



City Council Agenda

Minutes

Monday, July 19, 2021 at 7:30 pm

6550 N. High Street, Worthington, Ohio 43085

1. Call to Order

Minutes:

Worthington City Council met in Regular Session on Monday, July 19, 2021. 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, 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 - May 17, 2021, June 7, 2021, June 14, 2021, June 21, 2021, July 6, 2021, July 12, 2021 (Special) and July 12, 2021

Minutes:

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

The motion carried unanimously by a voice vote.

Public Hearings on Legislation

6. Ordinance No. 24-2020 Rezoning 6580 Huntley Road

To Amend the Official Zoning Map of the City of Worthington, Ohio, to Change Zoning of Certain Land from I-2, General Industrial to I-1, Restricted Light Industrial at 6580 Huntley Road (100-006136).

Minutes:

The foregoing Ordinance Title was read.

Mr. Brown described how this request is to rezone from our I-2 heavy industrial district to our I-1 which is our light industrial and office category. The property is on the east side of Huntley Road and is a little over 2.5 acres in size. SuperGames moved from Lakeview Plaza in 2019 to this location at 6580 Huntley Road. They are requesting to rezone their property as a means to produce additional revenue to operate a small satellite recreational facility in the building. This facility is a pickleball court in the northwest portion of the building and since it is considered a recreational use under our code, it is not permitted under the I-2 zoning. The applicant has requested to rezone to the I-1 district to allow for the use. In 2019, the BZA did approve a variance for signage on the site and in May 2020 they approved a variance for fencing in the front yard setback. In June 2020, Council referred the rezoning application to the MPC, but the applicant decided to go to the BZA for a 6-month temporary use permit, which they have the ability to issue two of. The Board in October 2020 did allow a temporary use permit to allow that to be in existence, and then staff issued a 90-day one in March of 2021. This current request went before the MPC at their June 10th meeting where they recommended denial for the reasons outlined in the staff memo. One of the rationales for staff's recommendation for denial was that it created spot zoning in the industrial corridor. With spot zoning, it lessens your ability to deny future rezoning in the corridor. The surrounding properties are more intense in use. With zoning, it does not just control existing uses but also guides future development. The overall use proposed was not as much of an issue in the denial as changing the zoning on the property long term, looking to the next generation.

Ms. Kowalczyk asked about the listing of uses in I-2 and if SuperGames wanted to put in a restaurant, whether that would be a permitted use currently. Mr. Brown replied that it would be a conditional use and would need MPC approval to have a restaurant. Ms. Kowalczyk expressed how strange it is to allow restaurants under the current zoning, but not something like this if the rationale is the overall picture of what is going on in the district. Mr. Brown explained how looking at our code, some of the uses are a little peculiar, but perhaps in previous years, larger sites had cafeterias, which is one of the reasons why in the I-2 district they are a conditional use.

Mr. Robinson asked when the applicant purchased the property. Mr. Brown replied they moved there in September of 2019. We started talking with them before they moved from Lakeview Plaza to discuss what is permitted under the current zoning. The pandemic is what really shifted their mode. Mr. Robinson asked if anyone from the City indicated to the applicant that a rezoning would be possible or probable. Mr.

Brown responded that from a staff standpoint, there was a discussion with the applicant that they wanted to rezone or change the code. Our recommendation was to not rezone or change the code, that the use needed to find a different home. During the pandemic when it went before the BZA, there was the thought it was a way to help to issue a temporary use. Mr. Robinson asked whether it was correct that when the applicant purchased the property there was no indication or encouragement that rezoning would be allowed. Mr. Brown said not from the City staff.

Ms. Dorothy went back to the permitted uses and asked what commercial entertainment facility is talking about. Mr. Brown explained how that refers more to things such as bowling alley-type facilities. Ms. Dorothy asked if the pickleball is existing right now. Mr. Brown said that it is, and they installed the pickleball court, which started the conversation.

Mr. Coulter explained how this was discussed extensively at the MPC and the issue was not primarily pickleball, the issue was spot zoning. It is very rare to see a change with spot zoning anywhere. If it had touched an I-1, we would not be here tonight because it would be adjacent and much easier to do. The tact that we took was instead of coming back and saying it should not be allowed because it is pickleball, but rather that this is spot zoning and whether this is a road we want to go down. Without exception, he does not think there would be an issue if this was approved, but this should come to Council as the correct avenue to go. If this is allowed here, it will probably not be the last time we see these types of requests for spot zoning.

Mr. Robinson asked if Mr. Coulter considered a PUD to be spot zoning. Mr. Coulter replied no, it is a whole different application process. Within the confines of a PUD, you have a lot more flexibility to do things that can be better defined in the PUD language.

Mr. Butcher with SuperGames explained how he is representing the organization and thanking Council for their consideration. The pickleball was really some help during COVID since they essentially closed down due to zero business in the amusement industry. It was an opportunity to stay afloat and keep people employed. Later they found out that it was something that the Worthington community really enjoyed, and the facility is still popular.

Ms. Dorothy asked how many participants they are seeing use the pickleball facility. Mr. Butcher replied that there are none because they are waiting to see whether it is something they can continue to do. Usually, it is up to 12 participants at one time, adhering to safe COVID restrictions. Ms. Dorothy asked what the operating hours were. Mr. Butcher responded that it was usually in the morning hours and sometimes in the evening.

Ms. Michael asked whether this was something that would be suitable for a PUD or not. Mr. Brown replied that staff would rather see spot zoning than a code change. A PUD could be a way to build in a percentage of the building being used for this type of use. Looking into some of these definitions is bringing people into an area where the uses have been attempted to be separated out. A modified version of a PUD could be an option to try. Ms. Michael asked if we wanted to look at a PUD, we would defeat the

ordinance tonight and then the applicant would be able to work with staff by looking into a PUD.

Ms. Kowalczyk asked whether there was any reason why we couldn't potentially make the argument it is an entertainment use and not have to change anything. Mr.

Lindsey explained that the definition would seem to not include this particular use, it is more of a recreational and not entertainment use. If we wanted to make a code amendment that would include recreational uses within an entertainment use, then that would be a discussion that could come to Council to decide. When looking at our I-1 district, he would have the view it is overly broad as it is and defeats the purpose of trying to segregate uses. It is his opinion that the recreational type uses are not in entertainment use as code provides.

Mr. Robinson asked Mr. Lindsey to explain the standard that a proposal needs to meet for the MPC to either grant approval or be required to give approval. The MPC approval does seem like a layer of regulation that allows the City to now allow uses.

For example, if someone came with an entertainment use and said it is a conditional use that needs to be approved, is the City then obligated to approve such a request.

Mr. Lindsey explained that in general, he would not say obligated to, the review of whether a set of conditions can be reached to make the use fit within the surrounding uses in that district, there is discretion to either grant or not grant those conditional uses.

Mr. Robinson explained that modifying code to enable recreation in addition to entertainment would solve the immediate problem and then maybe we wouldn't need to change the existing zoning, enabling us to regulate moving forwards.

Mr. Lindsey explained that amending the definition to include it would require a legislative act by Council.

Mr. Robinson explained how his comments about PUDs versus spot zoning was to emphasize that he believes that through PUDs we are already conducting spot zoning. Mr. Lindsey stated that we can have a broader discussion about spot zoning and what is legal versus illegal. It was used by Mr. Coulter in the sense that creating an island within a district where you have a small parcel surrounded by other uses that are not consistent with the proposed use by the zoning of a particular parcel.

Legally, the number of parcels or size of parcels does not definitely determine whether a court would or wouldn't find it to be a lawful rezoning.

President Michael explained to add recreational use would require a separate ordinance that is not in front of the Council tonight. Council would need to defeat this ordinance tonight and then look at amending or a PUD.

Mr. Myers expressed how this is not the first time there has been this type of discussion in this district. It is Council's debate and decision to look at this as Huntley Road and what we want it to be. Huntley has always been planned as our light industrial corridor and we have wanted to preserve that, hoping to attract more light industrial uses. The debate is whether we want to keep this as an industrial corridor. If we do not care, if we consider this to be an outlier and acceptable use and are not concerned with this as encroaching on the light industrial district, then let us just grant the rezoning. If we want to preserve this as a light commercial warehouse district, then we need to vote down the rezoning and be done with it.

Ms. Dorothy said this goes to a larger question, whether we stick with a segregated use. She would love to see us go to more of a form-based use, with restrictions on what it looks like for the buildings and setbacks, but less restrictive on the type of business that goes in there.

Mr. Robinson explained how he sees the City policy of encouraging and maintaining the general industrial character of Huntley to be a good thing. His question would be if modifying code so that the conditional use could include a recreational facility, would we still not have the ability to regulate that through the MPC. Mr. Myers said it is the opposite, if you go ahead and make broad the permitted and conditional use to the entire district, for that zoning, you then open up the whole district. Why not just go ahead and grant this use, let's just rezone this one parcel and limit the expansion to one parcel rather than opening that up to the entire corridor.

Mr. Robinson asked if entertainment or recreational facilities would want to locate in Huntley, it would seem that it is a one-off. President Michael said that if you open it up, it is open to the entire corridor. You want to be able to have industrial when you can have it, if it is opened up then you have to allow the recreational in. If people have to come in and request a change like in this instance, you have more control. Mr. Robinson asked if we would not likewise be compelled to rezone, it seems to him that the logic follows the same. Mr. Myers replied that if they meet the criteria for conditional use, then we would grant it. You cannot arbitrarily deny any zoning request. His bottom line is why make this harder by going back and amending code, exposing us to the unknown. If we are intent on allowing pickleball at this one facility, then let us just rezone this one parcel.

There being no additional comments, the clerk called the roll on Ordinance No. 24-2020.

The motion was approved by the following vote:

Vote Results: Ayes: 4 (Kowalczyk, Dorothy, Smith, Michael) / Nays: 2 (Bucher, Myers) / Abstain: 1 (Robinson)

Ordinance No. 24-2020 was thereupon declared duly passed and is recorded in full in the appropriate record book.

7. Ordinance No. 31-2021 CIP Appropriation - 2021 Bike & Pedestrian Improvements Program

Amending Ordinance No. 44-2020 (As Amended) to Adjust the Annual Budget by Providing for an Appropriation from the Capital Improvements Fund Unappropriated Balance to Pay the 2021 Bicycle & Pedestrian Improvement Program and all Related Expenses and Determining to Proceed with said Project. (Project No. 719-21)

Minutes:

The foregoing Ordinance Title was read.

Mr. Whited overviewed how the CIP includes \$100,000 per year for bicycle and pedestrian improvements, and the Advisory Board has recommended based on our Master Plan to engage a consultant on scoping for five projects with those funds. Those funds will be used for that consulting and the remainder used for projects to the extent possible. Staff solicited proposals from several consulting firms, interviewing them last week, and selecting one at the cost of \$50,000, leaving

\$150,000 for the use towards those projects. We would recommend moving forward with the use of the funds for these purposes.

Ms. Dorothy asked how quickly this will be done. Mr. White responded that the consultant is engaged and ready to go as soon as they can. The timing will depend on the magnitude of the projects, so the question is not answerable with certainty.

There being no additional comments, the clerk called the roll on Ordinance No. 31-2021.

The motion carried by the following vote:

Vote Results: Ayes: 7 / Nays: 0

Ordinance No. 31-2021 was thereupon declared duly passed and is recorded in full in the appropriate record book.

8. Ordinance No. 32-2021 Source of Income Discrimination

To Amend Chapter 539 “Discriminatory Practices, Civil Rights, Disclosure” of the Codified Ordinances of the City of Worthington to Prohibit Discrimination in the Rental or Leasing of Housing Accommodations Based on Source of Income.

Minutes:

The foregoing Ordinance Title was read.

Mr. Greeson detailed how this is an important effort that is coming to fruition. It was brought to Council last year by the Community Relations Commission and was prioritized by the City Council at their 2021 planning retreat.

Mr. Pauline, Chair of the CRC overviewed the timeline for Source of Income, starting in July 2020 when the CRC developed a list of priorities being worked on by three working groups. The Social Justice committee took on the heavy lifting of this particular initiative. Council approved the list of priorities which includes SOI and complements the Non-Discrimination Ordinance that was worked on a year and a half ago. Efforts made by the CRC for this legislation include the creation of a webpage for public engagement, a FAQ fact sheet, an information column in ThisWeek News, and the sending of 214 letters to Worthington landlords seeking their input via a survey. There was also a community education panel discussion on June 8th, that had close to 20 people participate. The CRC conducted two Q&A sessions on June 15th that did not receive much participation, which other communities also experienced. We tried to balance our outreach, by speaking with the Columbus Apartment Association who was not against the legislation but wanted to make sure we understood how this would impact property owners. On June 22nd, the CRC formally endorsed the legislation for Council.

Ms. Sweeney detailed how the City received 30 responses to the landlord survey, representing about a 14% response rate. Broadly, landlords had a positive experience with accepting alimony, child support, or social security benefits. Some concerns were expressed over the administrative burden of accepting vouchers. Most of the concern was around the uncertainty around whether people would continue to receive benefits. The way that housing authorities have done payments has changed substantially and payments are direct deposited. Education could help landlords through some preconceptions. The surveys also showed that we don't have many

landlords that have accepted different types of income. We do have a number of landlords that feel comfortable with payments such as social security but feel least comfortable with payments from student loans.

Mr. Pauline mentioned that a few concerns were about whether this is currently a problem in Worthington. We are not aware of many, if any cases of discrimination when it comes to the source of income. He hopes that Council and the community can understand we are doing this as a proactive effort so people know that Worthington is not a place where this is okay and we are an inclusive and welcoming community.

Mr. Myers asked what the enforcement mechanism is. Mr. Lindsey replied that it would be similar to what is in the existing non-discrimination ordinance where someone would file a complaint with the City Clerk, referred to the Law Director for investigation who would have the ability to hire an investigator. As part of the process is a mediation opportunity and if that is unsuccessful and there is probable cause that discrimination occurred, there will be a hearing process with a hearing officer selected by the City Manager. The outcome of that would be a cease and desist order, and the ability to impose a civil fine. Failure to comply with the cease and desist order would be a misdemeanor offense and would result in the potential for criminal prosecution.

Ms. Kowalczyk expressed how she was interested in the educational component moving forward if this passes. Ms. Sweeney replied that a number of communities are working on this and it could be a good opportunity to collaborate with other communities, creating an online tutorial where people can walk through important parts of the voucher process. Mr. Pauline said there were a number of people who said they wanted to stay engaged, so we will reach out to those people, directing them to resources that will remain on the website.

Ms. Klaben, President of Strategic Opportunities, explained she is working on behalf of Building Welcoming Communities, a group of people throughout the region who are working to create a more welcoming community. She thanked the staff and Council for their leadership. What has been developed here is a great example for other communities. She has worked with four other communities that have adopted this so far, and they are working with four others that are currently pursuing this. The more communities who do this, the word will get out. She is strongly supportive of this ordinance and encourages adoption tonight. When communities adopt source of income legislation, the access to better housing options increases dramatically.

Ms. Dorothy said in the US there are numerous studies that show your outcome in life right now is affected by the zip code that you live in. We have highly concentrated poverty, especially in Central Ohio. She is totally in support of us being better integrated and giving better opportunities for people of all income levels. For landlords, this source of income is something that is very stable and shouldn't be a burden for them.

Ms. Boos, Executive Director of the Affordable Housing Alliance of Central Ohio, detailed how their landlord members own over 10,000 units in Central Ohio, including in Worthington. Too many residents in Franklin County cannot afford rent, but there are also too many who can afford safe housing but are barred from accessing it due

to landlords refusing to accept their lawful income. A recent survey found that 2/3 of landlords readily admit they will not support child support which primarily affects women, 1/2 refuse to accept SSI that benefits those that are disabled, and 1/2 refuse to accept housing vouchers. The result is that in the midst of a runaway housing market, too many people are barred from communities they cannot afford. Income discrimination does not only target those trying to move into a community but can also displace existing tenants. She commended the public engagement process Worthington has undertaken, including fact-finding and resource sharing.

Mr. Myers explained how we hear anecdotal evidence from landlords that vouchers, require another set of business practices and the argument is then that some landlords will just abandon their properties rather than engage in that process. He wondered if there is empirical evidence supporting that. Ms. Boos replied there is no evidence to suggest that. Similarly, there is no research that supports rents will rise or housing stock will be removed from the market.

Mr. Britton added his personal support for this ordinance and how he is representing the League of Women Voters of Metropolitan Columbus. He added the League's support for this ordinance as well. This is good for the community and business as well.

There being no additional comments, the clerk called the roll on Ordinance No. 32-2021.

The motion carried by the following vote:

Vote Results: Ayes: 7 / Nays: 0

Ordinance No. 32-2021 was thereupon declared duly passed and is recorded in full in the appropriate record book.

9. Ordinance No. 33-2021 Solid Waste Collection and Disposal Contract

Authorizing the City Manager to Execute a Contract for the Collection, Transportation, and Delivery for Disposal or Processing of Residential Solid Waste, Recycling Materials and Yard Waste.

Minutes:

The foregoing Ordinance Title was read.

Mr. Greeson detailed how we have opened bids and we need to briefly overview those.

Mr. Whited explained how there was previously a detailed conversation from Mr. Chandler over our solid waste contract. Our current fee is \$15.24 per account and we expected a much higher bid than what we received. These are status quo bids, same as previous years, along with an alternative to allow direct billing. Bids came in at \$23.05 per account from Rumpke and \$18.74 for Local Waste for the five-year contract. The three-year contract came in the same from Local Waste Services, and with a flat rate for years four and five which would be renegotiated at that time. Rumpke was \$22.57 with escalations at year four and five at that option. The direct bill option is a \$2.55 per account surcharge. The staff recommendation is to proceed with a five-year contract with LWS at \$18.74 per account or \$1.191 million.

Mr. Myers asked how much the refuse workers for LWS are paid. Mr. Weaver from LWS replied that the guys on the back of the truck start at \$18 per hour and the guys

driving are \$22-25. Some of our price increases from other communities have already been put in the budget to go ahead and increase wages at the first of the year. To respond to the market, they have to be the highest paying in Columbus. They ask their guys to do more and pick up more, and we pay them more. Mr. Myers confirmed that they do, they are doing a great job.

Mr. Robinson asked where LWS is headquartered. Mr. Weaver replied they are in South Columbus, which is just outside of Obetz. He offered if anyone would like to tour the facility, they would be happy to accommodate.

Ms. Dorothy expressed her appreciation for everyone who works so hard when they come through the community, it really shows. Mr. Weaver noted that at the first of the year there won't be anyone on staff who makes less than \$20 per hour, they are proud of that.

Mr. Robinson asked if we went to direct billing it would be an additional \$2.50 per account per month. Mr. Whited said it would be per quarter.

MOTION Mr. Smith moved, seconded by Mr. Myers to amend Ordinance No. 33-2021 as presented with the Council materials.

The motion to amend Ordinance No. 33-2021 carried unanimously by a voice vote.

There being no additional comments, the clerk called the roll on Ordinance No. 33-2021 (As Amended).

The motion carried by the following vote:

Vote Results: Ayes: 7 / Nays: 0

Ordinance No. 33-2021 (As Amended) was thereupon declared duly passed and is recorded in full in the appropriate record book.

10. Ordinance No. 37-2021 CIP - HVAC Improvement Program

Amending Ordinance No. 44-2020 (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 HVAC Improvement Program - Assessment and all Related Expenses and Determining to Proceed with said Project. (Project No. 720-21)

Minutes:

The foregoing Ordinance Title was read.

Mr. Whited overviewed how the HVAC throughout the City buildings are almost all beyond their useful life. This particular design assessment is relevant to the Municipal Building, Fire Station, Griswold Center, MAC, Service and Engineering building, and Parks Maintenance building. We put an RFP out that received five responses, and short-listed that to three. After interviews, we selected Prater Engineering who did our police station. We are pleased with their professionalism and quality of work. The first step will be completing an assessment so we can get a feel for where we are going rather than barging into full design. Proposed is a \$40,000 fee for Prater to complete that assessment.

MOTION Ms. Dorothy moved, seconded by Mr. Robinson to amend as presented in the Council materials.

The motion to amend Ordinance No. 37-2021 carried unanimously by a voice vote.

There being no additional comments, the clerk called the roll on Ordinance

No. 37-2021 (As Amended).

The motion carried by the following vote:

Vote Results: Ayes: 7 / Nays: 0

Ordinance No. 37-2021 was thereupon declared duly passed and is recorded in full in the appropriate record book.

11. Ordinance No. 38-2021 Appropriation of Property for Northbrook Relief Sewer Project

Authorizing the Appropriation of Private Property for the Public Purpose of a Sanitary Sewer Project, Specifically the Northbrook Relief Sewer Phase II Improvements.

Minutes:

The foregoing Ordinance Title was read.

Mr. Lindsey detailed how this is the next step in the appropriation of private property beginning last fall when Council passed a resolution declaring the necessity and intent to appropriate property necessary for the Northbrook Relief Sewer Project. That sewer project involves an existing sewer that has been in place for almost 100 years. The Kenyonbrook sewer project is also dependent upon the completion of this project. The ordinance here would authorize the filing of an eminent domain case so as to determine the appropriate compensation for Mr. Gideon. The City has hired the services of Frost, Brown, Todd to assist with the appropriation filing, who also handle the NE Gateway process. Eminent domain proceedings are primarily related to the value of the property taken, in this case, there is an existing sewer there which exists in an easement that was platted with the development of these properties. The property owner in the 1920s granted an easement for that sewer which is an unrecorded easement. The platted easement when the properties were subdivided is of record and does exist in the County Recorder's office. The question here is of the appropriate compensation paid to Mr. Gideon for this property. He noted there are additional property owners adjacent to Mr. Gideon. We received from the attorney that his neighbors felt they had been told they had to sign the easement that they signed.

Mr. Gideon provided some background on his situation, he loves his house and yard, it is where he finds peace and contentment. His parents were able to achieve a lifelong dream when they built their house in Worthington in 1965. He and his siblings were raised in the house, and his parents resided there until shortly before they passed away. His parents loved their house on Chaucer Court. Two years after moving into the house, the sanitary sewer had a failure in 1967. As a result, the City came in, tore up the yard, and replaced the sewer. Shortly after that, the City of Worthington filed a lawsuit against his parents, claiming they had something to do with the failure, but they did not. The lawsuit was great stress and worry to them for a long time before eventually, the City dropped the lawsuit. In 1980, the City began to consider upgrading the sewer. In extensive correspondence over many years, the City and its representatives acknowledged they do not have an easement and sought an easement from his parents as well as nearby residents. About 10 years ago, the City sent notice they were moving forward with the sewer and wanted to discuss it. He

made a number of visits to discuss it with the Department of Engineering. Unfortunately, the City did not complete any engineering studies or cost comparisons to indicate they had formally considered any other route for the sewer other than its current path. The sewer was built over 100 years ago across farmland and since then the entire area has been developed. There are homes and families in the vicinity and path of the sewer and it should be relocated. There are large beautiful trees on the property which they do not want to lose. The City through the Arbor Committee attests to wanting to preserve trees in the City of Worthington. Mr. Guideon read the website how, " The Worthington Arbor Advisory Committee believes the urban forest is a unique asset that provides our community with a beautiful, healthy and comfortable environmental base. When we consider Worthington- it's downtown, parks, street trees, and public, commercial, and private landscapes, we take great pride in being residents of a progressive and attractive community." Unfortunately, through this entire process, he does not see that trees were of any importance or consideration to the process conducted by the City Engineer or Legal Department. On one of his visits to the City offices, he noticed there had been a change in the drawings for the route of the sewer on the property owned by the Tonti Organization just south of his property. Instead of the sewer diagonally crossing, he saw the City had redrawn the location of the sewer so that it was squared off on the property. That is exactly the request that he had made to the City so that the sewer would not diagonally cross his property, but rather be squared along the property lines. He inquired as to the circumstances under which the City had relocated the sewer on the Tonti property, and was really not given a satisfactory answer. In March 2020, he and his attorney had a lengthy meeting with the Department of Engineering to discuss the sewer and alternative routes, and the City was unable to provide any documentation that any other routes had been seriously or formally considered. Subsequently, in reviewing documentation with the City, he was able to get a better appreciation for the circumstances the sewer was rerouted on the Tonti property. The City had approached them with a request for the sewer and Mr. Tonti requested that the sewer be rerouted and the request was quickly granted and the route was redrawn and the City paid all the engineering expenses for that re-route. He wished that the City could have given him as much consideration as they gave to the Tonti Organization. In March 2021 at the request of the City, he met with Mr. Jim Viall the representative of the City in this matter and the outcome was that there were several offers made to the City and Mr. Viall indicated that a response would come shortly from the City. Months have now passed and there has not been a single response from the City. In brief, the City's proposal would eliminate almost all the trees on the south end of his property and most of the trees on his neighbor's property. It would completely destroy the beauty and value of the property. He would like for the City to more seriously consider finding another route for the sewer and he would like to request the City provide a serious and prompt reply to the offers he made back in March 2021. He recognizes the City has an obligation to the operation of the sewer, but he feels seriously there are alternative routes that have not been seriously considered.

Ms. Willard expressed that she was here in support of her neighbor, Mr. Gideon, who informed her a lot about how easements work. She said they did submit an affidavit that it was about a month after they closed on their property in June 2019, that they have someone come to have them sign the easement. However, they just really did not understand their rights and did not get a concrete response about the trees that would need to be dug up. They were given the indication that if they did not sign, their property would be condemned if they did not sign. She understood the urgency of the sewer project, she wants it to be done, and she is open to a solution.

Mr. Robinson asked if the word condemned was actually used by the gentleman. Ms. Willard said that it was. Mr. Robinson asked what was the essence of the affidavit submitted. Ms. Willard responded that it was mostly that they felt coerced. They asked about considerations they would want to be made, but the response was very much nonchalant and it needed to be signed.

Mr. Lindsey explained how Mr. Wetmore with the Service and Engineering Department communicated with Mr. Gideon several years ago in the process to determine the easements necessary. His understanding is there was some discussion after Mr. Gideon asked about alternatives, however in order to reroute the sewer along the rear of his property, it is not from an engineering standpoint a feasible alternative due to the grade involved, resulting in an above-ground sewer due to the need to have a sewer that goes downhill. That situation is not present on the Tonti property that Mr. Gideon referred to. The route taken is not consistent with how the properties are platted because they were built when it was an open field. The change in the engineering on the Tonti property did not have the same dilemma in terms of grade. Mr. Whited concurred that Mr. Lindsey's interpretation was correct and that information was given to Mr. Gideon's attorney. They looked at that option and it would be out of the ground which is not feasible. The Tonti property did not have the same situation and it is better located now because it is not along a ditch which is not desirable. This sewer is not being replaced because we just want to, but we are under Findings and Orders from the Ohio EPA to get this done. Neighbors have frequent sanitary sewer overflows in their yard which we really want to take care of and do not have the option to move the sewer where we would be happy to do so if we could accommodate that but it does not work to put it on the backside of the property and it is not physically possible.

Mr. Robinson expressed that it sounds like the topography there on Mr. Gideon's property does not allow for rerouting around the property line. He asked if every option has been explored. Mr. Whited replied every practical option has been explored.

Ms. Dorothy asked what percentage of Worthington's sewer goes this. Mr. Whited said that a smaller portion but it all connects to Selby and goes down to the mainline through the cemetery. Ms. Dorothy said this seems like an unfortunate situation, but we are also serving a lot of other Worthington residents for sanitary sewer which is important to have a healthy society.

Mr. Robinson asked Mr. Gideon whether or not the explanations that have been given

are acceptable and if not, why not. Mr. Gideon responded that Mr. Whited has indicated previously what he has now, but there has not been any formal engineering work done to answer that question that they have been provided with. If the consideration had been handled in a serious manner to consider the engineering and comparative cost, they would have expected an engineering study and comparative cost analysis to seriously evaluate the relocation of the sewer. That has never been done. If that is not the case, then let us get the matter settled right away. That just tells him the City has not taken any serious consideration of alternative routes. The diagonal that was squared out on the Tonti organization property was a much larger area than on his property and his neighbor's property. It is a small triangle compared to the reroute that has been made on the Tonti property. There are other options as well that they have asked the City to consider and would like to see engineering on those as well, utilizing public right-of-way. The sewer could conceivably be located under Chaucer Court or it could be moved down High Street and go down Selby Boulevard. That would ensure that the installation of the sewer and maintenance could be done in such a way where you are not going through people's backyards. Mr. Myers asked when we responded to the public records request. Mr. Lindsey answered that the request would have been in 2019 and we provided all the records we had regarding this sewer. He knows that Mr. Wetmore indicated he contacted EMH&T who is our consultant on this project regarding the feasibility of the other options. He knows they have looked at it, however, he is not sure what level of study they undertook. The question of location is an engineering policy decision. The eminent domain process is to determine just compensation for the property taken. He indicated that this sewer was in place and indicated on a recorded plat when this became a subdivision and anyone building a home in that subdivision had notice through the recorded easement that there was a sewer running across both of these two properties. Mr. Myers explained that it is his understanding that prior to an appropriation we would need an appraisal and an offer to be communicated to the property owner prior to filing the appropriation complaint. Mr. Lindsey explained how Mr. Viall who was the consultant with MS Consultants that took over these matters did provide Mr. Gideon and his attorney the City's appraisal that was approximately \$50,000. Mr. Gideon acquired other appraisals that indicated a significantly higher value. He did not know or understand that their counteroffer had not been formally rejected until tonight, so he will contact Mr. Viall to confirm. Similar to the NE Gateway, we would be open to continuing any negotiations or discussions regarding the price we would pay for the easement we need, but not the relocation due to the engineering impracticalities. Mr. Myers clarified that our take is not the property itself, but the right and easement of access. Mr. Lindsey confirmed it would grant us a permanent 30-foot easement that is consistent with the easement that the prior property owner of the 1920s granted. The plat only shows it as an existing five-foot easement. We have not been able to determine why the plat is inconsistent with the written easement that we subsequently discovered throughout this process. It also includes a temporary easement during the construction period. Mr. Myers described

his experience working with land banks, and how they sometimes have had aggressive negotiations. He wanted to make sure Council was reported to with the findings of Frost Brown and their investigation of what transpired. Mr. Lindsey responded he would do that, the challenge is that Mr. Rocco is unable to respond to the allegations.

There being no additional comments, the clerk called the roll on Ordinance No. 38-2021.

The motion carried by the following vote:

Vote Results: Ayes: 7 / Nays: 0

Ordinance No. 38-2021 was thereupon declared duly passed and is recorded in full in the appropriate record book.

New Legislation to Be Introduced

12. Resolution No. 29-2021 Worthington Tax Incentive Review Council Follow-Up Actions

Accepting the Recommendations of the 2021 Worthington Tax Incentive Review Council Concerning Parcels of Commercial Real Property in the City of Worthington Receiving Tax Exemptions for Purposes of Economic Development.

Minutes:

Introduced by Mr. Bucher

MOTION Ms. Kowalczyk moved, seconded by Mr. Smith to adopt Resolution No. 29-2021.

There being no comments, the motion to adopt Resolution No. 29-2021 passed unanimously by a voice vote.

13. Resolution No. 30-2021 Power a Clean Future Ohio

Authorizing the City of Worthington to Become a Power a Clean Future Ohio Community.

Minutes:

Resolution No. 30-2021 was introduced by Mr. Bucher

MOTION Mr. Myers moved, seconded by Ms. Dorothy to adopt Resolution No. 30-2021.

Ms. Kowalczyk asked what passing this resolution means moving forward. Mr. Greeson replied we would appoint someone to be the contact for Power a Clean Future Ohio and we will begin participating in a collaboration. We will receive information and we need to fill out a survey on our current activities, which we have already catalogued as part of our Sustainable 2050 submittal. Ms. Stewart explained when this was discussed in June, Council indicated a desire to connect resources from PCFO into the Visioning efforts, so there is a note in the resolution stating the intent to do so.

Mr. Bucher explained how it is a statement from a council or mayor to say we want in, a staff contact for communication, a brief assessment of where we are at, and from there it is as open to us as we want to be to pursue sustainable measures. That will be incorporated into the visioning process over the next twelve months or so. Beyond that, it is as much as we want to pursue. Whatever we choose to pursue, we will be paired with the appropriate member of the coalition who has expertise at no cost.

Ms. Kowalczyk asked if going through that process and that would include a staff person working on that and reporting back to Council if it requires action. Mr. Bucher replied he would see it much like our commissions and if there is something in our priorities, that could drive research and decision-making. Mr. Greeson said the nearest comparison would be our collaboration with the MORPC Sustainable 2050 activities, sending staff to roundtable conversations, and sharing information. Mr. Bucher noted they are also putting together peer to peer learning across the state we could participate in. There is also an equity coaching component we could learn more from.

There being no additional comments, the motion to adopt Resolution No. 30-2021 passed unanimously by a voice vote.

14. Resolution No. 31-2021 Amending Position Descriptions (Fire)

Amending the Position Descriptions for Fire Lieutenant and Firefighter-EMT Basic/Paramedic.

Minutes:

Resolution No. 31-2021 was introduced by Mr. Robinson

MOTION Ms. Kowalczyk moved, seconded by Mr. Smith to adopt Resolution No. 31-2021.

Chief Zambito explained how periodically we like to review job descriptions to see where we can improve them. The change out of these two, the Lieutenant and the Fire Fighter, is we will now be able to hire people EMT Basics to full-time positions. The advantage is that paramedic school is getting longer and longer, and it is harder to find qualified candidates. We would be able to train them to become paramedics within a certain time period.

Ms. Kowalczyk brought up how the memo mentioned we would be able to attract more diverse candidates in the future and that is excellent.

There being no additional comments, the motion to adopt Resolution No. 31-2021 passed unanimously by a voice vote.

15. Resolution No. 32-2021 Adopting Battalion Chief Job Description

Adopting a Job Description for the Position of Battalion Chief and Amending the Staffing Chart and Pay Resolution to Accommodate Said Position.

Minutes:

Resolution No. 32-2021 was introduced by Mr. Myers

MOTION Ms. Dorothy moved, seconded by Mr. Robinson to adopt Resolution No. 32-2021.

There being no additional comments, the motion to adopt Resolution No. 32-2021 passed unanimously by a voice vote.

16. Resolution No. 33-2021 Amend Staffing Chart (Service & Engineering)

Amending the Staffing Chart of the City of Worthington to Provide for Eight (8) Maintenance Technician Positions in the Department of Service and Engineering for up to a One Year Period.

Minutes:

Resolution No. 33-2021 was introduced by Mr. Bucher

MOTION Ms. Kowalczyk moved, seconded by Mr. Smith to adopt Resolution No. 33-2021.

Mr. Greeson explained how this staffing chart bump is similar to those done in other departments where we are experiencing some transition and need to increase the staffing chart in order to help manage that.

There being no additional comments, the motion to adopt Resolution No. 33-2021 passed unanimously by a voice vote.

17. Resolution No. 34-2021 CRC Re-Appointment (E Pauline)

Re-Appointing Edward Pauline to the Worthington Community Relations Commission.

Minutes:

Resolution No. 34-2021 was introduced by Mr. Myers

MOTION Ms. Dorothy moved, seconded by Mr. Robinson to adopt Resolution No. 34-2021.

Mr. Smith brought up how with the next three resolutions it is important for us to have on record that as we try to figure out how to grow and be more proactive with the CRC, and having dialogue in the community, it is important to figure out a way to be more communicative to board and commission members and to allow members to have differing and dissenting opinions.

Ms. Kowalczyk explained how having the opportunities we have to serve on these boards and commissions, we owe it to our appointees to orient them appropriately. She suggested that we develop a manual of understanding what a board or commission appointment means and follows up on what Mr. Myers did drafting an articulation of what we think as Council the responsibility is of serving on a board or commission. This should also include understanding public meeting requirements, public records, and how you act in an advisory capacity. If you Google guidelines, there are tons of manuals that come up, so it would not require a lot of effort for us to look at what is out there and incorporate it into an orientation program for new board and commission members.

There being no additional comments, the motion to adopt Resolution No. 34-2021 passed unanimously by a voice vote.

18. Resolution No. 35-2021 CRC Re-Appointment (G Sweeney)

Re-Appointing Glennon Sweeney to the Worthington Community Relations Commission.

Minutes:

Resolution No. 35-2021 was introduced by Mr. Bucher

MOTION Ms. Kowalczyk moved, seconded by Mr. Smith to adopt Resolution No. 35-2021.

There being no additional comments, the motion to adopt Resolution No. 35-2021 passed unanimously by a voice vote.

19. Resolution No. 36-2021 CRC Re-Appointment (N Linkenhoker)

Re-Appointing Nick Linkenhoker to the Worthington Community Relations Commission.

Minutes:

Resolution No. 36-2021 was introduced by Mr. Myers

MOTION Ms. Dorothy moved, seconded by Mr. Robinson to adopt Resolution No. 36-2021.

There being no additional comments, the motion to adopt Resolution No. 36-2021 passed unanimously by a voice vote.

20. Resolution No. 37-2021 CRC Re-Appointment (T Burns)

Re-Appointing Thomas Burns to the Worthington Community Relations Commission.

Minutes:

City Council did not introduce this Resolution because the re-appointee withdrew his name from consideration.

President Michael discussed how one thing that has been talked about is that Councilmembers felt that there needs to be more discussion, training, and ways to be able to bring things together. The idea of some type of manual or orientation process has been mentioned by Ms. Kowalczyk.

Mr. Robinson explained how the work that Mr. Myers began and he and Ms. Kowalczyk have weighed in on in terms of providing clarity for board and commissions is certainly a good idea. When he thinks about the experience with Tom Burns and should be publicly mentioned he was up for re-appointment and then withdrew his request for re-appointment this morning, it brings up what he thinks of as more pervasive of an issue, which has to do with a tendency or culture of our government not embracing public discussions of difficult issues. Difficult in the sense of things being said that are uncomfortable or we do not want to hear. We do not have to agree, but voices that are challenging the status quo. He thinks that this lack of initiating and in some cases even marginalizing, as what he would say has happened to Mr. Burns, frank public discussion about important issues comes at a heavy price. This price is for the individuals who seek to speak and voice themselves, the price is frustration, anger, disillusionment, or distrust. For the City the cost is substantial as well, we do not understand or hear new ideas. Ultimately, we do not foster the ideal relationship with the general public, that embraces open, a frank discussion on any topic. Since he has been on Council, issues that come to mind are the Black Lives Matter protests, which we did a fine job of managing the protests, but we have not followed up with any serious public discussion. Other communities have and we are missing an opportunity to understand and foster a healthier climate here in Worthington. One specific instance that arose out of those protests resulted in a complaint with the police in July of last year. It has been a year now that the complaint has been with the police department and there has been no-issuance of a report, no public discussion, and he feels like that is missed opportunity to explain ourselves to the public. Another topic is the City budget. There have been a couple of well-qualified individuals who have offered to spearhead a citizen's budget advisory committee and they have been rebuffed repeatedly. He himself has suggested that the City conduct town hall meetings to discuss the budget and it has not happened. What we have done is develop a very nice, interactive online budgeting tool, but it is safe. Lastly would be the UMCH property across the street, it has been six years since there has been a public forum where that was discussed. He thinks it is fair to say the City has done nothing to foster a public debate and discussion. We have offered no

vision, no information, no facts, no forum. It is no surprise that there are emergent citizen groups sharing their ideas in the void we have allowed to exist. In closing, he thinks about this instance with the CRC, this is about proper communication with committees and Council. The incident that prompted the interviews occurred two months ago and the question is what has the Council done to address or respond or even think about the substance of the precipitating event. It seems what we have done is try to think of ways to better control dialogue rather than trying to engage in a difficult conversation. In his experience, difficult conversations often yield a far healthier relationship after the clearing of the air.

President Michael asked if it makes sense to have staff time going to help put together some sort of orientation manual.

Mr. Myers expressed that he strongly supports Ms. Kowalczyk's recommendation, it is something we have discussed for years and he believes we should do it.

Reports of City Officials

21. Discussion Item(s)

a. 2022 Operating Budget & 2022-2026 Capital Improvements Program

Minutes:

Mr. Greeson explained how he will be discussing the upcoming budget process and a few years ago we committed to checking in with Council before starting the internal budget process to develop the City Manager's recommended budget and Capital Improvements Program. Staff begins the budget process in earnest during the Council recess. We will also talk tonight a little bit about the budget schedule.

We are currently in a strong financial condition. We have recently chosen to begin being audited every year, beginning what is called a Comprehensive Annual Financial Report. We received our audit letter today that was unmodified with no comment, which is what you want to hear from your auditor. We anticipate receiving the Auditor of State Award with Distinction as a result of that. In 2019 we received a Certificate of Achievement for Excellence in Financial Reporting from the Government Financial Officers Association and the Distinguished Budget Presentation Award. We anticipate getting the same awards for 2020. Finally, this year we were given a AAA Bond rating from Standard & Poor. Mr. Bartter and his team have done a great deal of quality work over the past several years.

Mr. Robinson asked if there was an existing Bond-rating before this one, and if so what was it. Mr. Greeson replied that we had previously been AAA-rated, but had not been rated since 2013 when they did an unsolicited upgrade. Since we are not frequently in the bond market, the benefit to the taxpayer is that we should get long-term more favorable interest rates as a result of such a good rating.

Mr. Greeson explained how there were a number of things done last year to

increase some of our transparency, including a series of budget-related videos and the Balancing Act interactive online tool. We often find ourselves trying to explain how budgets work and where cities get their money. We will update the Balancing Act tool with updated numbers as a result of this process, and share it through our various communications channels.

Mr. Bartter overviewed a series of recent events that have impacted the budget. One was the shift to work from home for many workers resulting in uncertain withholdings and personal income tax revenues. That issue came up during our S&P rating process. Also, there has been the continued vacancy of the former Anthem Building and new office space that is not yet under construction. A bank did just move into Anthem, but they are only taking up a very small percentage of the building. With the Bed Tax, there has been very little revenue due to the demolition of the Holiday Inn. Much of the fund balance/reserve levels have been driven by one-time revenues received by the City. We received both Coronavirus relief funds and BWC refunds combined totaling about \$3.8 million. On the expenditure side, there has also been an increase in solid waste collection costs and we are now no longer holding full-time positions vacant. There were multiple actions taken previously, including utilizing the fund balance in funds other than the General Fund. This included reducing the transfer to the Police Pension Fund for two years, eliminating the Revolving Fund and moving the remaining balance into the General Fund, utilizing the Community Technology Fund to fund the Council streaming initiative, and utilizing Coronavirus Relief Funds to offset safety service costs. There has been no expansion of services. There have been over \$425,000 in department budget requests not funded in both 2019 and 2020 budgets. We have had reduced staffing in recent years with approximately 10 fewer full-time employees than we had in 2002. If we include the dispatching transition, that would raise the number to 17 fewer full-time employees in 2021 than we had in 2002. We also have had to furlough many part-time employees in 2020 and 2021. The City has also sought outside funding sources and utilized more debt financing, some examples include the electric vehicle charging stations that were funded through a grant, and adding \$10 million in capital debt this past summer with additional debt planning in the CIP. The City has also pursued steps to reduce health insurance costs by increasing the employee contribution and making changes to the plan in 2021.

Mr. Bartter displayed a graph showing the projected General Fund revenue versus expenses from last year where there is a projected gap starting in 2021. He will update these numbers when working. His numbers for this year have been off by 15% because we have been having the best year ever for income taxes largely driven by net profit receipts that have been up by 400%. Of note, net profit taxes are not necessarily as consistent as withholdings. Looking at the fund balance projections from last year, he explained that the fund balance is not going to drop as significantly as he originally thought.

Ms. Stewart detailed how the adopted 2021-2025 CIP was very financially constrained. Income Tax collections at the time the CIP was adopted were slightly below 2019 collections and projections included slow growth in income taxes in 2021-2025. The CIP does not benefit from the receipt of one-time revenues. There were also demands for new or expanded investment, specifically in water lines and HVAC systems for City buildings. We also saw some projects and equipment purchases delayed. Future revenue projections will be challenging. While collections are up 15% this year due to net profits, there is an unknown impact of work from home on income tax collections which are difficult to predict. There have been many demands on the CIP including waterlines and City building needs, among others.

Mr. Greeson overviewed how going into the fall we will take our normal stewardship approach that is cautious and conservative until we know the long-term impacts of work from home and new office space is filled. We project returning to full staffing in the coming year. Staff will also work to advance City Council priorities. With one-time revenues, we will evaluate and determine how to use one-time revenues from the ARPA. We may also need to rely on the fund balance to fill revenue gaps. The vision action planning will be used to inform expenditure priority areas in the future.

Ms. Kowalczyk asked when we would see ARPA funds and what are the considerations. Mr. Greeson replied we will get them in two tranches, one this year and the other in 2022. Mr. Bartter noted that the first tranche will be about \$653,000 and the second should be similar. Mr. Greeson explained we will have until 2026 to spend those funds, but there may be some administrative advantage to spending them in one year. We want to look at one-time expenditures to match the one-time funding, such as waterlines.

Mr. Robinson asked if the amount we would receive cited by Mr. Bartter was after the action taken that would have funds going to townships. Mr. Bartter said that is correct. We were originally projected to receive \$2.8 million, the legislature determined townships qualified as well, diminishing our funding by about 50%.

Ms. Kowalczyk commented that on the Bed Tax issue, she has had informal talks with folks on the Experience Worthington and Partnership board and they have some thoughts moving forward. She commented that staff has done a tremendous job distilling down complicated budget ideas and making things accessible. She requested that there be some sort of town hall or something like that, there would be some interest in understanding and offering ideas from the public.

Mr. Greeson overviewed the timeline for the budget adoption process.

Other Business

Resolution No. 37-2021 Appointing Members to the Worthington Bicycle and Pedestrian Advisory Board.

Resolution No. 37-2021 was introduced by Ms. Dorothy

MOTION Mr. Robinson moved, seconded by Mr. Bucher to adopt Resolution No. 37-2021.

There being no additional comments, the motion to adopt Resolution No. 37-2021 passed unanimously by a voice vote.

Reports of Council Members

22. Reports of Council Members

Minutes:

Mr. Bucher commented on the great work of the staff tonight.

Mr. Smith brought up the first issue we had on Huntley Road tonight and he is not convinced that the pickleball is not already a permitted use under entertainment facilities. Since he was in the majority affirmative, he will work with the Law Director to see how we can switch things up and figure out how to make them an already permitted use.

Mr. Myers announced that officially he will not be seeking re-election.

Ms. Dorothy announced that she also will not be seeking re-election.

Mr. Robinson expressed he would be interested in the results of Mr. Smith's pursuit of the zoning issue.

MOTION: Ms. Kowalczyk moved, seconded by Mr. Smith that we adjourn for the August recess.

The motion carried unanimously by a voice vote

Other

Executive Session

23. Executive Session

Minutes:

MOTION: Mr. Myers moved, seconded by Ms. Dorothy to enter Executive Session for the purposes of Economic Development.

The clerk called the roll on Executive Session.

The motion carried by a roll call vote.

Council recessed at 10:10 p.m. from the Regular meeting session.

MOTION: Mr. Myers moved, seconded by Ms. Kowalczyk to exit Executive session.

The clerk called the roll to exit Executive Session.

Council exited Executive Session at 10:25 p.m.

Adjournment

24. Motion to Adjourn

Minutes:

MOTION: Ms. Dorothy moved, Mr. Robinson seconded a motion to adjourn. The

motion carried by a voice vote.

President Michael declared the meeting adjourned at 10:26 p.m.

Contact: D. Kay Thress, Clerk of Council (Kay.Thress@worthington.org (614) 436-3100) | Minutes published on 09/15/2021, adopted on 09/20/2021

/s/ Ethan C. Barnhardt
Management Assistant

Attest

/s/ Bonnie D. Michael
President of Council