheika Roberts the Director of

Columbus Public Health as well as Assistant Health Director Mike Fielding. Dr. Roberts and her team have been in constant contact with us providing advice and guidance on all of our measures. We are grateful for their support and leadership and are pleased to have them here this evening to provide an update on COVID-19.

Mr. Greeson offered the following message for Worthington citizens: Extend patience, compliance with public health directives issues by Dr. Roberts and other public health officials. We are blessed with great partners and strong governmental agencies in Worthington and we are a highly resilient community. He believes with everyone's cooperation we can mitigate the impact of this pandemic in our community saving lives. We urge everyone's cooperation during this challenging time. It is his honor to turn the meeting over to Dr. Roberts.

Dr. Roberts thanked Council for the opportunity to speak with them. She is present to provide an update on the COVID-19 pandemic. As of today, Ohio has 50 confirmed cases in twelve counties, including Franklin County. Columbus Public Health has been working Incident Command structure for the last six weeks to plan and prepare for the inevitable arrival of COVID-19 in our community. On March 14 the first confirmed case of COVID-19 was reported in Franklin County. The individual is currently at home recuperating and in isolation.

Since being notified of that case, Columbus Public Health has been working around the clock to identify and contact those who knew or was with him on the cruise or shortly after he returned. There are currently two asymptomatic household contacts in quarantine and two other close contacts who are sick and in isolation. We anticipate getting the results of the two sick contacts any day.

This pandemic continues to rapidly evolve and additional local cases are anticipated. They have been preparing for this moment for a long time and are responding in many ways. On March 13, the Columbus Board of Health declared a local public health emergency to put additional safety measures into place. This allows Dr. Roberts as a health commissioner for the cities of Columbus and Worthington to take additional steps to quarantine and isolate individuals as needed. She can mandate testing and treatment to ensure people are getting appropriate care and it allows the two cities to control and limit ingress and egress of public areas. This emergency order was put in place at this time to ensure all tools and resources are available to her and her colleagues if needed. Testing is occurring for the sickest and most at-risk patients at this point. Our local health systems are prepared and have begun providing testing for those not sick enough to be hospitalized.

Dr. Roberts shared that she is meeting twice a week with the Chief Medical Officers in the area to ensure they are all working together in the most efficient way for our community. She reported that Columbus Public Health has developed a local call center in case anyone has questions or concerns. That number is 614-645-1519.

In addition to the local efforts, Governor DeWine has issued multiple executive orders as part of this response. As of yesterday, all Ohio bars are closed to in-house patrons.

Restaurant dining rooms are closed but takeout and delivery options may be available. Today he announced the calendar of fitness gyms, bowling alleys, indoor water parks and indoor trampoline parks. They are encouraging people, when they can, to support local businesses, especially restaurants. Purchase a take-out meal or buy a gift card that can be used at a later date.

The governor also limited mass gatherings in Ohio to 100 people. Prior to arriving for this meeting, she heard the CDC is limiting those gatherings to 10 people or less. While she hasn't seen that in writing yet, that would include gatherings like this one. We would have to consider moving forward if that would meet the criteria.

Our Governor also told all K-12 schools (includes public, community and private) that they should close until April 3. It does not apply to daycare centers as of yet. The Ohio Department of Health does have a call center opened seven days a week from 9:00 a.m. to 8:00 p.m. for questions or concerns. That number is 833-4ASK-ODH.

Dr. Roberts assured members that they will continue to work with our state and city leaders, our health care systems and our partners to monitor this evolving situation. They will continue to work diligently to protect the health and safety of our community during these unprecedented times.

We must work together to help our communities get through this pandemic. The most important thing anyone can do is stay home when you are sick and encourage others to do the same. She also encouraged everyone to wash their hands, preferably with soap and water but if that is not available then hand sanitizer. Other steps are covering your mouth when you cough, avoid shaking hands and touching objects such as railings and things of that nature. Protecting the health of our communities takes all of us, working together. Columbus Public Health is here for the Worthington community, providing updated information in an effort to protect members, their families, and this community. She thanked members for their time and asked if there were any questions.

Mr. Robinson asked if it is possible to have the virus but be asymptomatic and if so, are asymptomatic persons contagious. Dr. Roberts replied that it is possible to be carrying the virus while asymptomatic or very few symptoms. They also believe that the virus can be shared with others during that time.

Mr. Robinson then asked when someone would begin to show symptoms of the virus. Dr. Roberts replied that their information on this new virus is very limited at this time. They believe that people should begin showing signs within fourteen days of being exposed. The frame is usually within five days but could be up to fourteen days.

Mr. Robinson next asked if someone contracts the virus, how long will they remain ill and particularly contagious. Dr. Roberts replied that the length of the illness will vary from person to person. The data shows that most who contract COVID-19 will be sick for about two weeks, which is a much longer duration than the seasonal flu. It is much harder to say about how long people will test positive for the virus even once the

symptoms have gone away. She can't really answer the question at this time because there are still many unknowns.

Mr. Robinson asked what we know of the seasonality of this virus and what does seasonality mean in the case of this virus. Dr. Roberts replied that we know a great deal about the flu but we don't know how this virus is going to behave. The unknowns of this virus are what is so concerning to so many scientists around the world. We hope like other coronaviruses that it will start to decline when the weather turns warmer.

To Mr. Robinson's question about what types of surfaces the virus could be transmittable through or by, and whether or not paper is a concern, Dr. Roberts replied that the thought is the transmission is through contact with hard surfaces. Those are frequently touched places like your phone, doorknobs, pads on an elevator and things of that nature. There is some data that shows it can live on money, but for the most part we focus on hard surface areas. The says it lives as short as 24 hours and as long as three days on hard surface but there are still many unknowns.

Mr. Myers asked if the directive on mass gatherings of ten or more just occurred today. Dr. Roberts replied yes although she has not yet seen that in writing from the CDC. She understands that President Trump shared that with his task force at his press conference.

Mr. Myers asked how the mechanics would work if the directives on mass gatherings became mandatory. Dr. Roberts replied that the CDC makes the recommendations. But so far it has been up to the local governments to make the directives. For Ohio that is coming from Governor DeWine and Amy Acton from the State Health Department. She anticipates that the Governor will likely change his recommendation of the definition of mass gathering from 100 or more to ten or more if the CDC puts it out in writing. It has really been up to local municipalities to enforce that and people have been complying for the most part.

Mr. Bucher asked if we have a sense of where people are congregating now that bars and restaurants have been closed for the most part. Dr. Roberts replied that she was personally out Saturday night and she did not see congregating of mass numbers. She suspects there has been which is why the Governor made the decision to close restaurants and bars for in-room dining. She is not aware of any problematic areas in either Worthington or Columbus from a public health standpoint.

Ms. Dorothy commented that if somebody is sick, what is the best way for them to go about seeking help. Dr. Roberts replied that if someone is sick and thinks they have the virus or the flu, they should first seek the services of their health care provider if they have one. Most of our four health care systems here have the means to test individuals as an out-patient. If they do not have a health care provider or insurance, they can call the Health Department at 614 645-1519, describe the situation and they can either help get them into care somewhere or get them tested if they feel they meet the criteria for testing.

When Ms. Dorothy asked about the use of 9-1-1, Mr. Greeson shared that we want to encourage citizens to call their health providers. We do not want people to call the 9-1-1 emergency number for a low-grade fever or sniffles or non-emergency issues. We are also trying to ensure that our first responders are healthy, particularly our paramedics who are to be responding to critical incidents. We are prohibiting drop-by visits to the fire station because we do not want people coming in who believe they may have the virus and inadvertently pass it on to a first responder.

Dr. Roberts agreed that individuals should not be using 9-1-1 unless they are in distress with this illness. They have to be mindful of our health care professionals and our first responders. We need them now more than ever and we need them healthy. Most primary care advisors and others in town have changed their practice by postponing well visits and only taking sick people at this time. Many are screening people outside in their cars before they come into the facility. Even eye doctors are asking people if they are experiencing any symptoms and if they are, then they are asking them to leave because they do not want them to infect their waiting room. We are trying to prevent the spread of this virus. We want our health care providers and first responders to stay healthy.

Ms. Dorothy understands the need for social distancing. She asked about keeping socially connected, recognizing that mental health is a big problem. Dr. Roberts encouraged the use of technology, programs such as Google Hangout or Facetime. We do our best to stay in contact with friends and loved ones without physically being face to face. This is the time to write letters and send e-mails. We as a society are used to social and physical connections so this is going to be difficult for some, especially those who live alone. She encouraged people to reach out to check on those who live alone or those who have mental health issues and see how they are doing.

Mr. Robinson asked how the new standard of ten or more people for mass gathering pertains to places of employment. Dr. Roberts replied workplaces were excluded by the Governor.

President Michael wondered how groups of ten will impact airline flights. Dr. Roberts replied that she has no jurisdiction over air travel so she does not know the answer to that question. There is also the issue of buses and trains and whether or not they are excluded.

President Michael reported seeing people running to the grocery store and hoarding groceries because they need enough food for fourteen days. She asked if there are plans for grocery stores to close. She would think that could be something they could manage with hours. Dr. Roberts understands that at least Giant Eagle and Kroger, will be altering their hours because they need time to restock because people are hoarding. That is not necessary. Our food supply chain is strong and intact. We will be getting more supplies. At this point there is no curfew or mandatory quarantine for individuals in Ohio.

President Michael commented that she hopes the message gets out to people and they slow down. Dr. Roberts agreed.

There being no e-mails from the public, President Michael thanked Dr. Roberts for all of the work she and her staff have been doing on behalf of the city of Worthington.

PUBLIC HEARINGS ON LEGISLATION

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

Ordinance No. 08-2020 Establishing Compensation for the Vice Mayor of the Municipality of Worthington.

The foregoing Ordinance Title was read.

Mr. Greeson again reminded everyone that during the public hearing items people can submit comments through the Council e-mail to Council@worthington.org. If any are submitted, the clerk will read them into the record at the appropriate time.

Mr. Lindsey reported that this ordinance establishes a salary for the Vice Mayor. Since its creation, the Vice Mayor's position has not had a salary. Upon hearing that Mr. Lorimer did not wish to continue, staff felt it appropriate to establish the salary as we go forward and seek interested parties for that position.

Mr. Lindsey shared that the ordinance that was introduced had both a variable rate as well as a fixed rate. The thinking in doing that was to recognize that when the Vice Mayor sits in Mayor's Court in place of the Mayor then he/she ought to be compensated to make that equitable. However, after further review and in reaching out to the OPERS representatives, they were of the opinion that this fell within the Administrative Code provision that says that you can't compensate these employees on a per session basis. There is language in the Administrative Code that we knew applies to Council members on a per meeting basis. He attempted argument with the gentleman on the phone that this is different because it is more like somebody working and not unlike if you were paying them by the hour but we pay by the session. He indicated nonetheless it would still be not pensionable so as to avoid complicated issues for our finance department, we recommend capping as a fixed salary of \$2,400 a year and ask for approval. We will need a motion to amend the ordinance to the amended version and then ask for approval of the amended ordinance.

MOTION Mr. Myers made a motion to amend the ordinance in Section 1. to include a fixed amount of \$2,400.00. The motion was seconded by Ms. Dorothy.

The motion carried unanimously by a voice vote.

Mr. Myers commented that there is no threshold amount for PERS service credits and contributions. Mr. Lindsey replied that they would not receive full credit for the year because the total pay will not reach that level. The fixed amount would allow them to obtain partial credit.

There being no additional comments, the clerk called the roll on Ordinance No. 08-2020 (As Amended). The motion carried by the following vote:

Yes 6 Bucher, Robinson, Dorothy, Smith, Myers, Michael

No 0

Ordinance No. 08-2020 (As Amended) was thereupon declared duly passed and is recorded in full in the appropriate record book.

Ordinance No. 12-2020 Amending Ordinance 46-2019 to Establish Compensation for the Unclassified Position of Assistant Director/Parks and Recreation Superintendent.

The foregoing Ordinance Title was read.

Mr. Greeson reported that in a recent meeting Council approved a new job description for the Assistant Director/Parks and Recreation Superintendent for the Department of Parks and Recreation. Anytime we have a retirement or vacancy we review job descriptions and pay and evaluate that position before filling it. That job description was updated and moved from the classified service to the unclassified. We introduced legislation to set the pay rate for the now unclassified position which is in the ordinance here at about \$92,000. We evaluated the marketplace and looked at what comparable communities that run similar operations are paying similarly responsible positions and recommend that this ordinance be approved as submitted.

There being no additional comments, the clerk called the roll on Ordinance No. 12-2020. The motion carried by the following vote:

Yes 6 Robinson, Dorothy, Smith, Myers, Bucher, Michael

No 0

Ordinance No. 12-2020 was thereupon declared duly passed and is recorded in full in the appropriate record book.

President Michael shared that Ordinance No. 15-2020 is at members' places this evening and will be introduced as an emergency. She moved it to this point on the Agenda because this will also serve as the public hearing.

Ordinance No. 15-2020

Amending Ordinance No. 45-2019 (As Amended) to Adjust the Annual Budget by Providing for Appropriations from the General Fund Unappropriated Balance, Amending Codified Ordinance Section 507.01 - Proclamation of State of Emergency, Authorizing the City Manager to Temporarily Waive or Suspend the provisions of Codified Ordinance Chapter 137 and the Personnel Rules and Regulations, Authorizing the Columbus Board of Health to take Necessary Actions, and Declaring an Emergency.

Introduced by Ms. Dorothy.

Mr. Greeson commented that this is legislation that we are suggesting members adopt by an emergency, which means it needs a six of seven vote to pass. So, all six of you present would need to vote in the affirmative. By adopting it by emergency it will waive the waiting period and go into effect immediately rather than the twenty-day waiting period. That is the nature of emergency and we think the pandemic rises to that level. This legislation accomplishes several things. He invited Mr. Lindsey to supplement and add context to his comments.

First, it would appropriate funds, approximately \$200,000; \$100,000 of that would be contingency. Council does not meet again for several weeks and most of our budget has some limited flexibility for unforeseen circumstances. While we are hopeful that this pandemic does not result in any inordinate or unusual purchases being necessary, we wanted some financial flexibility to respond if the need arises. The second \$100,000 are dollars associated with pay continuity. We are developing the plans for how we treat employees during all of this and he may brief you in executive session this evening regarding that. But this particular appropriation is dollars to ease the finance departments accounting and tracking of it. It is anticipated that we will expend money out of that in order to provide for one account in which those dollars are tracked.

The second thing we are doing is tightening a variety of language in 507.01, which is the State of Emergency provisions in the Codified Ordinances. In particular, we are adding language to include public health emergencies and pandemic to that proclamation and state of emergency code language.

Mr. Greeson reported that Council would also be authorizing him to temporarily suspend provisions of the personnel rules and regulations to provide more flexibility to manage our response with the goal of ensuring that we maintain essential services to our citizens. It adds language that would support the role of the Columbus Public Health in their efforts to protect whether citizens in addition to Columbus citizens.

Mr. Lindsey agreed with what Mr. Greeson shared. As indicated, the language clarifies the ability to proclaim a state of emergency. The argument may be made that we have that

authority but in this important public health emergency we felt it important to make sure the City Manger was on solid grounds so we recommend that change. We added pandemic and public health emergencies as two specific types of emergencies. It also added any emergency declared by the President of the United States or the Governor of Ohio. We wanted to have those bases covered and to have that authority. A minor tweak was made to the list of people who have that authority.

He spoke with Council member Robinson earlier today. He had raised a few questions that do go to the question of the entire Chapter of 507 and the authority and how it might be implemented. This is a very old ordinance and he commits to reviewing it when we move out of this emergency phase to make code amendments that would improve it. He suspects that between the two chiefs and the City Manager there may be suggestions that would improve it based on what we are going to learn over the next few weeks, if not months. That is a commitment that we will make to bring back changes to not just 507.01 but also the entire chapter.

Mr. Lindsey also noted that in addition to suspending Personnel Rules in Chapter 137, we have included language to provide compensation to employees who may not be able to work due to public building closures or other official actions taken in response to the public health emergency. That language, which may be the subject of an executive session discussion, concerns what is the appropriate approach in terms of compensation. We wanted to make sure the City Manager had the appropriate authority to move in that direction if we try to provide pay continuity to those people who through no fault of their own are being told they are not permitted to work. That language was included because auditors frequently question why somebody was paid if there was no indication that they worked. That Council authorization would be sufficient for any audit review.

The Columbus Board of Health have been wonderful partners to the city of Worthington in a variety of way. They do so by contract. We believe they have full authority to take the actions they have in the past and for the ones they will take in the future. Being a cautious lawyer, Mr. Lindsey said he would prefer that Council make an express authorization of their actions. The limitation being those as permitted under State law. We are not giving them broader authority; we are just acknowledging that they are our Board of Health and our public health provider.

Mr. Robinson shared that he fully supports the passage of this ordinance for obvious reasons. After we get through this emergency though he would suggest we look at Chapter 507.01 again, specifically making more explicit the protocol for establishing a state of emergency and then an explicit statement about the termination of the state of emergency. Perhaps include a sunset clause requiring a vote by Council for its continuation. Beyond that he feels entirely trusting and comforted truthfully that City Manager Matt Greeson, Tom Lindsey and other staff are supervising all of this and he feels they will handle this with the utmost competence and diligence.

Mr. Lindsey added that this may be the first emergency legislation Council has done during his tenure as law director for the City. The City Charter reads that a motion to approve

this by emergency would be in advance of the actual vote on the motion. All of those would require a vote of 6-7. We did include more specific language in the ordinance that he felt was appropriate to comply with not only the charter language but also what state law says in terms of identifying the actually emergency and not just using the statutory phrasing of emergency so we have identified it as this particular health emergency.

Ms. Dorothy noted that it is also clarified in Sections 3 and 4 about the duration of the public health emergency. So, there is a sunset clause in there. Mr. Lindsey agreed that as to those two sections. The issue that Council member Robinson raised about duration is that Chapter 507 of the codified ordinances does not have specific language as to the duration of a declaration by the City Manager. We will address that later. We are not worried about it for this particular situation.

Mr. Myers commented that consistent with what everybody else has said as it was back in 2010 and he will go on record to say that he thinks our top priority is to take care of our employees. He is fully supportive of that.

Mr. Lindsey, As he reads Section 4, he asked what is the declaration that triggers this? He asked if it is the declaration by the City Manager or the one by Columbus Public Health? As he reads it, it is the declaration by Columbus Public Health. Mr. Lindsey agreed that the reference to the public health emergency is the public health emergency as described in the WHEREAS clauses.

Mr. Myers stated that the public health emergency is declared by an entity under contract with Worthington but is not a Worthington entity? Mr. Lindsey agreed. Mr. Myers stated that the duration of this ordinance hinges on an outside party's decision? Mr. Lindsey agreed.

Mr. Myers stated that the appropriation is open-ended. Mr. Lindsey clarified that the appropriation, like any of our other appropriations, is made and the money is moved and available absent an amendment of our annual appropriation ordinance to remove it. Mr. Myers stated that for the duration of this budget cycle Mr. Greeson will have a \$100,000 contingency fund to spend. Mr. Lindsey agreed. He added that he normally has a \$50,000 contingency but this is for the unknowns.

Mr. Myers shared that the 10 or more is kind of what really prompted him. There will come a point when we run afoul of our constitution. He wants to make certain that he puts that out there that he for one is cognizant of that. He understands that there are contingencies here that are driving this. He understands that we need to take care of our employees. We need to have a fund of money in case something comes up. He just wants to make very, very certain that this crisis does not cause an erosion of normal safeguards we have always adhered to. He has no doubts, just because of past practice and it's the way Mr. Greeson works, if any money comes out of this fund Council members will be informed. Mr. Greeson agreed that it will be tracked and reported.

Mr. Myers stated that he is concerned that we are stepping into unchartered territory, not just with this appropriation but with many other things that are going on in our country right now that trouble him. We need to be really careful and keep an eye on things. He wants to make certain we are not walking down a slippery slope and not making open-ended promises and appropriations that may come back later to cause issues.

Mr. Robinson asked for additional information from Mr. Myers because he wants to understand his concern.

Mr. Myers shared that we have a first amendment right to congregate and to travel. He understands there are times when those rights can be set aside because of a crisis, such as occurred during World War II. There are some who have argued that conscription is a violation of the 13th amendment. We always have to be careful and cautious in how we move forward to make certain the crisis of the situation does not justify things that later can be used to support an erosion of otherwise well recognized rights. That's the only point he is trying to make. Not that it is not important to do what we are doing now but we just have to be careful.

Mr. Robinson said he agreed with the sentiment. That is what he was trying to get at. He asked Mr. Myers if he could explain the connection with what he thinks he was leveraging off of the appropriation of the \$100,000. Mr. Myers said he was unclear as to the duration but he thinks it has been cleared up for him. There actually is no end of this appropriation. It will last for the entire budget cycle. He does not want some outside entity telling him what the duration of that appropriation is. He thinks that is a delegation of his authority as a Council member. Now that Mr. Lindsey has explained how it work and it is not contingent on the Director of Columbus Public Health telling him when this stops, he feels more comfortable.

Mr. Lindsey wants to reassure all of Council, and he appreciates Mr. Myers concern that we want to honor and respect our own provisions regarding financial integrity. Mr. Bartter and his staff do a wonderful job under the direction of Mr. Greeson. We have under our Charter the authority to actually ask Council to approve emergency appropriations that exceed anticipated revenues. We are certainly not in that situation now because of Council's fiscal responsibility over the past several years to build up reserves that provide the resources to address true emergencies. He is confident in Mr. Bartter and Mr. Greeson to make sure that future requests for funding during this current emergency will still be done with that watchful eye of not being excessive in what is being asked and that Mr. Greeson as far as the contingency spending will be cautious not to be approving purchases that are not truly necessary. He added to that the fact that members are present here tonight, in attendance in person, the fact this meeting is open to the public, although none of them chose to appear in person is reflective of the fact that despite some who would say this emergency warrants deviation from our established laws it is not your law director's view, that we deviate from either constitutional provisions or laws just because of emergency. We have to find a legal basis to do what we do and that will continue to be his advice to the City Manager and to Council as we proceed down this emergency.

President Michael understands that it is going to take a lot of hard work. She appreciates their hard work in getting this together.

MOTION Mr. Robinson made a motion to pass Ordinance No. 15-2020 as an emergency. The motion was seconded by Mr. Bucher.

At President Michael’s request, the clerk called the roll on the motion to pass Ordinance N. 15-2020 as an emergency. The motion carried by the following vote:

Yes 6 Dorothy, Smith, Myers, Bucher, Robinson, Michael

No 0

The motion carried unanimously by a roll call vote.

The clerk confirmed that no e-mails had been received.

There being no additional comments, the clerk called the roll on Ordinance No. 15-2020 as an Emergency. The motion carried by the following vote:

Yes 6 Smith, Myers, Bucher, Robinson, Dorothy, Michael

No 0

Ordinance No. 15-2020 was thereupon declared duly passed as an emergency and is recorded in full in the appropriate record book.

NEW LEGISLATION TO BE INTRODUCED

Resolution No. 21-2020 Supporting a Unified Plan for the Allocation and Use of Opioid Settlement Proceeds and Authorizing the City Manager to Execute the One Ohio Memorandum of Understanding and Formal Agreements Implementing a Unified Plan.

Introduced by Mr. Smith.

MOTION Mr. Myers made a motion to adopt Resolution No.21-2020. The motion was seconded by Ms. Dorothy.

Mr. Greeson reported that Mr. Lindsey and Chief Ware have been working on this topic. He asked Mr. Lindsey to comment on this potential settlement.

Mr. Lindsey shared that many have probably seen reports in the Columbus Dispatch that explains the proposed One Ohio Plan for Opioid settlement proceeds. The goal of the plan

is to have a unified presence for purposes of negotiations with the various pharmaceuticals involved in that supply chain and to hopefully improve Ohio's chances of having a reasonable settlement for the costs incurred by the state, counties, and cities in response to that issue. As of last week, the Attorney General indicated that at least government entities representing 85% of the residents of Ohio had already approved this. We are asking for Council to support this to show that the city of Worthington is supportive of the effort so as to improve the likelihood of successful settlement. The actual formal agreement for any distribution in that process would be done at a later day. This is a Memorandum of Understanding and non-binding but it does show the support the A.G.'s office has requested and the other lawyers representing municipalities within that legislation requested so as to improve our chances of settlement. We are fortunate as Chief Ware has detailed background in dealing with the problem in his prior employment and has additional things he could add. He also attended the meeting last month.

Mr. Lindsey added that as indicated in the Memo, the proposed distribution level for the city of Worthington would be \$745,441 per \$1 billion of settlement proceeds. This is a significant potential for the City providing that the state is successful in those settlement negotiations. I'll turn it over for additional comments to Chief Ware.

Chief Ware believes that most of the parties that were present that day have agreed in principle to this settlement proposal. Where there is some discussion is in the bureaucracy of how the money was tracked and allocated once it got to the individual communities or levels of government. He believes it is important for the Attorney General to put Ohio in a position to reap some of the benefits of the ongoing court cases and settlement proposals that are on the table now or in the courts and proceeding later this year.

In regards to the distribution and determination of value to each community, no community is going to recoup what they have spent in services over the years fighting this battle. However, base on fatality rates and overdose rates, he thinks it is a fair and equitable distribution for the city of Worthington. It appears that they have taken into account the hardest hit areas. Obviously would get a little bit more. He thinks in terms of damage to this community and recouping some of those dollars it is a fair and equitable amount.

Mr. Myers commented that this is the settlement the attorney general was recommending, correct? Mr. Lindsey replied correct. Mr. Myers stated that he wanted to make certain.

Ms. Dorothy commented that we do not know how much the funds are at this point in time. Mr. Lindsey agreed. He added that as of a month ago the discussion range was in \$18 billion over 18 years range was a proposed settlement that was out there. While that discussion is ongoing, the structure would be in place and that percentage per \$1 million is what we would be looking at. Ms. Dorothy stated that after receiving the funds, we would then decide what we might want to spend it on that falls under the categories that are in this document. Mr. Lindsey again agreed. He added that the attachment to the council memo included the abatement strategies that would be interested as appropriate expenditures. There is also going to be a non-profit organization established to administer 55% of those funds that will be comprised of a Board of municipal figures who are

appointed by the state elected so we have a voice as determined by the state elected. That voice would be on behalf of municipalities but the structure is there. Then a 30% share directly to municipalities and this is the point Chief Ware was making in that the exact level of control over those expenditures was still part of the discussion before formal agreements would be reached and 15% would go to the state.

Mr. Greeson shared that we have a project before us we have not begun to work on which is to explore fully how we make a positive impact with the settlement dollars, if and when they become available. That is something we will work collaboratively on with our Police and Fire agencies as well as community partners in the structure we are provided.

Mr. Myers commented that in reference to the non-profit organization though sparked his memory. He asked if there are any safeguards to prohibit the general assembly from taking it like they did the tobacco settlement when budget times got tough? Mr. Lindsey explained that he does not believe the Memorandum of Understanding, being the non-binding document, has that level of detail of control. It was his understand by the discussion that non-profit was intended to be set up in a way to avoid that.

Mr. Lindsey added that there is also differences between the tobacco litigation and this litigation. One of the attorneys at that particular conference was pointing out a few of those, one of which being that part of the goal of the tobacco settlement was to drive up the cost of tobacco products so as to discourage consumption by youth. In this situation, because there is a legitimate need for the medicines when properly prescribed and taken, you do not want to drive up the price so there is a difference balance in how much money might be appropriate. There is also a difference in the capital behind tobacco was significantly more than the capital behind these. Mr. Myers concurred with that being a pretty persuasive argument that attorney has put together as to why this is different from the tobacco statement. He hopes it is true.

Mr. Lindsey shared that as to the specific question Council member Myers, no detail as to what safeguards as far as the General Assembly's ability to reach at unless Chief Ware remembers hearing something after he left.

Chief Ware replied that it was a topic of great discussion in the afternoon after Mr. Lindsey left. This non-profit organization is intended to take all control away from the legislature. It will be controlled by this non-profit entity so as legislators change from year to year, there is still local control of this organization. Some of the debate was about who the subject matter experts are on the non-profit board and who selects them. There was back and forth in that. The intent was that it is done by a level below the State and away from legislative oversight or control. It was not spelled out specifically in the original M.O.U. Some parties to that came back wanting clarification in the actual memorandum to ensure that was memorialized for future.

Mr. Myers concluded that there are people at the table, like Chief Ware who remember the tobacco settlement and what happened there and are at least thinking about it. Chief Ware replied that he was very young when that happened. One of the attorneys involved was

part of the tobacco settlement and from North Carolina. He spelled out specifically what went wrong with that settlement and how the monies were spent and this is designed to prevent that from happening again.

Mr. Lindsey added that the actual settlement with the specific company and where the payment is made will also have some bearing on that. Mr. Myers agreed but he wanted to make certain that that opinion has been expressed because it was a crime. It was a shame that what was designated for a pretty good purpose ended up being diverted. Chief Ware thinks from the Governor down that expression was explicitly relayed. The final analysis was some of the parties to this agreement wanted it spelled out specifically in the agreement.

Mr. Bucher asked if he could briefly touch on how many other communities are involved in this discussion or pending settlement. Mr. Lindsey replied essentially it is the entire state. The determination of the class is all cities and counties and therefore theoretically whether they filed a lawsuit or not. The city of Columbus did not file its own suit and neither did Worthington. Really only a handful of cities throughout the state incurred the actual expense of filing lawsuits. We will all benefit from the negotiating class as determined by the judge.

Mr. Bucher then asked if there is an estimate when it will be final and would there be a timeframe to utilize whatever monies we receive. Mr. Lindsey did not believe there being any determination as to timeframes to utilize. He would also never predict when a settlement might be reached because of the multiple parties involved. He anticipates it will still be awhile.

There being no additional comments, the motion to adopt Resolution No. 21-2020 passed by a voice vote.

Ordinance No. 13-2020 Amending Ordinance No. 45-2019 (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 Community Center Pools Resurfacing Project and all Related Expenses and Determining to Proceed with said Project. (Project No. 706-20)

Introduced by Mr. Robinson.

Ordinance No. 14-2020 Amending Ordinance No. 45-2019 (As Amended) to Adjust the Annual Budget by Providing for Appropriations from the General Fund Unappropriated Balance and to Authorize the City Manager to Enter into a Settlement Agreement with Dustin and Susan Mondrach.

Introduced by Mr. Bucher.

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

Mr. Greeson reported that all of the things we have done in response to our COVID-19 response efforts are being posted on Worthington.org and on social media feeds. He has a great deal of information he could share either in writing or now verbally. These measures range from closing the Community Center and Senior Center as well as restricting access to buildings that we customarily keep open and accessible. We are not making decisions lightly and consulting public health officials daily to make sure that we are doing so not only legally but also for real responsible public health reasons. He would be glad to report on whatever members would like.

Ms. Dorothy reported that our essential services at this time are police and fire, emergency first responders. She asked if there are any updates from the people we contract with for water, sewer and power. She is aware that AEP has begun tree trimming and asked if that will continue. Mr. Greeson replied that he has not touched base on the tree trimming efforts but will tomorrow. He will report any changes on that and touch base regarding any changes in deployment. He is aware that the city of Columbus reported they are dispensing of water shutoffs for a period of time. We can send out the details of that if members are interested. He would imagine the power company is doing the same but he can't recall. He will follow up on that.

When asked by Ms. Dorothy if trash, recycling and compostable are still available, Mr. Greeson reported yes. He does not anticipate any interruption in either the trash or recycling services. Staff will be in communications in the event they expect disruptions due to employee issues but at this time there is no indication of any changes. At this time, we are maintaining our food composting drop-off location. We have restricted access to the Service Department lobby so the e-waste recycling drop-off has been suspended for now. We are asking our residents to hold on to those electronics until we get passed this and can get that program back up and running.

Mr. Greeson added that he would like to request an executive session when the time is right to discuss compensation of employees.

Mr. Lindsey shared that Worthington Mayor's Court will be open tomorrow evening however going forward there will be a period of closure. If somebody does have a case scheduled for tomorrow evening, they can contact the City to request a continuance of that case if they do not want to come in but we did not want to unilaterally cancel on one day notice somebody's court date.

President Michael commented that Columbus has talked about being able to have remote meetings and remote voting. She is wondering if that is an option for Worthington.

Mr. Greeson shared that he will answer the logistical part of the question and Mr. Lindsey will address the legal side. Council does not meet again for three weeks so we have some time to make decisions about this topic and time to determine what is the best logistics for it. He has tasked our Information Technology director to evaluate the full range of options for doing virtual, not only for City Council but also for the other Boards and Commission that the public may choose to attend. The Parks and Recreation Commission meeting scheduled for this week has been cancelled as has next week's Bicycle and Pedestrian Advisory Board meeting. We are still debating the Municipal Planning Commission meeting later this week before advertising deadlines. We are encouraging application submittals be delayed or be tabled so we are not pressed in time for that event. We do anticipate having, at least logistically some options for virtual participation in meetings. Legality is another issue though.

Mr. Lindsey shared that the Open Meetings law provides that members need to be in person in order to vote. The Attorney General Richard Cordray in 2009 issued a formal opinion that indicated that virtual meetings did not meet the requirements of the statute and therefore would not be permitted. That was a request made by a township as part of their pandemic planning for the swine flu. The Sunshine Manual put out by the Attorney General's office to guide public officials as to both the Open Meetings Law and Public Records Law includes guidance that follows the same path of saying that you cannot have a virtual meeting. Members have to meet in person to be included in attendance.

Attorney General Yost has indicated by a guidance letter over this past weekend the possibility provided at least a legal argument that could be made that in the specifics of the current health emergency with the specific direction and orders provided by the director of Health, Dr. Acton, that an argument could be made that the recommendation as to social distancing under an official order of the state superseded the in-person requirement of the open meetings law. The guidance letter said to seek the guidance of your local legal advisors so it wasn't a formal opinion or binding in anyway. He thinks it was an attempt to put forth a creative argument one could make to support virtual meetings. It is his opinion as the Law Director that while creative, pragmatic and well intentioned, it did not meet the letter of the law in terms of waiving or suspending the requirements of the open meetings law. It is his advice that we are not able to move forward with a virtual meeting. While some lawyers were more comfortable with the Attorney General's guidance and some cities are probably moving forward with video-type meetings. There are a large number of attorneys, like him that did not believe that was a legally binding or valid argument and therefore they were not proceeding with video meetings.

Gary Hunter, formal law director of the city of Athens is the executive director of the Ohio Municipal Attorney's Association. They conducted a conference call today and included the Attorney General in that discussion to try to reach some direction on this issue. On behalf of municipal lawyers, Mr. Hunter indicated that absent an executive order, waiving or suspending the Open Meetings law, it was his view that was not a valid. He Attorney General was at least supportive of contacting the Governor to do that. It is possible over the next few weeks that there might be at least something done It could also be done

legislatively, so whether the Governor under executive authority or the legislature creating something, it is his legal advice that we need to meet in person for the time being.

Mr. Greeson reported that tonight we provided an opportunity for people to submit via e-mail on comments related to agenda items and there are other measures we can take to foster remote public participation. If it is determined that we legally need to have in person meetings as we have this evening, we will explore the full range of opportunities for people to not have to attend but still participate up to and including expanding our live streaming of meetings and other virtual measures by which people can submit their public testimony so that we have limited audiences and make people comfortable participating virtually as opposed to having to come and expose themselves during this time.

Mr. Myers commented that if at some point our meetings go virtual, that will be brought before Council and we will get the final call. Mr. Greeson asked if Council wants the final call. He thinks it is the authority of the Council President in consultation with the City Manager and Public Health advice to make the decision whether a public meeting is held.

Mr. Myers reiterated his comments from earlier this evening. He believes open meetings are fundamental to our system of democracy. He also believes personally, that the open meetings act is an enactment of the general assembly and the last that he checked, we had separation of powers. He is not real certain the Governor can do away with an act of the general assembly any more than the President could an act of Congress merely by a stroke of the pen.

Mr. Greeson commented that we would not take any action without some consultation with Council President and each of you first. Members know that our decisions will be guided by what we think is responsible from a public health standpoint and balanced with our goal to have openness of this government.

REPORT OF COUNCIL MEMBERS

Mr. Bucher asked what, if needed, would an emergency meeting look like if possible, as far as notices just so he is clear between now and our next regularly scheduled meeting. Mr. Greeson replied that he does not recall the specific hours. He thinks he can call an emergency meeting of Council within 24 hours' notice. He does not anticipate at this juncture the necessity to do that given the actions Council took this evening, for which he is greatly appreciative and he will endeavor to provide members as much notice as possible in the event a meeting needs to be called.

Mr. Robinson requested additional information as to what authority the public meetings would go virtual. You said you would consult with the Law Director and Council President but how does that fit into the Charter and City Code. Mr. Greeson replied that we are in unusual times. He believes that in normal times the agenda of the meeting is set by the City Manager in consultation with the Council President. Similarly, he believes meetings can be cancelled following that procedure. It has been our practice that they can be cancelled for lack of business, lack of quorum and other routine reasons like that. We are

not living in a route time right now. We have consulted with Chairs of various advisory bodies to re-schedule, move or cancel their meetings. So by appointment of them to those roles, he thinks they have some delegated authority along with City management.

Mr. Robinson stated that it would not be specifically under the state of emergency provisions. Mr. Greeson doesn't think the state of emergency provisions in the codified ordinance reference public meetings specifically. Mr. Lindsey commented that he does not disagree that prior practice may or may have included cancelling meetings when there are no items for an agenda. Although it has not been done in his time, he believes it process makes sense as a matter of practice. Staff will look at that closer. The actual cancelling of a meeting may require a vote of Council. The problem with when there is not a quorum is how can council cancel a meeting. You can hold the meeting and if less than the majority show up you all go home. He thinks in the past probably with other boards maybe more so than council itself that practice probably derived from that sort of convenience.

President Michael shared that there have been times when all of the work has been done prior to the last meeting in December and Council has voted to cancel that last meeting. That is probably been the best example she can give so it is not something that happens frequently and it definitely includes Council decision with the quorum.

Mr. Greeson stated if Council wants to meet, we will meet. He does not care to make that decision. Staff will figure out the logistics to participate. He understands the importance of openness of your government. We will give you the best public health advice from Columbus Public Health. If it is the authority of the Council as a whole to make that determination, we will make sure we research that and honor that so you make it as opposed to the Council President and he. In the event it is the Council President and his authority, they will work together and do so in consultation with each Council member. We are not going to make willy nilly decisions about this. Mr. Myers said he appreciates that. We understand the importance of it. Personally, he would feel more comfortable cancelling a meeting rather than having a closed meeting. Mr. Greeson stated that we would also endeavor to limit business to only essential business. At Committee meetings, we will work together to try to do what is important but not treat everything as urgent.

President Michael shared that she is sad that the retreat had to be cancelled. She would like for it to be rescheduled as soon as possible after the pandemic eases.

Ms. Dorothy shared that the Cemetery Board meeting is cancelled on Wednesday.

EXECUTIVE SESSION

MOTION Mr. Myer moved, Ms. Dorothy seconded a motion to meet in Executive Session to discuss compensation of employees.

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

Yes 6 Robinson, Smith, Bucher, Dorothy, Myers, Michael

No 0

Council recessed at 9:12 p.m. from the Regular meeting session.

MOTION Mr. Robinson moved, Ms. Dorothy seconded a motion to return to open session at 9:41 p.m.

The motion carried unanimously by a roll call vote.

ADJOURNMENT

MOTION Mr. Bucher moved, Mr. Smith seconded a motion to adjourn.

President Michael declared the meeting adjourned at 9:41 p.m.

/s/ D. Kay Thress
Clerk of Council

*APPROVED by the City Council, this
6th day of April, 2020.*

/s/ Bonnie D. Michael
Council President