



# City Council Agenda

## Minutes

Monday, April 5, 2021 at 7:30 pm

6550 N. High Street, Worthington, Ohio 43085

### Virtual Meeting Information

Link through: [worthington.org](http://worthington.org)

Our Government - Live Stream

#### 1. Call to Order

**Minutes:**

Worthington City Council met remotely in Regular Session on Monday, April 5, 2021, via Microsoft Teams videoconference. President Michael called the meeting to order at or about 7:30 p.m.

#### 2. Roll Call

**Minutes:**

**Members Present:** Peter Bucher, Rachael Dorothy, Beth Kowalczyk, Scott Myers, David Robinson, Doug Smith and Bonnie Michael

**Member(s) Absent:** None

**Also Present:** City Manager Matt Greeson, Assistant City Manager Robyn Stewart, Assistant City Manager Economic Development Director David McCorkle, Law Director Tom Lindsey, Director of Finance Scott Bartter, Director of Service & Engineering Dan Whited, Director of Planning & Building Lee Brown, Director of Parks & Recreation Darren Hurley, IT Director Gene Oliver, Chief of Police Robert Ware, Chief of Fire & EMS Mark Zambito, Clerk of Council D. Kay Thress

#### 3. Pledge of Allegiance

**Minutes:**

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

#### 4. Visitor Comments

**Minutes:**

There were no visitor comments.

## Approval of the Minutes

### 5. Approval of Minutes - March 15, 2021

**Minutes:**

**MOTION** Mr. Bucher moved, seconded by Ms. Kowalczyk to approve the meeting minutes as presented.

**The Motion passed unanimously by a voice vote.**

## New Legislation to Be Introduced

### 6. Resolution No. 14-2021 EMS Billing Contract (Medicount)

Authorizing the City Manager to Execute a Contract with Medicount Management, Inc. as the Billing Agent for the Division of Fire's Emergency Medical Services.

**Minutes:**

**Resolution No. 14-2021 was introduced by Mr. Smith**

**MOTION:** Mr. Myers moved, seconded by Ms. Dorothy to adopt Resolution No.14-2021.

Mr. Greeson described how we bill for medical transports that are a result of our emergency medical services. This resolution authorizes the extension of our billing services with Medicount.

Mr. Bartter noted how we have been with Medicount since 2015 and this will be a four year contract with a rate increase from 6.25% to 6.5%.

Mr. Myers asked if 6.5% is an industry standard. Mr. Bartter replied that it is.

**There being no additional comments, the motion to adopt Resolution No. 14-2021 passed unanimously by a voice vote.**

### 7. Ordinance No. 10-2021 Amend Code - Section 1147.01 (Dog & Cat Day Care Center)

To Amend Section 1147.01 of the Codified Ordinances of the City of Worthington to Add Dog and Cat Care Center as a Conditional Use in the General Industrial (I-2) Zoning District.

**Minutes:**

**Introduced by Mr. Robinson**

**MOTION:** Mr. Bucher moved, seconded by Ms. Kowalczyk to refer this item to the Municipal Planning Commission.

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

### 8. Ordinance No. 11-2021 Rezoning - PUD at 7227 N. High

To Amend the Official Zoning Map of the City of Worthington, Ohio, to Change Zoning of Certain Land from C-2, Community Shopping Center to PUD, Planned Use District (7227 North High Street).

**Minutes:**

**Introduced by Mr. Smith.**

### 9. Ordinance No. 12-2021 Subdivision of 7227 N. High St. and adding to Architectural Review District

Approving the Subdivision of Property at 7227 N. High St. and Amending Section 1177.02 of the Codified Ordinances of the City of Worthington to Revise the District Boundaries of the Architectural Review District. (DRP Worthington LP)

**Minutes:**

**Introduced by Mr. Myers.**

**10. Ordinance No. 13-2021 Additional Appropriation (Gen Fund & 800 Proprietors TIF)**

Amending Ordinance No. 44-2020 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the General Fund and 800 Proprietors Road TIF Fund Unappropriated Balance.

**Minutes:**

**Introduced by Ms. Dorothy.**

**11. Ordinance No. 14-2021 IAFF Collective Bargaining Agreement**

Approving the Provisions of a Successor Collective Bargaining Agreement Between the City of Worthington, Ohio and the International Association of Firefighters Local #3498, Authorizing the City Manager to Execute Same on Behalf of the City and Providing for an Appropriation from the General Fund Unappropriated Balance.

**Minutes:**

**Introduced by Mr. Robinson.**

**12. Ordinance No. 15-2021 Food Waste Pickup**

Temporarily Waiving Section 945.02 of Codified Ordinances of the City of Worthington for Curbside Collection of Household Food Waste.

**Minutes:**

**Introduced by Mr. Bucher.**

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

## **Reports of City Officials**

**13. Policy Item(s)**

**a. New Liquor Permit - American Legion Post 239**

**Minutes:**

Mr. Greeson described how the City received notice from the Ohio Division of Liquor Control that the American Legion has applied for a D-2 permit and a D-3 permit. They are currently on the waiting list for a D-1 permit. A D-1 permit is beer only, D-2 is non-beer up to 42 proof, and D-3 is for beverages over 42 proof. These notices are regularly for new or renewal permits. While the City itself does not issue liquor permits, it does have the ability to request a hearing in order to object to a permit however, Liquor Control has the final decision to issue or renew a permit. The Ohio Revised Code prescribes the criteria that can be used in that process. Mostly, we deal with routine renewals or new permits without unique characteristics. This is a unique circumstance and would have benefitted from additional coordination between the Legion and the neighbors, along with more extensive staff work explaining the issues that will be discussed tonight. If more coordination could have reduced stress between the Legion and neighbors, staff regrets not attempting to provide that information or coordination. In addition to the liquor permit issue, there are also zoning issues involved here due to this being a non-conforming use in a R-10 low density

residential zoning district. Zoning is not a consideration that the state looks at when issuing liquor permits, so the City must address the zoning issues separately. We have become more aware that the City can request a 30-day extension from Liquor Control on whether or not to request a hearing. In this case, if we do that, an extension would allow more time for the Legion and neighbors to discuss concerns, and work to a consensus strategy.

Post Commander Luksik apologized for how this has blown up recently. The Post started work on obtaining these liquor licenses 18 months ago, and the first indication that they were getting to the point of issuance was when he received a call from the City asking if they knew this was happening. If they had known, we would not be at this point and would have brought the City up to speed on what is going on. They are currently trying to relinquish their current D-4 permit which is a members only liquor license, and then obtain D-1, D-2, and D-3 permits for sale to the public. This would allow the Post to better utilize their meeting room for small parties of less than 60 guests such as wedding receptions, birthdays, showers, and reunions. This would allow them to generate income to continue their operations. Some of the comments that he has seen in opposition to their permit requests, he understands their concerns, but an American Legion Post has a lot of rules. They are covered under their national constitution and by-laws, an Ohio constitution and by-laws, and their own Post 239 constitution and by-laws. They exist solely to serve veterans, the community, the state, and the nation, which requires money. They are a 501(c)19 charitable organization, which means they are a military charity. Regardless of what license is carried, operations at the post will remain the same, and the public is not allowed to use the canteen like a public bar. The meeting room will be allowed to be rented for events, however the Post contract would cover the hours, behavior, damages, and noise. If anything untoward occurs, the event will be stopped, and the bartenders at the Post would have no qualms calling the police if necessary. Currently the meeting space is used by organizations such as the Vietnam Vets Association, Columbus Submariners, Blue Star Mothers, Sons of the Legion, and members and guests for events. He described how in their 100-year history, there have been no derogatory issues reported. Chief Ware noted that they did a search for last three years and the only two calls received was for an open door at the facility and the other was a parking complaint. Commander Luksik emphasized that the Post wants minimal interruptions with the community. They have been allowing use of the meeting room for 20 years with no liquor, and it is time to update their policy because they have lost out on potential revenues that are needed for the Post to survive. Mr. Smith asked for current events held at the Post, if the people can bring in their own alcohol. Commander Luksik replied absolutely not, the D-4 license clearly states that cannot be done.

Mr. Myers described how a 30-day pause has been suggested, and that may be beneficial. He asked if that would have an impact on their operations.

Commander Luksik replied it would not and they do not have an objection to that.

Mr. Robinson explained how he lives within a block of the Post and has appreciated the structures and greenery there since he has lived in Worthington. He supports the institution and has learned about the range of actions and programs the Post takes to support the community, and would like to have a vital and sustained Post in Worthington in perpetuity. He asked for a description of the difference between the canteen and the meeting room at the facility. Commander Luksik explained that the canteen is technically their bar, and the meeting room is more like a classroom. Mr. Robinson asked about the rough numbers for their approximate current expenses in order to have a sense of the scope of their operations. Command Luksik replied they are approximately \$20,000 per year to be there and pay all of the utilities. Mr. Robinson asked what their current deficit is. Command Luksik responded they have not made any money in three months and are taking money out of savings. Mr. Smith asked about the parking and wondered how many spots there are in the parking lot. Command Luksik said that there are close to 60 spots there. Ms. Dorothy asked during what times the events that the Legion envisions would occur. Command Luksik explained how they are drawing up a contract with a set closing time where everything is wrapped up and everyone is out of the facility. They also have events earlier in the day. He does understand the concern about night events, and that there will be things clearly listed in the contract that will not be tolerated and will shut down events.

Ms. Kowalczyk asked for an estimate of the number of events that the Legion is anticipating. Command Luksik explained how they are looking at the potential of one per week. The demand is not so high that there would be events nightly and there are already groups using the post.

Mr. Robinson wondered if the events they are currently holding are similar to what is envisioned, or would there be a new type of event held at the post. Command Luksik stated they would be similar to those held in the past. Mr. Robinson inquired whether the sale of alcoholic beverages was currently only to members, or if it was to members and friends or family. Commander Luksik clarified that it is currently limited to members and guests, they have a sign-in book for guests to use. Guests can be anyone of legal age. Mr. Robinson asked if the 60-person number is determined by the fire code. Command Luksik stated that it is.

Mr. Myers asked if current zoning permits this use as proposed. Mr. Greeson stated that he does not believe it does. Mr. Brown detailed how this property is in the R-10 zoning district, and is currently a legal, non-conforming use as it stands today. Looking at just the use, the zoning would need to change on the property. Logically, it would shift to the Veteran's Memorial District zoning created several years ago, that encompasses the property to the north and west of this property where Sharon Memorial Hall is now. The types of activities as

described, are conditional uses in this district. To get to the point where this would be an appropriate and legal use, after rezoning the property, conditional use would need to be approved in the zoning district itself.

Mr. Robinson questioned if under the R-10, a club D-1 liquor license would be a non-conforming legal use. Mr. Brown replied that we do not look at the liquor license at all, the use itself is a non-conforming use in the R-10 district. Mr. Robinson clarified that the way to make the proposed use legal with zoning would be to change to the Veterans Memorial Category. Mr. Brown described how that zoning allows social activities and semi-public uses as a conditional use. If it gets to that point, the Municipal Planning Commission can limit hours of operation and timeframes, maximum numbers of people, parking, and traffic patterns, among other things. Mr. Robinson asked if the actual number of events could be included. Mr. Brown replied that the MPC could look at the days of the week.

Ms. Kowalczyk asked if all the zoning issues should be dealt with first, and what are we looking at as far as the appropriate timing goes. Mr. Greeson shared how a zoning process is a significant amount of time and even if they have the liquor permit, they may not be able to accomplish what they want due to the zoning. He would be concerned about if they relinquish their D-4 permit, and receive the new permits, but not be able to use them due to a zoning conflict or some other reason. Commander Luksik responded that the way the license works is that you cannot have two of the same. They are open for D-2 and D-3, and are number one on the list for D-1. We would not be able to give up our D-4 license until the D-1 would become available. The Control Board has safekeeping, so if they issue it to use it could be held. Mr. Greeson explained how what really matters here is use, and the expansion of the non-conforming use that would cause the zoning issue. Mr. Lindsey explained how the safekeeping of permits is common. From a zoning standpoint, the process would be a 4-5 month process, assuming there is no referendum due to the rezoning. The 30-day extension is something we have not utilized here in Worthington, but would give time for the Legion and neighbors to have a better understanding with each other. We can request a hearing, which would be a several month process, however we can then withdraw the objection if desired and not have a hearing.

Mr. Robinson asked about under the existing zoning, whether events for the public are allowed, and if liquor sales to the public are allowed or not. He wanted to know what was the non-conformable use that would not be allowed under the zoning. Mr. Lindsey explained how the zoning code was adopted after this use was already proceeding at the Legion Post. Having the Post at that location serving as a club for its members, existed long before the City adopted the zoning code. The law then treats it as a legal, non-conforming use, so they can continue to do those activities absent the City exercising additional authority. It is the use as a club for its members that is the legal nonconforming use, but the proposed expansion of that use is what is at issue here. Allowing usage of the

building as a meeting place or event center, is the change in use that prompts the need for zoning changes. It does not matter whether they serve alcohol or not. Mr. Robinson asked if they were only seeking additional liquor permits without the expansion of use for events, would that not also be an added use. Mr. Lindsey detailed how regardless of the alcohol, it is the use of the event space and renting to outside parties that changes the use.

President Michael asked about the timeline to change the use, mentioning the 60-day referendum period, which could affect the liquor permit. Mr. Lindsey described how putting the permit in safekeeping, waiting for the eventual D-1, with the understanding they cannot expand the use until undergoing the zoning process, he does not see a problem with the Post proceeding on that path. However, there is some value in providing this 30-day period before deciding to request a hearing. He stressed that the state both in the liquor code and application process, does not pay much attention to the local zoning, and it will unlikely be a basis for the state to grant or deny this request. Our timing of the zoning would be a separate track for us to pursue. There is some advantage in buying some time on the front end for discussion purposes.

Mr. Robinson suggested that Council make the request for a 30-day extension to the deadline for filing a request for a hearing. There are so many complexities and details that he would like to understand from the Post, as well as the City's regulatory abilities, and residents in the area.

Mr. Myers stated that he does not have a problem with the 30-day extension, but it is not going to change his opinion on whether to file an objection or not. It is his experience that objections to renewals are in response to some sort of nuisance, or objections to new permits are in anticipation of a nuisance. This establishment as served alcohol for years and there has never been a nuisance, and this group does a great amount of good work in the community. There is no way he will oppose them getting these permits. From what he has heard tonight, the vast majority of the criticisms and comments are zoning issues, not permit issues. He sees no reason to request a hearing for these permit applications, and most of the issues can be resolved through the process of a change in zoning.

Mr. Robinson commented that he does not view asking for a 30-day extension to be an indication of opposition to the Post achieving its goals. It is really an opportunity to have residents and the Post, along with staff and Council discuss with one another, and understand how it would actually look if there is rezoning. It makes sense before the Post and the City pursues new liquor licenses that we understand what the final goal is. Even the neighbors in close proximity have a long-term interest in the viability of the post and he wants to achieve that goal. President Michael conveyed how she agrees with Mr. Myers and that the issues we are talking about can be resolved through zoning. She wondered what the reason is we need to have a 30-day extension on the liquor permit, because until the zoning goes through, they cannot do anything with the permit. This

organization has been in our community for a good 100 years and has done a significant amount of positive things in the community with no real problems caused by them. Mr. Robinson responded that if we approve or allow the liquor permits to be granted, it is tacit approval of their proposal. As elected officials, we ought to have a through discussion with the public about this. We have known about this for three days, which is exactly why we should pause before allowing the permits to go through because it sends a signal that we approve of the final proposal. Mr. Myers emphasized how he could not disagree more. He does not see how not objecting to this liquor permit in any way affects the final outcome on zoning. They are apples and oranges. It sounds like we are going to have the same discussion twice. As to the continuance, everybody gets one free of charge as long as everyone agrees, after that you have to fight for it. So far everyone has agreed to one continuance, lets go ahead and take it, and go ahead and hash out some of these things. He does not believe the permit has anything to do with the zoning and will probably talk about them twice, but lets ask for the 30-days.

**MOTION:** Mr. Robinson moved, seconded Mr. Myers to file a 30-day extension request.

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

Mr. Greeson detailed how the next steps would entail having staff sit down with the Commander about engaging the neighbors and trying to come to a consensus solution. We have had long-term outstanding relationships with the Post and he is certain we will find a way forward that meets the needs of everyone.

#### **14. Discussion Item(s)**

##### **a. Update on Mountain Biking proposal for the Olentangy Parkland**

**Minutes:**

Mr. Hurley explained how the proposal being presented on tonight is by Kelly Shaw, a middle schooler at Phoenix Middle School, who put together a mountain biking proposal with several locations as possibilities for mountain biking which has become increasingly popular in the area. He was very impressed with the proposal and even requested that Mr. Shaw join the Parks and Recreation Commission to present to them. The Commission was impressed and asked staff to do some additional research. We have been looking at the site adjacent to the skatepark at the Olentangy Parklands as an entry level mountain biking trail with obstacles. The Parks and Recreation Commission have made a motion recommending doing this on a trial basis in conjunction with a group such as the Central Ohio Mountain Biking Organization (COMBO), they do not want to invest capital funds at this point, all improvements must be approved by city staff for environmental impacts, and staff will notify neighbors in the immediate area to gather input and address concerns. Staff would need to come back to Council with an agreement with COMBO to request permission to enter into an



agreement with them to take the lead and come up with a plan. We would also come back with pictures to illustrate what a facility like this would look like. Ms. Dorothy asked how large the site we are looking to develop is. Mr. Hurley replied that it is a couple of acres in that wooded area, which is really perfect for this type of activity. One of the things the Parks and Recreation Commission liked is that this would help in the goal to remove invasive species such as honeysuckle. We would want to monitor any issues in regards to clearing that may affect the river. Ms. Dorothy asked for confirmation that area right now is bound by the Olentangy Trail, the skate park, and the soccer fields. Mr. Hurley said that is correct. Ms. Dorothy stated how it is a relatively new chip path in that area and there is quite a bit of honeysuckle through there, she hopes we might see a reduction in invasive species in addition to promoting exercising. Mr. Hurley detailed how one of the things that came up is that there was some concern about adding another amenity and crowding that area. As researching this, while it can get busy, a lot of folks would be riding their bikes there from the neighborhoods and would only generate a handful of vehicles at any time. Mr. Robinson asked for a sense of size of this and how it compares to the Gator facility on Hard Road. Mr. Hurley replied that in some aspects it is similar, the closest match to this is a facility at Alum Creek where there is a beginners course. The idea is that this is a series of obstacles that gets people comfortable with maneuvering in these types of facilities.

Ms. Kowalczyk wondered about the access to this and whether it would be off the trail. Mr. Hurley replied there would be a discussion on that and whether we would chip trail up to there, or what the surfacing would be. The preference would be to come off the trail between the skate park and the woods. Over time it could be connected directly from the trail. Ms. Kowalczyk expressed how she wants to make sure it is safe for both people running, walking, or cycling on the trail, and kids trying to get in to this area.

Mr. Bucher asked if there could be signage put up for passer-throughs that the area might be a congestion point. Mr. Hurley said that would be a great thing involving COMBO because they have done this and are used to both the development of these and tying them into other facilities. But at this point we are not at the planning phase yet, it is mostly just brainstorming.

**b. Other Item(s)**

**Minutes:**

Mr. Lindsey updated how as part of the review process for Stafford Village, National Church Residences was willing to enter into a commitment regarding affordable housing for 34 units that will remain affordable. Council authorized the City Manager to enter into a land-use restriction agreement for that purpose. It also included a reduction of the tree fee and a commitment for the possibility of Council doing a TIF ordinance for that property. The agreement was originally anticipated to be signed and then held, but that changed to waiting

until the entity acquired the property. One of the conditions of the agreement was a subordination clause saying that for purposes of financing, we would subordinate to the mortgage holder. Based on additional research, that process is common in the affordable housing world. NCR provided us with a copy of the subordination agreement that was referred to in the original agreement, but the language gave him a little pause. In his judgement, if a bank had to foreclose on this property, he did not want that being done under false pretense or later the property coming back into NCR's control, and not be required to have the 34 affordable units. In order to protect that remote possibility, he asked them to make some changes to it clarifying that if the property comes back into NCR's hands, they would be required to maintain the 34 affordable units.

## Reports of Council Members

### 15. Reports of Council Members

#### **Minutes:**

Ms. Dorothy stated that she saw there is the potential if the federal government passes the latest infrastructure program, there could be dollars to replace lead water pipes, which she knows there are some in Worthington. If that does pass, she hopes that we would look into getting some of that funding to replace our water pipes sooner rather than later.

Mr. Myers requested that Mr. Whited call him to discuss resident concerns about glass shards in the streets. Mr. Whited replied he would be happy to do that.

Mr. Smith explained how he knows we do our Street Improvement Program this time of year, and he would ask staff to streamline that. He has been tracking asphalt pricing, and he would suggest doing things sooner rather than later due to costs increasing.

Mr. Bucher expressed how he wanted to share a topic that came up at the recent E-SID meeting about R-PACE, if anyone would like to have a separate meeting with folks from the Columbus Finance Authority on this, let him know. He would like to take them up on the offer.

President Michael described how at the Central Ohio Mayors and Managers (COMMA) Meeting this past week, one big topic was Senate Bill 22 and its House companion bill. It would change the taxation of employees and where they work 30-days after the lifting of the health orders. It is a confusing legislative process, with part of it included with the budget bill. COMMA is asking that anything having to do with municipal taxation to be looked at the end of 2021. Nobody knows what these changes would do and we may be asked to submit a resolution urging legislators to wait until the end of 2021 before making municipal tax changes. The other thing is that a number of communities are planning to have Memorial Day parades and July 4th fireworks. They will be paring back public events, but having places where families can have their own marked off areas to do things safely. Mr. Greeson explained how the incident command and planning groups are meeting to discuss the activities and events

planned for the next years. The Legion has gone ahead and conducted sign-ups for the Memorial Day parade, but we have not told them it is a go at this point since we permit that event.

## Other

### Executive Session

#### 16. Motion for Executive Session

**Minutes:**

**MOTION** Ms. Kowalczyk moved, Mr. Smith seconded a motion to go into Executive Session to consider Board and Commission appointments.

**The clerk called the roll on Executive Session. The motion carried unanimously by a roll call vote.**

Council recessed at 9:13 p.m. from the Regular meeting session.

**MOTION** Mr. Myers moved, Ms. Dorothy seconded a motion to return to open session at 9:21 p.m.

**The motion carried unanimously by a roll call vote.**

### Adjournment

#### 17. Motion to Adjourn

**Minutes:**

**MOTION:** Mr. Robinson moved, Mr. Bucher seconded a motion to adjourn. The motion carried by a voice vote.

**President Michael declared the meeting adjourned at 9:21 p.m.**

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Contact: D. Kay Thress, Clerk of Council (Kay.Thress@worthington.org (614) 436-3100) | Minutes published on 04/15/2021, adopted on 04/19/2021

/s/ Ethan Barnhardt  
Management Assistant

Attest:

/s/ Bonnie D. Michael  
President of Council