



City Council Agenda

Minutes

Tuesday, January 18, 2022 at 7:30 pm

6550 N. High Street, Worthington, Ohio 43085

1. Call to Order

Minutes:

Worthington City Council met in-person in Regular Session on Monday, January 18, 2022. President Robinson called the meeting to order at or about 7:30 p.m.

2. Roll Call

Minutes:

Members Present: Katy Brewer, Peter Bucher, Rebecca Hermann, Beth Kowalczyk, Bonnie Michael, Doug Smith and David Robinson

Member(s) Absent:

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 Planning & Building Lee Brown, Director of Parks & Recreation Darren Hurley, Chief of Police Robert Ware, Chief of Fire & EMS Mark Zambito, Clerk of Council D. Kay Thress

** There were eight members of the public in attendance.**

3. Pledge of Allegiance

Minutes:

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

4. Visitor Comments

Minutes:

When asked by President Robinson if there were any visitor comments for items not appearing on the agenda, Peter Macrae, 74 Orchard Drive, shared that he wishes to speak about an item that he believes will be presented as an emergency. He will hold his comments until the appropriate time.

Approval of the Minutes

5. Approval of Minutes - November 15, 2021, December 6, 2021, December 13, 2021, December 20, 2021 (Special), December 20, 2021 (Joint), December 20,

2021, and January 3, 2022 (Organizational)

Minutes:

MOTION Mr. Bucher moved, Mr. Smith seconded a motion to approve the City Council meeting minutes of November 15, 2021, December 6, 2021, December 13, 2021, December 20, 2021 (Special Meeting), December 20, 2021 (Joint Meeting), December 20, 2021, and January 3, 2022 (Organizational Meeting)

The motion to approve the minutes as presented carried unanimously by a voice vote.

New Legislation to Be Introduced

6. Resolution No. 01-2022 Approving 2022 Large Grant Funding for the Worthington Partnership and the Worthington Historical Society

Approving 2022 Grant Funding for the Worthington Partnership and the Worthington Historical Society.

Minutes:

Introduced by Ms. Michael.

Mr. Greeson reported this being a routine annual matter. As part of council's adoption of the 2022 operating budget, funds were appropriated for community grants to larger organizations, including the Worthington Partnership and the Worthington Historical Society. As part of the budget process, members heard presentations from those groups, and their requests were included in the budget. Because we are dispersing funds to outside organizations a subsequent resolution is necessary.

Ms. Kowalczyk shared that because she serves on the board of the Partnership, she will abstain from the vote.

MOTION Ms. Hermann moved, seconded by Mr. Smith to adopt Resolution No. 01-2022.

There being no additional comments, the motion to adopt Resolution No. 01-2022 passed by a voice vote.

7. Resolution No. 02-2022 Authorizing Parks and Recreation Custodial Services Contract

To Authorize the City Manager to Execute A Custodial Services Contract with Circle Building Services, Inc. for the Worthington Community Center and Griswold Center.

Minutes:

Introduced by Mr. Bucher.

Mr. Hurley reported the Parks and Recreation Department solicited proposals for contractual cleaning of the Community Center and the Griswold Center. The Community Center has been cleaned contractually for many years but because of a retirement of cleaning personnel at the Griswold, we believe it is best to add that facility to this contractual custodial agreement. We have concluded that proposal process and interviewing and are recommending Circle Building Services for this contract that will be effective February 1st and run through the end of 2022. The monthly cost for custodial services at the Community Center will be \$13,022 and at the Griswold Center \$2,236. Those funds are already allocated in the Parks budget.

MOTION Mr. Smith moved, seconded by Ms. Brewer to adopt Resolution No. 02-2022.

There being no additional comments, the motion to adopt Resolution No. 02-2022 passed unanimously by a voice vote.**

8. Resolution No. 03-2022 Approving a Right of Way Permit Renewal (Ohio Power Company)

Approving an Agreement and Permit for and between Ohio Power Company, an Ohio Corporation, to Occupy and Use the Right-of-Way for an Electric Distribution and Transmission System Within the City of Worthington Pursuant to and Subject to the Provisions of Chapter 949 of the Codified Ordinances of the City of Worthington.

Minutes:

Introduced by Mr. Bucher.

Mr. Greeson reported that the Codified Ordinances provide a set of criteria for companies that wish to operate utility and telecommunications in the right of way for utilities. We have a standardize agreement and periodic renewals are required. This renewal is for Ohio Power Company, otherwise known as AEP.

MOTION Ms. Michael moved, seconded by Ms. Hermann to adopt Resolution No. 03-2022.

There being no additional comments, the motion to adopt Resolution No. 03-2022 passed unanimously by a voice vote.

9. Ordinance No. 01-2022 Rezone 44-46 W. New England Ave. from the R-10 District, Low Density Residential to C-5, Central Commercial.

To Amend the Official Zoning Map of the City of Worthington, Ohio, to Change Zoning of Certain Land from R-10, Low Density Residential to C-5, Central Commercial at 44-46 W. New England Ave. (Parcel Number: 100-000679).

Minutes:

President Robinson reported that Council is being asked to introduce this ordinance and refer it to the Municipal Planning Commission. This is to highlight to the public that this issue will be engaged by the council at a future date. The ordinance does not have a recommendation at this time and the public should not interpret its introduction as either approving or denying it but rather following the process established by the Codified Ordinances.

Ms. Michael introduced and referred Ordinance No. 01-2022 to the Municipal Planning Commission.

10. Ordinance No. 02-2022 Rezone 650 Andover St. from S-1, Special to R-10 District, Low Density Residential.

To Amend the Official Zoning Map of the City of Worthington, Ohio, to Change Zoning of Certain Land from S-1, Special to R-10, Low Density Residential at 650 Andover St. (Parcel Number: 100-000779).

Minutes:

Introduced by Ms. Hermann and refer to the Municipal Planning Commission.

11. Ordinance No. 03-2022 CRA Boundary Amendment

To Amend Worthington’s Existing Community Reinvestment Area Boundaries and to authorize the City Manager to Submit a New Ohio Community Reinvestment Area Program Petition for Area Certification to the Ohio Department of Development.

Minutes:

Introduced by Mr. Smith.

Reports of City Officials

12. Policy Item(s)

a. New Liquor Permit - Hungarian Butcher

Minutes:

President Robinson explained three actions Council members could take related to this request.

Mr. Greeson shared that this is a relatively new business located in the Plaza at Linworth and W. Dublin-Granville Rd. This is a butcher who sells various meats and charcuteries. The C-2 liquor permit they are requesting allows for selling carryout in closed containers, particularly Hungarian wines.

Ms. Michael shared that she has been there, and they have many wonderful Hungarian foods. She thinks this request is appropriate.

MOTION Ms. Michael moved, seconded by Mr. Robinson to not request a hearing on this liquor permit request.

The motion carried unanimously by a voice vote.

b. New Liquor Permit - American Legion Post 239

Minutes:

President Robinson shared that the City had requested a thirty day extension to consider this request. Council has until February 7th to act if we choose to. No action is expected tonight. The intent of this item is to serve as an information item so that all members of council, new members and old ones have the same information. We have asked Marc Myers, an attorney who specializes in liquor issues to be present tonight to answer any questions that council members may have. Mr. Greeson interjected that unfortunately Mr. Myers has not made it to the meeting yet. Mr. Robinson commented that Mr. Lindsey can report on the topic in his stead. But before doing so, he wishes to acknowledge Commander Luksik of American Legion Post 239 who is in attendance along with some of his members. He has asked for some time to make a presentation after Mr. Lindsey comments.

Mr. Lindsey reported that although he is not a liquor lawyer, he has dealt with liquor issues for municipalities in the past 20+ years so he has a working familiarity with the process. He has also discussed particulars as we understood them at the time with Mr. Myers in anticipation of tonight's determination as to whether to object. He reported not being in touch with Mr. Myers prior to tonight's meeting and apologized for his not being in attendance.

As some members may recall, the city had a similar instance as to whether to object to additional permits requested by the Post last year and made the determination at that time not to object due to a multitude of factors. The D5 that is being sought in this request, if granted, would require the Post to forfeit

its D4 permit because you can't have two permits that cover the same opportunities.

Mr. Lindsey went on to address the significance of an objection to a permit request. He explained that objections to liquor permit requests do not in and of itself prompt a hearing. Sometimes it is a figurative action that you are taking versus a substantive action. An objection must meet the statutory provisions. In this instance, the concern about what the local zoning might be is not a consideration for the Liquor Control Commission. In fact, the statute is very clear for those districts that are commercial or industrial that it is not a factor at all in terms of their determination. Residential districts are not specifically mentioned in that provision and that is what this District currently is. He shared that Commander Luksik and the Post have been working with the Planning Department and Director Lee Brown in terms of application for rezoning. We had a prior general discussion with their legal counsel regarding that process to at least discuss what that process would entail. He thinks the Commander may speak to some of that and part of that would be what limitations they might be willing to impose on themselves as part of any rezoning that might occur. That would be a way to provide additional controls that are not available in the actual liquor permit itself.

Mr. Lindsey added that statutorily the D5 permit involves restaurants or clubs. While in the cold reading of the statute there might be an argument as to whether the Post meets the statutory definition of "club", Mr. Myers informed him that the actual application of that statute, that distinction has never been a prohibition to achieving the permit and one that he had asked Mr. Myers to speak to.

Ms. Kowalczyk asked if liquor license have an expiration date and if they need to be renewed. Mr. Lindsey reported there being a renewal process for all liquor permits. There would be an opportunity to voice objections on future renewals based on actual experience. Ms. Kowalczyk then asked if he knows how long the licenses last. Mr. Lindsey believes permits are renewed annually.

Commander Luksik thanked Council for the opportunity to comment. He put a presentation together in hopes of providing everyone with some background information regarding the American Legion. He shared that the Legion has been around a long time. We used to be the social hub of Worthington. They have hosted the Memorial Day parade for a hundred and two consecutive years as well as host the Patriot Day commemoration, provide military burials and motorcycle escorts for funeral processions and parades. They provide food and gifts at the VA weekly. He also shared some of the activities that the Legion is involved in nationally. They provide a safe and supportive place for veterans and their families to fraternize. It is just a place to come and just sit down and talk with other guys that have been around and involved in similar activities and experiences.

The Commander shared additional history regarding Post 239 in Worthington

and nationally. He explained that in 1991 they canvassed everyone in the entire city of Worthington and ask to be put on the ballot to get a liquor license. It was the first liquor license in Worthington. That initiative passed with D4 and D6 permits being issues. They have had it for the last thirty some years. By 2019 they noticed declining income. After numerous meetings to discuss the issue, they came up with the idea of renting out their classroom space to hold social events. They realized that people were not going to want to rent it unless they could provide alcohol. So almost three years ago they applied for a D1, D2, D3, and D5 license. Last year the City Council approved the D2 and D3 however the Post put them on hold because without the D1 they could not operate. They need to have all three at the same time so they were hoping that the census data would increase population and there would be another D1 available. Because they were next in line, they would get that license. When that didn't happen, they weren't quite sure what they were going to do. The only possible option was to find a D1 somewhere in the state, buy it and then TREX it into Worthington and asking Council to permit it. This D5 became available when someone didn't renew their permit. If the D5 is permitted, there would be no need for the D1 and they would turn in their D2, D3 and D4.

President Robinson asked if members were voting to approve the D5 liquor license because he thought it was just to object or not object to the issuance of the license. Mr. Lindsey agreed that Council could request a hearing, not request a hearing, or do nothing, which in essence means that they are not requesting a hearing. President Robinson understands this to be for future discussions, but he thinks the point of council decisions would relate to the rezoning request which he understands is what will be necessary if a D5 is the become operative, but council is neither approving nor denying the license.

Commander Luksik stated that ideally, they would have preferred to do both the liquor permit and rezoning at the same time however, the D5 just fell out of the sky. As Mr. Lindsey shared, they have already begun the rezoning process. They are looking to apply for Veterans Memorial status and will put together a very thorough package that include hours of operation for events, room rental contracts, and site plan. They have retained counsel to assist with that effort and are planning on having meetings both with the public and the city. As an American Legion Post, they have many rules and regulations that they must meet and follow. While liquor licenses allow for late night operations, their bartenders are volunteers and do not want to be operating as late as the license allows. They treat their neighbors the way they want to be treated. They are a legal non-conforming use and building and should already be zoned a Veterans Memorial, so they are trying to correct that. They have a solid track record of management operations for 102 years. This license will allow them to continue although in a very small scale but well-managed and well-conceived way to keep them in existence to continue serving the veterans in our community. Commander Luksik ended by thanking Council for the reboot grant. They

managed to replace the doors, fixed some ventilation, installed new electric panels, and working to get the heater fixed. Thank you so much.

President Robinson acknowledged Tom Holden. Mr. Holden reported being the commander of the 12th District to the American Legion. He resides in Westerville Ohio and is here tonight in support of American Legion Leisure Blackstone Post 239. He spoke about the groups volunteer efforts throughout the community and requested Council's support and approval of the requested legislation.

Ms. Deborah Waltz, 1151 Oxley Rd. Columbus Ohio 43212 shared that she belongs to a national organization called Blue Star Mothers of America that supports veterans. Her group meets at the Sharon Memorial Hall, which makes them a neighbor to the Legion. The Legion has helped them tremendously with numerous fund-raising activities and has been very supportive to Blue Star Mothers packing of 1000 packages in one day in July. They have the utmost respect for the men and women veterans who gather at the Legion in the spirit of comradery to aid their well-being and always needed support of each other.

Gregory Schick, 9148 Longstone Dr., Lewis Center shared that he has been a member of the VFW for the past 25 years. This Post has meant a lot to him. He has great friendships and we do have a beer occasionally after our meetings. We do many things in the community to make it a better place. Post 239 has been a great asset to your community, and he hopes and pray that you feel that this opportunity for them is a great opportunity for the community as well.

Commander Jim Barker, United States Navy retired, commented that he represents the U.S. Columbus base of the submarine veterans here in Columbus Ohio. They hold monthly meetings in the American Legion Post, and they have their annual picnics every summer there. His members have asked me to come and encourage Council to strongly consider this proposal. This Legion means a lot to his group and to this community. President Robinson reported it being an appropriate time for members to ask questions of Law Director Lindsey and/or Commander Luksik.

Ms. Brewer recalls Commander Luksik mentioned that their by-laws keep their hours from 4 to 8 p.m. She asked if that has ever not been the case or has it been consistent. Commander Luksik stated that they set the hours, not the by-laws. But there are things that cannot happen like the public can't come in and sit at the bar and drink. The bar is for Members Only. When asked by Ms. Brewer if the D5 liquor license was for members only, Commander Luksik replied, no. The D5 liquor license allows them to sell to the public and renting out the room for specific social activity is allowable but it is controlled. They can't allow loud music annoying the neighbors. That sort of activity is not allowed at any Post. Ms. Brewer asked if they ever had hours later than 8 p.m. Commander Luksik thinks hours were until 10:00 p.m. prior to the pandemic. The hours fluctuate with the crowd. If people show up, they stay later. If nobody shows up, the bartenders go home at 6:30. The Post has taken a big hit because of the

pandemic.

Ms. Kowalczyk thanked Commander Luksik for the presentation and everyone who spoke on behalf of Post 239. The Post has been a terrific community partner and she thanked them for serving our community and serving our area veterans and their families. She really appreciates it. Considering that you have laid out the parameters of the use of this liquor license and that is going to go through the public hearing process and council will be hearing that at some point, she has no objection to this moving forward.

Ms. Michael asked if there is any reason why we should not move forward and not object to this request.

President Robinson stated that any council member is free to make a motion in that regard if they choose. Because this evening's discussion was described as informational only, residents that he knows would like to be here to provide their own thoughts and counterpoints are not here. He believes that it would be valuable for Council to have this on the agenda again February 7th to discuss. Again, the actions before council are to do nothing or to pass a motion to not object or to object but he believes that further discussion in February would be fruitful given the significance of this issue.

Ms. Michael reiterated that residents would have plenty of opportunities to comment while this issue goes through the zoning process.

President Robinson agreed that the process moving forward has multi-steps before the MPC before coming back to council, so this is not a definitive moment. He would like to open this up to other questions. He has some questions as well.

Ms. Hermann shared that through the pandemic mental health has obviously been a very large concern. Speaking to Commander Luksik she asked if he would say that the Legion is a place where they gather to support each other. Commander Luksik agreed. Ms. Hermann commented that she appreciates everything that the Legion does to support veterans. They were there when her grandfather, a purple heart recipient, passed away and she greatly appreciates everything they do. They have been here for 100 years or so and have been good stewards. This is a group of people that have a broad and large sense of responsibility for the community around them. She just wanted to say thank you.

Mr. Smith asked about liability as it exists today and potentially in the future. There is potential liability with alcohol. He sees what they do today at the Post is potentially different from what they are hoping to do with this new liquor license. He asked how the Post specifically or the Legion at large addresses factors of liability. Commander Luksik replied that they have a separate insurance policy for the bar. He has already talked to their insurance agent and given the numbers that we are talking about, it is covered. They pay about \$800 every 6 months for general insurance coverage. There is a separate policy specifically for liability. In that same vein, they have training for our bartenders for that very reason. Ubers are much better than policemen.

President Robinson shared that he has gotten to know Commander Luksik a little over the last six months and he appreciates the time that they have spent talking at the Post and he looks forward to talking with him again. He thinks everyone up here is grateful for the role of veterans in our country and specifically here in Worthington. Through this process and talking about Post 239 he has become much more aware of what you do and what you contribute to the community than he was beforehand. So he is very grateful for the role of the Post in this community and any questions he has about the desirability of the Post operating an event space with a D5 liquor license has nothing to do with him not being appreciative of what the Post does but rather what he considers to be broader concerns, as an elected official, for the well-being of the whole community. He is trying to balance and weigh different factors. He just wanted to say that to the commander. He respects him personally. He is grateful for what he does and for what the Post does. His questions shouldn't be interpreted or construed in any other way than that. Commander Luksik said that he understands.

President Robinson asked Mr. Lindsey if he could speak bit about what the D5 allows. Mr. Lindsey reported that Mr. Myers is now in attendance. Mr. Myers offered his apologies for being late as he forgot about the meeting. He stated that the D5 permit is generally regarded as the Cadillac of liquor permits. It allows for the sale of beer, wine and spiritous liquor (anything over 42 proof) Monday through Saturday from 5:30 a.m. until 2:30 a.m. Sunday sales, assuming that the location is in a precinct that is wet for Sunday, would allow for the sale of beer from 5:30 a.m., the sale of wine and spirits from 11 a.m. It allows for on-premises and off-premises consumption in sealed containers of beer and wine, no sealed containers of bottles of spirits but Ohio law recently changed because of the virus to allow for carry out of up to three drinks of spiritous liquor in sealed containers with each food order. He thinks that statute was primarily enacted for places like Mexican restaurants, so that you could get a margarita to go with your food order. Bottles of spirits can only be sold at state agency stores.

Mr. Myers added that historically the D1 permit (beer only), the D2 (wine only) and D3 (spirits only) was designed as a restaurant permit because without a 3A, they only allow for sales until 1 a.m. The D 5 was historically intended for nightclubs. A nightclub was defined as any place that was habitually open past midnight and provided live entertainment. In the early 80s the division of liquor control would sometimes reject applications for D5s for restaurants that did not qualify as a nightclub. That distinction was basically eliminated in the late 80s, early 90s. Now the D1, D2, and D3 and the D5 are basically interchangeable. The main distinction between them is the D1, D2, and D3 allow sales to 1:00 a.m. while the D5 allow sales till 2:30 a.m. If you have a D1, D2, and D3 you can pick up with is called a D3A which permits sales until 2:30 a.m. So a D1, D2, D3 plus a 3A is the equivalent of a D5. There is a little difference in the total permit

fees, but the privileges are identical.

Ms. Hermann understands they lost the D1. She asked how that occurred. It sounds as if the only reason they might be asking for a D5 is because it became available and because it replaces what they have. She knows it is not easy to get a liquor permit. Mr. Myers agreed. He stated that the Post, as he recalls, has a D4. The main restriction of a D4 is that it is sales to members only. There is also an issue with carryout sales. The D4 is considerably cheaper per year than the other what he would call, regular class permits. He shared that liquor permits are issued on a quota basis, depending upon the population of the taxing district. The problem here is that he doesn't believe there are any openings for D1s. If they cancelled the D4, the permit holder would have to give up beer, so their only choice is the D5, which has all the privileges. He suspects that they would prefer not to have a D5 because it is considerably more expensive, but they do not have a choice because there are no openings for the D1.

Mr. Smith stated that if he is reading the memo correctly, the 30-day extension was granted to February 9. He asked if that already exists. To Ms. Michael's point don't we have that time until February 9th. President Robinson replied that council has until the 9th to file an appeal or an objection. Mr. Smith clarified that the extension already exists as the deadline is February 9th. Mr. Myers agreed. He added that as a legislative Council they have 30 days to object or not object after an initial notice is received. By law you can extend that period for an additional 30 days. If you do nothing, the division of liquor control treats it as no objection. You can object and not request a hearing, but as a matter of law that is treated as no objection. If you do object, there will be a hearing if you request one, but you also bear the burden to prove why issuance of the permit would have a substantial or adverse impact upon the neighborhood.

President Robinson asked if the Post obtains the D5, do they lose their D4? Mr. Myers replied yes. You can't have permits with duplicative privileges at the same location. Mr. Robinson asked at what point will they have to decide whether to basically accept or make effective their ownership of the D5. Mr. Myers replied that they are on the list and in open status. When all the requirements are met and there are no objections, the D5 would be ready to issue when the D4 is canceled. With some careful work you can coordinate the cancellation of the D4 with issuance of the D5 so there is no down time. Mr. Robinson asked if the Post could extend that process if needed to work through the rezoning process as well as appearance before Council. If the rezoning is denied, he would hate for the Post to be caught without a D4. He asked how long they could retain a D5. Mr. Myers replied that they are on the list. If they are working toward obtaining the D5, the division of liquor control will give them as much time as possible. As he is sure the Post is aware, February 1st is renewal time. Today was actually the last day to pay the February 1, 2022 renewal without penalty so he is sure the Post has probably renewed its D4.

That carries that D4 to February 1, 2023. Theoretically there is really no problem. The Post doesn't risk losing the opportunity to get the D5 for another year.

Mr. Lindsey stated if the D5 fell through, he asked Mr. Myers to talk about how easy it would be to get the D4 again. Mr. Myers shared that he is pretty sure that is possible. D4 class permits are one permit for every 2,000 people. While he hasn't looked at Worthington's quota for a while, he would be surprised if there weren't plenty of openings in Worthington. He added that there would be no reason for the Post to give up its D4 until it was certain that all other issues have been resolved. He reiterated that zoning issues are specifically, by law, not considered by the Ohio Division of Liquor Control. Zoning is a matter of local governance.

President Robinson asked if licenses can be sold. In other words, if a D5 was obtained, would that be an asset evaluation that they might be interested in selling if that was a course of action they wanted to follow. Mr. Myers replied absolutely. Theoretically under Ohio law, one is not supposed to sell a naked liquor permit. The permit is to be sold in conjunction with the valid sale of business assets but as a practical matter, 90% of liquor permit transfers are the naked liquor permit being sold. You might sell the permit and one chair. The D5 permit as a TRES permit is worth \$16,000 to \$20,000.

President Robinson in referring to the Veterans Memorial zoning category asked Mr. Lindsey if the commercial operations that is being outlined allowable or a conditional use. Mr. Lindsey shared that he has asked Director Lee Brown to address this question. Mr. Brown reported that staff has been working with the Post legal counsel, Laura Comek. Since there has been a big upfront discussion regarding hours of operation and knowing what is planned, she is proposing going through our planned district route so that up front we know what we are getting: hours of operation, what is allowed to occur on the site, traffic, days of operations, number of events, capacity, outdoor events, etc. and therefore not having to go through amending the code to add a use just for this particular property. Then maybe get the zoning in place after the use has changed and then go through the conditional use route through the Planning Commission. We may possibly see something submitted in February to begin the process. It is a more holistic approach as to everything that could possibly happen or not happen so that Council would know what you are approving. The residents will also know what is going into effect if it is approved. Mr. Robinson commented that by planned district you are referring to PUD? Mr. Brown agreed.

Mr. Lindsey volunteering some additional information, stated that current scheduling of those Liquor Control hearings, if the council were to object and request a hearing, Mr. Myers indicated probably about 3 or 4 months from now. Mr. Brown added that the zoning process with the PUD, is probably two-to-three-month process to get it to city council and then the additional 60 days waiting period.

Ms. Michael asked if there is a risk of the Legion not being able to get the D5 if we must wait 3 months to decide, but we must decide whether to object by the next meeting. Mr. Lindsey replied to the process that they would be going through would be separate and independent of our zoning process. As Mr. Myers indicated Liquor Control won't care what the status of the zoning issue is so they will only be focused on whether they meet statutory requirements for the D5. It will just be that there will be two tracks going along and the Post will have to gage that and appropriately proceed down the two paths at the same time. President Robinson, in following up on Ms. Michael's question, asked if the Post is in danger of proceeding and achieving their D5 because of an extended City process. Mr. Lindsey replied that was the predicate for the question that he asked Mr. Myers about the ability to get a D4. Without more review we don't know the answer right now.

Mr. Myers shared that there is really no risk of the Post losing its D4 because there is no reason for the Post to cancel it until the D5 is ready to go. Assuming the Post has paid the renewal fee, the Post has the D4. It will not have to give up the D4 until everything is worked out and the Division of Liquor Control says it is ready to issue the D5, and you will have to cancel the D4.

President Robinson commented that to confirm his understanding, they are not at risk of losing the D5 even if there is an extended City process. Mr. Myers agreed.

Ms. Michael remarked how she is unsure why we want to bring everyone back for the next meeting just to go over what we just went over tonight.

MOTION Ms. Michael made a motion to not object to the D5 permit and we will have a zoning process that the request will go through.

In answer to Mr. Robinson's question regarding process, Mr. Lindsey replied that procedurally, now that Ms. Michael has made the motion, you will ask for a second. If there is a second to the motion, you could have further discussion as to rationales and reasons and then call for the vote. The motion is to not object. A "yes" vote would be to not object. A "no" vote would be that you disagree with that and would like to object.

****Ms. Hermann seconded the motion.****

DISCUSSION Ms. Hermann understands that we have the liquor license and then we discuss zoning. Members agreed. Mr. Smith stated that this vote would supersede the extension that already exists to February 9th. Then we would not have an extension? Mr. Lindsey agreed that this would replace the extension. Once we notify them of Council's determination, that ends it.

Ms. Brewer had a question on timing. Mr. Brown indicated that counsel is preparing the details in a package of what we would expect, timing, events, and she asks that from the standpoint of her talking with some residents who had some concerns so if we were able to review something that gave us answers about timing, events that would happen, in her mind that would make sense.

You said that would be ready at about February because this will ultimately come back to us after the zoning process. Mr. Brown commented that he and Mr. Lindsey met with Laura Comek, who began outlining the process of what she wanted to do. In his discussion with her, she was hoping to file in February. With the way the PUD and the text would be it is really combining the zoning, conditional use, and the text all together so you would know up front what that would be. He thinks the goal is to have them make application in February so that they can get it to a February Planning Commission with a recommendation to Council in March. She plans to give us a draft this week of what she would make application for so he thinks they will know more at that time.

Mr. Greeson added that the timeline would depend on the Post deciding to file and then once referred to the MPC because it is a rezoning and unknown how long the MPC decides to deliberate on the matter. Those could affect the timeline. Ms. Michael added that a change in zoning, once it's approved by council, is another 60 days before it goes into effect.

President Robinson shared his hesitation in approving the motion is because it does not afford members of the public an opportunity to speak. This agenda item was presented to him and described as an opportunity for Council to ask questions of attorney Myers so that we could have more time to consider the issue before the February 7th meeting which will be our last opportunity to act on the extension. He had received specific inquiries from residents in the area asking if they should come to this meeting tonight and he advised them not to because he didn't want to create an event. He thought it was going to be low key with no action being taken and that members would just be asking some simple questions. When a member of the audience asked why he would discourage members of the public from coming to the meeting he replied that he wasn't discouraging them from coming. They asked if this was a meeting that they needed to attend, was there going to be any action taken, and he replied that it was going to be informational only. There will be plenty of opportunities in the future both on February 7th as well as during the zoning and return to council periods for you to come and speak. He did not anticipate Commander Lukzik and other veterans coming and giving extended testimony tonight. He appreciates that they did, but he personally feels an obligation to afford other members of the public a chance to come and speak on the 7th. That is his reasoning, but he will leave it up to the rest of the council to vote accordingly. He asked if there were any other comments/questions.

Mr. Bucher commented how given the extension until February 9th and we have a meeting on February 7th, his initial inclination is to wait and not inadvertently cause minor cross wires to cause anybody to feel like they couldn't speak if they would like to. He asked Mr. Lindsey the process by which the motion could be denied, and another motion extended to take no action tonight if that were the wish of the body. Mr. Lindsey replied that there are probably two approaches that could be used. Ms. Michael could choose to withdraw her motion, or

somebody could move to table the motion to the next meeting. Then that procedural matter would be voted on as well.

President Robinson asked if there is a motion to table the motion, is the tabling motion voted on first? Mr. Lindsey replied yes. Mr. Robinson stated that if that passes then what happens to the initial motion. Mr. Lindsey replied that the motion is tabled until a date certain meeting because obviously you need to vote at your February meeting on the 7th to meet the deadline. So, a motion to table until the February 7th meeting would be the form of that motion. If seconded and approved by a majority of council then that motion would come back to council on the 7th.

When asked by Mr. Robinson if she had any interest in withdrawing her motion, Ms. Michael replied not at this time.

MOTION Mr. Robinson made a motion to table Ms. Michael's motion. The motion was seconded by Mr. Bucher.

Ms. Kowalczyk stated that while she appreciates the fact that members of the public who have expressed concern about this issue, we've heard from them in the past and she believes we understand what their issues are. It is her understanding that those issues are not something that is evidence or justifiable to deny a liquor license so hearing from them and then passing a motion to object to the liquor license, it is unlikely that that is going to defeat the liquor license. They have the most impact going through the zoning process. So, they will have that opportunity to bring their concerns to the Municipal Planning Commission. She is not opposed to whether we wait or go forward but let's not waste people's time. Let's just get to the heart of the matter. This liquor license process is not where people's concerns are going to end up being potentially address and they can be most effective in their advocacy on that issue. She just wanted to put that out there. We can have another hearing, we can listen to their concerns, but the concerns that have been expressed will not support the objection of a liquor license.

Mr. Smith commented that he agrees with Ms. Kowalczyk's principal. He thinks a lot of the issues are going to get flushed out in the zoning process and the application for that but if there are folks out there who would like to address this issue, we have until the 9th of February, so he doesn't see in principle the need to rush it.

Responding to Ms. Kowalczyk, Mr. Robinson said that he doesn't claim to know the fullness of their current thinking. He believes they should have the ability to come and speak to members. He agrees it may be a long-drawn-out process, but he is not one to say to them that we've heard from you, and we don't need to hear from you again right now.

Ms. Michael stated if there is going to be another hearing with the public, she would want that hearing limited to why they would object to the liquor permit and not the things that would go into the Municipal Planning, the zoning, the hours, the operation, the use. Those are not things that the liquor control board

looks that so she doesn't know what comments that the public would have objecting to the liquor permit especially with the understanding that we have this whole zoning process that they will be going through. She could see them having great interest in the zoning. There should be a lot of public input into the zoning, but she doesn't see how the D4, D5 permit makes that big of a difference that they would really object to that.

Mr. Robinson commented that he does not presume to know ahead of time what the public will want to say. He thinks the Post presentation today dealt with the full range of issues. The history of the Post and so forth, well beyond the specifics about the liquor license so in the interest of fairness and equanimity amongst members of the public, he thinks they should be allowed to come and speak next week. He called for a vote on his motion to table this issue until the February 7th meeting.

The vote passed 4 (Bucher, Smith, Brewer, Robinson) to 3 (Hermann, Kowalczyk, Michael) by a voice vote.

Mr. Robinson added that if members have questions or comments that have not been addressed sufficiently tonight, they are invited to send them to staff, Mr. Lindsey in particular prior to the meeting on the 7th.

Reports of Council Members

13. Reports of Council Members

Minutes:

President Robinson share that he anticipates doing this regularly in the order of seniority.

Ms. Kowalczyk thanked staff, community members and everyone who was involved in the Martin Luther King Jr Day presentation. It was a wonderful presentation. It is now available online on the city's website and she encouraged everyone to watch. It was a nice presentation.

Mr. Smith reported the Community Improvement Corporation met on Friday where we received an update from City staff on some projects around town, most of which City Council is familiar with.

Ms. Michael commented that she was also at the Community Improvement Corporation meeting. She gained some real good information and knowledge from some of our developers who are members and our newest member of the CIC, Beth Sommer from the Huntington Bank. She shared a lot of information, ideas, and strategies for development. It was quite informative and a good meeting. She also thanked the City's Service crew for getting all that snow removed and giving Worthington the wonderful look that the crew always does. Thank them for all their hard work.

Other

14. Other Business

Minutes:

President Robinson stated that under the topic of Other Business would be the introduction and consideration of a new ordinance:

Ordinance No. 04-2022 Enacting a Moratorium on Applications for Rezoning, Subdivision, Certificates of Appropriateness, Development Plan Approval, Conditional Use, or Permits for the United Methodist Children's Home Focus Area and Declaring an Emergency.

Mr. Robinson shared the process that will be used to work through this topic. He will attempt to briefly answer the question, why a moratorium? Then, why now? Finally, why by way of emergency?

Why a moratorium on this particular property? The comprehensive plan guides development in Worthington. Though it is not legally binding, it is intended to positively guide prospective developers about the city's desires and intents about the property. Lifestyle Communities (LC), the current owner of the property of which we are speaking about tonight has consistently referenced the current Comprehensive Plan during their various proposals. The plan was written back in 2014. Since that time the world has changed dramatically: changing demographics both in Worthington and elsewhere, Covid-19, undeniable indications of climate change, and heightened awareness on the part of many of us of social inequalities. As a result, he believes members have changed individually and as a community and our understandings of what would be the wisest and best use of this land. The Comprehensive Plan, however, cannot be updated or amended if there is a proposal currently before the city related to that property, hence the moratorium. If it passes and it is proposed for 12 months, it will give the community at large and the city council a pause ensuring that no proposals or applications would be submitted to the city or accepted or reviewed during this period, enabling us as a community to reassess what we believe would be most desirable at this property.

Why a moratorium now? For those that have been following this issue, you are aware that there was a proposal before the city until December of last year when following the MPC's recommendation of denial, City Council also denied LC's most recent proposal. It had a proposal before the city since October of 2020. So, for 14 months we were unable to take this type of action.

Why by way of an emergency? He just referenced that Lifestyles has had a proposal before the city since October of 2020. The background there is that City Council had discussed the content and the relevance of the Comprehensive Plan before we even commenced with the Visioning process. If you go back and read the resolution authorizing the Visioning process, there's a statement in there about how the Comprehensive Plan had effectively reached the end of its useful life. The discussion among the council members was that the Visioning process would better enable us to then subsequently amend the Comprehensive Plan. In September of 2020 there were indications that LC was interested in submitting a proposal, soon. Realizing that if they did so we would not be able to amend the Comprehensive Plan,

he advanced at a meeting in September that Council considers suspending the Comprehensive Plan. There was a draft resolution that would have affected that but there were sufficient voices on Council at that time saying that we really need to have advance notice of this for public discussion and we should not vote on it that evening. In spite his concerns and having had that discussion, it was not voted on and LC submitted a proposal before our next meeting there by blocking our efforts to do so. For the next 14 months through an actual firm proposal and then a secondary quasi proposal through significant processes with a Municipal Planning Commission and ultimately City Council, we had to respond to this proposal considering the 2014 Comprehensive Plan. So, a property owner can apply at any time and block our efforts to amend the Comprehensive Plan. That is why emergency discussion and hopefully action would serve the public interest by enabling Council to act in a way that then would allow robust and rigorous public dialogue and discussion towards amending the Comprehensive Plan.

So that is why a moratorium. What a moratorium would do. Why it is being proposed now, because we are just now able to and why by way of emergency would be to ensure that a third party would not be able to block Council's intentions.

Lastly, Mr. Robinson shared how there were two or three emails from folks, he believes with Building Worthington's Future, asking whether an emergency ordinance like this violated the Issue 38 Charter Amendment. He responded by saying that this ordinance does not violate either the letter or the spirit of Issue 38. Most probably know that he spearheaded that effort. He was intimately involved in drafting that language along with election lawyer, Don McTigue. The letter of the Charter amendment has two terms: one that the effective date of rezoning an ordinance is now 60 days and secondly germane to this evening that there shall be no emergency passage of rezoning ordinances nor the changing of the zoning code itself. The intent of that was to empower the residents. To enable residents, if desirable, to undertake a referendum to prevent what could be a permanent action, that is the approval of a rezoning and then a building. This ordinance in many ways is quite the opposite but the intent is the same. It is to empower the residents by giving this Council and by extension the public the ability to have a robust discussion about this vital piece of property. The effect of the emergency ordinance is not permanent. In fact, by its very nature, it is temporary. He believes by both the letter and the spirit of Keep Worthington Beautiful, Issue 38 this ordinance does not violate it and in fact he would say conforms to the spirit of that Charter Amendment. Those are his initial comments. He asked if someone would like to introduce this ordinance.

Ordinance No. 04-2022 was introduced by Mr. Smith

When asked by Mr. Robinson about the next steps, Mr. Greeson recommended that Mr. Lindsey go through the details of the ordinance and then members can ask questions. After the completion of the council questions, if it is his desire to afford the public to ask questions, then you can decide to refer those questions to the appropriate staff to answer. He thinks the questions should be to him and then the body to decide if you want staff to respond to them.

Mr. Robinson asked Mr. Lindsey to provide an overview of Ordinance No. 04-2022 as written. Mr. Lindsey explained that the ordinance as introduced does enact a moratorium. Moratoriums are a lawful action that councils can take to put a temporary pause on various applications or approvals of government actions. They are found not only in the zoning context, but in other contexts as well. For our purposes this one is in the development, land use, zoning category. A moratorium is an attempt to preserve the status quo to be legally enforceable and withstand constitutional review. The period of a moratorium needs to be reasonable for the purpose of the moratorium. Courts examine moratoriums based on the objective and the length of time. Moratoriums between 6 and 12 months are generally acceptable without scrutiny.

Mr. Lindsey going to basic process is the question of emergency and the question that President Robinson raised about Issue 38 and its effect on the charter and whether that would or wouldn't be subject to a 60-day. He agreed with Mr. Robinson that a moratorium does not change the city's zoning code because we are not amending the code. There is no change in the zoning classification of any property because of this ordinance, therefore, it is his legal opinion, based on the wording of the statute, based on his understanding of the purpose and intent of this Charter provision, that it is not subject to this 60-day.

Mr. Lindsey went on to explain that the ordinance has many "Whereas" clauses. Those clauses sort of lay out the process of how we have our current Comprehensive Plan and what actions have taken place that prompted the desire to put a temporary pause on actions until a study of the Comprehensive Plan can be done. The properties identified in the third "Whereas" clause include the five parcels that were part of the United Methodist Home Focus Area that was part of the study in the 2014 amendment of the plan. Those five parcels include the primary parcel that people think of currently as the vacant former UMCH site, the two Larrimer properties that LC purchased as part of their overall assemblage of property, the Bickford facility, and the conference center because all of those were part of the focus area at the time. If the goal is to re-examine the Comprehensive Plan as to that focus area it is to include all those properties. The ordinance speaks to the Visioning Committee and the work that they did and council's adoption of their visioning statements and guiding principles. It references two of those that appear to be relevant to this discussion, one of those being the preserving of the natural environment or environmental stewardship and the community's appreciation of mature trees.

Ms. Michael questioned why the two WHEREAS clauses related to trees need to be included in this ordinance. She understands that municipal attorneys are working on legislation related to trees so that cities can make decisions property by property. Mr. Lindsey replied that these two are included because with over 600 trees on this particular property the absence of language that would be acceptable to the Sixth Circuit Court of Appeals allowing for the individualized determination as required would mean that the city's current code which imposes a flat fee would be inconsistent with that provision. The objective of that ordinance language which was

to preserve or require replacement or in lieu of replacement require a fee that at least would provide a basis for other tree development and other things and perhaps a disincentive to the demolition or removal of trees. If a proposal were to come forward, we would not currently enforce that tree ordinance without an individualized determination. One reason for the moratorium is that it would allow the time for the Municipal Attorneys Association and your law director and others to come forward with appropriate amendments to address that issue so that no development of that property would occur without that being in place. That is why it is included as well as the Visioning Committee statement on preserving appreciation of mature trees. When asked by Mr. Robinson if Mr. Lindsey's explanation addressed her question adequately, Ms. Michael stated she understands where you're coming from, but she just figured that's something we're going to be doing City wide because we are going to have to come up with some revision for all the trees in the city. Mr. Lindsey said maybe he misunderstood the question. What we will be doing will impact more than just the UMCH properties. The changes that we would anticipate to the code regarding trees will apply across the city. Ms. Michael stated that if this passes and then changes are made to the code in July, this property will be excluded. Mr. Lindsey clarified that the amendment of the tree provisions, whenever that may occur, then that basis for the moratorium would no longer be needed. But the moratorium is not just about the trees, it is also about the comprehensive plan study. In the same way the comprehensive plan may take approximately one year to complete, much like it did in 2014. But if the study, review, and recommendations concluded after six months and the tree ordinance was ready for consideration and a housing assessment was complete, Council can end the moratorium and development applications could be submitted and considered and approved. Mr. Robinson added that if this moratorium were to pass tonight, Council could at any point repeal the moratorium for whatever reason. It would not require the developments that were just cited. We could do so for a range of issues. Mr. Lindsey agreed. He added that the converse would also be true. The moratorium could be extended provided there is a reasonable basis and a reasonable period.

When asked by Ms. Kowalczyk if this moratorium, specifically related to the tree ordinance, would only apply to these properties, Mr. Lindsey agreed.

Mr. Robinson commented that generally what Mr. Lindsey is doing is laying out the public interest in establishing this moratorium, trees being one of them and particularly relevant to the UMCH because of the large number of trees on the property and because of the state of flux or ambiguity of current legislation regarding trees. Mr. Lindsey agreed.

Ms. Hermann asked if there is a reason why we are not trying to do a separate moratorium for development where there are a lot of trees. She noted that the I Am Boundless site has a lot of trees. She doesn't understand why UMCH is being pulled out when they have a lot of trees as well. Mr. Lindsey commented that Council could do a tree moratorium Citywide or for all properties having more than x number of trees for instance. He added that Council also can amend this and the nature of this

coming forward.

Ms. Kowalczyk understands that this is one of several things listed in this ordinance but it's in here and it's relevant. She asked if this is the only way, any action that we can take in terms of the concerns related to the tree ordinance. Passing an order to cover what the court of appeals has issued is how we must preserve the time frame? This is the first time she has heard this. This seems to her like a drastic measure just on that piece of this ordinance. Mr. Lindsey replied that the number of trees on this particular property and the recency of the 6th Circuit Court of Appeals decision add to why it's part of the justification of this moratorium. It would be up to council whether to move forward with a moratorium if you did not have the tree issue as part of it. It is just an additional justification that would support the moratorium. He talked about a true tree ordinance and how its drafting will take some time to make sure we are consistent with what other municipalities have evaluated and how the court has ruled. He has provided Director Lee Brown with an interim fix which is based on an individualized assessment. He believes that is the best approach in the absence of a code change.

Ms. Hermann asked that given a denial from Council for the most recent Lifestyle's application, isn't there in effect a pause until April where they are not permitted to submit a new proposal. Mr. Lindsey replied yes. Based on our current code, they are limited for a six-month period after the MPC action was taken. So, there is a temporary limitation of their ability to seek rezoning, but it wouldn't necessarily apply to other actions that they could file, such as a building permit that is consistent with the current zoning. Such a request might impact the overall goals of the community as to how to best utilize that property in terms of a comprehensive plan. We are trying to be inclusive of all the different types of applications that might come forward that would negatively impact the ability to do a complete review of the comprehensive plan as to this property and so not having any development, maintaining a true status quo was the goal of the moratorium.

Mr. Robinson in recapping the discussion stated that Lifestyle Communities currently cannot submit a rezoning proposal until April so why do we need to act on this now? As Mr. Lindsey just point out there are other actions they could do in conformity with existing zoning that could likewise impede our ability to amend the comprehensive plan.

Ms. Hermann stated she has several concerns; one being that it's an emergency, and the public is not included in this conversation. She agrees that Council should readdress the comprehensive plan and she understands timeframes. She has a concern that we have a vision statement, Vision Worthington where we have all this information, and we didn't have conversations before this. We are not bringing the community in, and she is not going to presume to know what the entire public has to say about this. President Robinson agreed that those are very important concerns that we will talk about later in the meeting when council is discussing the issues. He asked if Mr. Lindsey's respond adequately addressed her question. Ms. Hermann replied she has concerns about how we are treating landowners on their ability to act

on their land without zoning changes. She understands that this is a contentious site but if the landowner wants to act within the zoning that is there, she just has concerns with Council rushing to a moratorium at this point. She hopes that Council gives every landowner the opportunity to speak within an appropriate amount of time with having an appropriate amount of information ahead of time. That it becomes a part of the agenda prior to Council stopping them or trying to stop them from developing on their land as zoned. That is her pause right now. She is really trying to wrap my head around this, but she is uncomfortable with that.

At Mr. Robinson's request Mr. Lindsey continued through each WHEREAS clause. The third WHEREAS on page 2 of the ordinance states City Council believing it is necessary to conduct a thorough review of the Comprehensive Plan update and 2005 Strategic Plan as amended in 2014 to determine whether the current plan needs to be amended to better align with the visioning statements and supporting principles adopted by Resolution 40-2019. Ms. Michael commented that this WHEREAS makes it sound like we are reviewing the entire comprehensive plan and not just as it relates to the UMCH property. Since the moratorium is limited to the UMCH property some rewording might be appropriate. Mr. Lindsey commented that the actual operative language of the moratorium itself is set forth in Section 1 and Section 2 and does refer to the UMCH properties so that's where it gets limited. The more generalized statement in the WHEREAS clause is that as part of a review of the comprehensive plan there are aspects of that plan that are broad as to all properties and there are some that are related to the focus area. So, he can't rule out that as staff looks at the comprehensive plan and its totality there are aspects of how that plan is written that may or may not be consistent with the community's concerns as it would impact the UMCH property. That would be his initial thoughts in terms of the drafting of it. Ms. Michael thinks it is a little overbroad and could possibly be amended and limited to the UMCH property. To do the entire comprehensive plan for all properties could take well over a year.

Ms. Hermann suggested using the terms comprehensive plan or comprehensive plan update. That was the term that was used in 2014 with Comprehensive Plan update. That was a strategic move because UMCH had decided in 2010 that they wanted to sell and so we used that term at the time to specifically speak about the section of UMCH. If that is what the intention here is, she would suggest we make that distinction of the 2005 plan which was the original comprehensive plan and then after 2010 when UMCH stated they wanted to sell that was when the group that initially did the project plan was recommissioned to do the update. Mr. Lindsey stated Resolution No. 37-2005, he believes in the first WHEREAS clause, it uses the update language as well because it was referencing back to the 1988 master plan. He doesn't have an objection if Council wants to amend the WHEREAS clause to clarify that we are talking about an update and that we are talking about the UMCH properties.

Mr. Robinson concurs that makes sense. There is no downside to focus and be specific. He asked that he be thinking about the appropriate language so that when we reach the appropriate point, we can make an amendment.

Ms. Kowalczyk asked if members have other proposed changes does he want them now or at the end. Mr. Robinson requested that they wait until they reach a point where we can make a series of amendments and then they could vote on all of them at one time.

Mr. Lindsey continued going through the WHEREAS clauses that basically lay out the background, basis, and the rationale for proceeding with the moratorium. He then went through each of the 9 Sections. Section 1 sets forth the temporary moratorium on the acceptance of any applications. At any point Council could determine that it is in the best interest to end the moratorium and could take action to do so.

Mr. Bucher asked if because the ordinance is approved by emergency, would revoking the legislation require the same type of emergency. Mr. Lindsey replied that it would depend on whether it was an emergency or passed as a regular ordinance and people would know that within the 21-day period, they would be able to resume application.

Ms. Hermann stated that Section 4 is extensive. She is not sure how stormwater management, sanitary sewer capacity, traffic patterns, etc. can be evaluated when you don't know what will be there. She asked for help understanding why those things are included because it also sounds expensive. She agrees with an assessment of housing needs, but she is not sure how all the other stuff can be accomplished. Mr. Lindsey replied that it speaks to the potential impacts of different types and density of developments on those things. It is a more generalized review and assessment than the sort of specific review that is done when somebody makes application, and we have a specific traffic study conducted for that development proposal. That's the distinction.

Mr. Robinson stated he believes that city council will have the opportunity to consider a range of studies and ways of approaching this issue of updating the comprehensive plan. His hope and what he would advocate for is a level of specificity that we have not received yet. Could it be expensive? It could be but the details of the directive to the city manager to proceed with this would be something that we would discuss probably at length amongst ourselves and with the community to determine how to proceed. This is a section in a moratorium ordinance outlining the general concept. That is how he reads it.

Ms. Kowalczyk added there is nothing prohibiting us from including some detail in here. This is a significant action that we are taking without advance public notice and she guesses this is the key to how people think they are going to resolve the issue about what goes on this property and what is allowed. To not have details on how this comprehensive plan review is going to occur. . .She asked if they were going to have an objective third-party because there are some strong opinions in this community about what they would like to see on this property. There are also a lot of needs that need to be met and this property poses an opportunity for that. She thinks we need to have a little more detail on how this assessment is going to occur before she can sign off on something this big. She understands we need to have a thorough conversation about it. Maybe that speaks to having another meeting where we can talk about it and not receive a resolution at 4:00 p.m. today with the details, which there are very little

in this ordinance. She thinks it merits council having that discussion and if we must have it, she is willing to sit and hashed out some language that gives some specifics on what she would like to see that assessment look like.

Mr. Robinson asked Mr. Lindsey if he could describe what constraints this language in this ordinance would establish moving forward for the ability of council to develop a process to amend the comprehensive plan. In other words, does it warrant a detailed discussion this evening? There is language in here that he is not pleased with either. There are things that he would like to add and amend as well but he just wants to make sure we understand what is at stake in this language in this ordinance this evening.

Mr. Lindsey stated the attempt on Sections 4 and 5 was to provide some specific direction in the ordinance to indicate that you are moving forward with those things that you are saying necessitate doing the moratorium. That is why they are in there. In and of themselves, this wording is not essential. If you were concerned about that then his quick thought in terms of replacement language would be to indicate that city council will at a set time provide specific direction as to the comprehensive plan so that you indicate that you are going to have further discussion about it.

Mr. Robinson agrees that this might be the most important section in this ordinance and if we get into the details it is going to turn into a proxy debate about the entire issue. He asked Ms. Kowalczyk if she thinks Mr. Lindsey's suggestion is a plausible way forward. She replied that considering this ordinance must be passed by six votes and subsequent actions do not require six votes, she is concerned that her vote will not count in the future. She thinks it is important that everyone agrees on how this process should move forward and she is not confident considering all that she has heard over the course of the election and things here in this chambers that we are not going to have a consensus of this Council on how this should proceed. So, without a little more meat on the bones on here, she is not comfortable with it right now.

Mr. Bucher asked if it would be useful for all of them to spell out community engagement in a way where they can have numerous meetings to discuss this. If this were to go forward, he would want to prioritize that as a body to ensure that we are going to be transparent about that community engagement process going forward. He asked Mr. Lindsey his thoughts on his suggestion. Mr. Lindsey replied that in terms of clarifying a robust process and providing for public hearings that will be part of how staff or any consultant we might hire will approach a comprehensive plan review, it is somewhat pre-assumed on his part but he understands the value in terms of the public knowing that you are committed to that so having language that says that is not contrary to the goal and the purpose of the ordinance so he would not be opposed to it.

Mr. Hermann added that throughout the years we have had multiple conversations about the UMCH site. She has read information from WARD, city staff, the Comprehensive Plan, PCPW, Building Worthington Future and Colonial Hills Civic Association. Each one of those, we all possibly agree there should be commercial on the front on High Street. They all tend to agree that Tucker Creek should be a

preserve held at seven acres. From what she has heard and PCPW has changed, and she has met personally with one of the leaders, they now agree with a buffer, single-family homes along the single-family home lines. She asked if that is what everyone else has heard as well. Do we all agree that that's what we've been hearing? In some form an integrated park space throughout with PCPW being the exception that they mostly want it park. With that being the case of all those groups and all the things we've gone through, she suggested council focus on the one thing that they do not tend to agree on, and that is housing: what type, how much and where. She knows that the comprehensive plan took two years. She was a part of that process. The comprehensive plan update took well over a year-and-a-half. If we are going to do a moratorium, she is concerned that unless they are pinpoint focused on our issue, we are going to go well over a year. That could cause litigation which she would like not to happen so she would encourage everyone here to consider that as a conversation piece. Focus on the big issue and utilize the moratorium for that.

Mr. Lindsey continued explaining the additional Sections in the ordinance.

With the completion of the ordinance overview, President Robinson reported public comments are next and then a short five-minute break. When we return, he will request a motion and second. If it receives those, the ordinance will be on the floor for Council discussion and debate, and presumably concluding with a roll call vote.

Ms. Kowalczyk asked if amendments to the motion should be entertained before we make the motion. Mr. Robinson commented that it seems appropriate to him to have a motion and second, put it onto the floor and then amend the ordinance on the floor itself. Mr. Lindsey explained there should be a motion and second and then at that point you would make motions to amend with a vote on those.

Ms. Hermann asked if members were able to continue conversation at this time. Mr. Robinson stated we will move to public comments then we will come back and presumably ask for a motion and second and then it will be time for full Council discussion and debate.

President Robinson invited Peter Macrae to come and address council. Mr. Macrae stated he is not an attorney and doesn't pretend to be one. He is an architect who owns a national virtual architectural practice here in Worthington. They currently have projects in about 30 states, and he is very proud of that. He is having a problem with, he read the language from Article 1, Section 1.04 of the City Charter from Issue 38 that says: no ordinance or other measure passed by the Council amending the City's zoning code or changing zoning for any property in the City shall go into effect until sixty (60) days following publication in order to afford an opportunity during that period for the filing of referendum petitions thereon; nor shall any such ordinance or measure be passed on an emergency basis. He asked where the 60-day public comment opportunity for this measure is. Council is just going to choose to go around that when Issue 38 was passed specifically to allow the public 60 days to comment on any rezoning application. His other question is that the intent seems to be to readdress the comprehensive plan. He thinks that is great, it is time to do that, but he believes it was said that if anybody tries to rezone or does any other private property

actions during that period, suddenly you can't make changes to the comprehensive plan. That doesn't make any sense to him. The last issue he has is that this is some egregious stuff directed at a single private property owner when you have a perfectly responsible process here in the city where something is brought to Council, it happened tonight, Council refers it to MPC, MPC reviews it and makes recommendations back to Council and Council acts. It happened on UMCH just recently and it was rejected. In fact, no constituency group that Ms. Hermann mentioned likes the darn thing, but the process worked. He believes this is egregious. He believes it is contrary to private property ownership and the rights of property owners. He also believes it is against the rights of the community to have a say. You are basically rejecting Issue 38's entire intent. He thinks this is wrong and he hopes that Council will do better.

Tom Burns, 1006 Kilbourne Drive, commented that as he wrote to members yesterday, he has some significant concerns about this resolution being taken as an emergency resolution. One of the foundational pillars of trust in government is transparency. When he looks at something that isn't on the agenda and finds out about it through kind of rumors and innuendoes and he sees it only because he called President Robinson and asked him about it and he was gracious with this time and explained exactly what was going on, he still has some serious concerns with the transparency. We are talking about something that is going to make some significant changes in our community. This is the most important property in the entire city. As councilwoman Hermann mentioned, there are dozens of groups that are very interested in this property. When we go forward and talk about something like this, for him to not see it on the agenda, for him to not see it as something that will receive significant public comment, he doesn't see many people here tonight. The last time the MPC had a meeting on this, there were like a hundred people in here. That is a very different proposition than what we are talking about here tonight. So, there is a significant transparency issue, and he hopes that this Council understands that it looks like this is an emergency resolution, it is nighttime, this is under the cover of dark and we are going to pass something is going to significantly change our community, significantly change the property and the rights of the property owner on the most important property in our city. When he said the words of foundational pillars are important, he thinks many made the point that it is much easier for the city to do it this way. There are issues that if the property owner were to come forward and do something under the currently zoning it would stop the ability to do a moratorium. Transparency is not something that we can put aside for matters of convenience. He has a foundational pillar in his basement. It would be much easier for him to move around his furniture if he could just remove it when it is inconvenient for him but that is not what a foundational pillar does. It supports his house, so it won't fall. Similarly, this foundational pillar supports the trust of the public. When we are talking about doing this via an emergency resolution that is where he has a problem. As Mr. Macrae mentioned, there is a process in the city, and it works very well. If Council wishes to do a moratorium he would suggest, send it to the MPC tonight,

receive public comment and bring back a recommendation to Council. Council can vote on it at that point but until the public has their say in what exactly is happening, it is very difficult for him to say that anything was gained. In fact, this is something that is anti-democratic in the sense that no one has the actual ability to comment on it. He thinks it is interesting that earlier in this meeting we talked about the need for more public on one of the other agenda items yet on this item we are ensuring that we have as little public comment and as little notice as possible. He thinks what that will do to the trust of the public in this Council, and you just started your terms, so we have a long time before anything is going to change, but that trust has been broken. He thinks it is extremely important that we don't do that right now because it is going to hurt our city in ways that we may not be able to fix.

MOTION Ms. Michael moved, Mr. Robinson seconded a motion to take a five minute break. The motion carried by a voice vote.

Council recessed at 10:32 p.m. Council returned to open session at 10:37 p.m.

President Robinson shared that he was informed during the break that the ordinance has been introduced. Therefore, it is on the floor and open to discuss/debate.

Ms. Michael asked council members, who all stated they believe transparency is important, how they can square the way this ordinance has come to members tonight and transparency to the public. Mr. Robinson stated this is an extraordinary, unique issue in the city and we face a choice tonight, do nothing tonight or act as proposed.

The action to vote on an emergency ordinance without prior notification in the agenda, he believes serves the public interest in enabling and allowing the very dialog and input and public process that he thinks everyone here is saying we want. What he doesn't hear being acknowledged by those who are criticizing this action is that if we do nothing what is likely to happen is that at some point there will be an action on the part of Lifestyle Communities that would then foreclose the possibility of us, meaning the community and city council to amend the comprehensive plan. That is the entire focus and intent of this activity tonight. It is to enable public dialogue and debate and input on having a say on the future of this property instead of being passive and not acting which is what he heard repeatedly last year as he ran for re-election. There is a deep desire that the city do something and act and that is what we are attempting to do tonight. Bear in mind, if members don't act tonight, we run the risk that we will be back in the position that we were fourteen months prior. We will be back on the hamster wheel that we've been on for 7 years. That is the rationale for acting in an extraordinary way. We can have subsequent conversations and meetings and hearings here at Council, out in the public, about this moratorium itself, about the comprehensive plan, about UMCH. We are not foreclosing dialogue at all; we are enabling it through this proposed action tonight.

Ms. Michael stated that she has a problem with first, members get a phone call saying that something was going to be coming through. Second, in essence being told not to talk to anybody but City staff or council members, which in essence is a gag order which in all the years she has been around, unless it was executive session or it was attorney-client privilege, she has never been told to not talk to other people. Third, not

getting the actual ordinance until approximately 2 hours before the meeting, and then turn around and say this is the way we need to do business. If this is a condition precedent, things are going to come out of the blue, they are not going to be on the agenda, they are going to be asked to go through as an emergency, it makes her wonder because it is like the antithesis of the way this Council and this city has been run for decades and that is beyond her time. Things have been on the agenda. She will discuss this but will not understand why this could not have been put on the agenda last Thursday, because you only had 4 days until we had the meeting, and it would have given the public an opportunity to talk. Earlier with the American Legion you were saying we couldn't vote on something because we are not affording other members of the community the opportunity to speak before we act. By not having this as an agenda item you are in essence saying, we can't have community members speak before we act. She is not finding some consistency here and she is finding it difficult.

President Robinson attempting to articulate the consistency, stated that the consistency is the public interest in being able to fully participate in decision-making processes here in our city. This step tonight is a proposal to enable the public to have a say about the future of this property. You asked why this item couldn't have been included on the agenda on Thursday. Why didn't we just broadcast it to the world? Our concern, and it was not merely hypothetical, our concern was that by publicly announcing a moratorium or a comprehensive plan resolution to amend the comprehensive plan, either one of those actions could have prompted Lifestyle Communities to submit a proposal that would have thwarted and made impossible the action that we are proposing tonight. That is why we are acting in this extraordinary way. This is not business as usual. This is not going to be a pattern. This is a unique extraordinary circumstance. Ms. Michael stated she hopes he is correct that this isn't going to be business as usual but right now we have a public information request from Lifestyle Communities that is usually something that is lending towards probable litigation and doing this action without giving the public ample opportunity to provide input on whether to do a moratorium, she doesn't know if we are going to be violating equal protection issues regarding that. She doesn't know if it will be setting us up for putative damages. She thinks the trust of the public is going to be hurt by not having the transparency and we can agree to disagree.

President Robinson commented that he has asked Mr. Lindsay about the legal implications of this. He invited him to speak in terms of its relevance and impact and probably effect. Mr. Lindsey stated that the passage of a moratorium under any circumstance doesn't rule out the possibility of somebody challenged the moratorium. That is the same as passage of any of your other legislation. You pass an ordinance that limits anybody's ability to do any activity, people can challenge them. This is no different. There are specific factors that courts look at in moratoriums. That is why we talked about how long a period, what is the basis for the moratorium, so all of those are factors a court would consider as to this type. He cannot tell you that the passage of this ordinance as drafted will or won't prompt litigation. He had indicated to Mr.

Robinson previously, if in fact a property owner were inclined to file litigation regarding any of the past activities of the Council or MPC regarding that property that he wouldn't be surprised that if they were going to file anyway that they would include some challenges to the moratorium. He thinks he was consistent in terms of that regard. Does he believe that this ordinance withstands a constitutional standard? Yes. He wouldn't draft it in a way that he thought would violate the constitution, but he is not a guarantee. He is not sure of the outcome. Members have heard him say that in the past and he will continue to say it. Lawyers provide legal advice based on their analysis of cases and laws but at the end of the day courts make decisions and court's decisions may or may not be consistent with the advice that either party receives. A party can say they are going to file a lawsuit. They are deciding based on the advice of their attorney to file a lawsuit and it might be contrary to the advice of the other party as to whether something was legal or not. At the end of the day, until a Court decides, we don't know whether it is or isn't and at the end of the day one of the lawyer's advice was correct and one was incorrect. That is the reality of the practice of law. He apologized and stated if there are specific aspects of that he can go further.

Mr. Robinson thinks it is imperative that the city council's actions not be driven by, excessively influenced by, the intimidation or implied threats of legal action. He thinks that weakens us and ends up distorting the conduct of our Council towards the public interest. We can't control what Lifestyle Communities is going to do. He thinks several have found their conduct and proposals hard to fathom. We can't predict what they are going to do. What we can do and what we should do, and he thinks as elected officials we are responsible to do, is act with clarity in the public interest. That is what he has been proposing, he believes through this moratorium tonight. To not simply be passive / reactive and awaiting the next step from Lifestyle Communities. We have done that for years and years and years. He believes there are broad swaths of the public that are eager to change the dynamics and this moratorium is a way of simply creating time and space for us to pause to consider the issue in a changed world. It is that basic and that is why he is endorsing, proposing, and advocating for passage of this ordinance.

Ms. Hermann shared that we have a great process here. We have something that comes into our city, it is recommended to MPC, they go through the process, and we let the community know. We have conversations about it. It gets recommended or not recommended to city council, we have that choice. That can take several weeks. We saw that with the most recent plan that Lifestyle Communities produced. It went through the MPC process and then it came to city council. It is significant that staff recommended denial of that plan based on the comprehensive plan. The comprehensive plan is a basic document that we approved in 2002 through 2004. Several hundred people met with that. It was approved and it was adopted through the city. In 2010 we have our Vision 360. In it, it says that we want housing. In 2013, after the 2012 comprehensive plan updated was started, WARD did a survey and 96 were interested in the development of the UMCH property in some way: 49% wanted

patio homes, 47% single-family, 47% empty nester and 25% were interested somewhat or not interested in dense two-story single-family homes. The comprehensive plan was adopted in 2014 and it was voted on by the city council the time and it was a unanimous vote to accept. That went through a process of MPC, plenty of community input, and it came to city council with plenty of input in that as well. In 2016, WARD did another survey. The people, 25% desired no growth in Worthington, 75% of those participants desired more growth with 62% wanting commercial growth and 55% residential growth. We went through that process, and we have that information in hand. The one thing that we did after that, which also was recommended by the Vision 360, was that we do a Vision 2020 plan which is exactly what we did. It was a most unbiased plan that we've ever done in our history. It was done with no City staff or City Council involved. This was what our community told us they wanted. In this plan that Council adopted, Resolution No. 09-2021 it has statements such as: we had 1,050 community members, and the majority felt that multi-family housing was lacking. Eight of the nine groups listed lack of multi-family housing being an important issue. Non-residents - that was on their top of their list - employees, Gen-X, Millennials, older Boomers, young Boomers, and school district members. Of that, 2% mentioned no more apartments. Very few mentioned Park Only at UMCH. Many were positive about mixed development and working towards compromise with UMCH. Her point is that she doesn't have a problem with updating the comprehensive plan. She just doesn't know what direction we are planning on taking when we are hearing all this information and the comprehensive plan already gave us teeth to deny a plan that we didn't like. So, when they come back and if they come back and they submit another plan it goes through the process again where we have community input, it goes through MPC, the community can speak. Then it comes to council, and they are allowed again to give us their input. She is really trying to wrap her head around what is it we want to change with the comprehensive plan. The comprehensive plan is why they were able to deny them. She is trying her best to figure this out but in looking in 20 years of our history of people in our community telling us what they want, they want us to give them something. Lifestyle Communities needed some direction, and we weren't willing to do that. They mentioned that in the MPC meeting. We must tell them, we must talk with them and if they don't give us what we like, we will tell them they are not giving us what we like. She doesn't see why a moratorium or stopping them from doing anything is beneficial to our community. She thinks council has everything that we need. We can do it if we are honest and open. We say we want to do a housing study; we want to pinpoint what people want and what we need. That is where she is right now. Members didn't have enough time to really go over it. It was short notice. She thinks that is part of the problem because she can't wrap my head around it.

Mr. Smith commented that it is a great transition to the letter members received from Building Worthington Future (BWF), dated December 3, 2021, several weeks ago. The middle of it reads speaking specifically about the UMCH property: BWF has reviewed the proposal and has met with the developer to discuss its merit. On doing so our

organization would like to see the following elements incorporated into the revised proposal: as much continuous green spaces possible, accessible by the entire community is a public benefit, utilizing as much of the frontage for mixed-use commercial development as possible, more variety of housing stock including patio homes, empty nester housing, better connectivity and more focus on bike and pedestrian paths. In the beginning of the letter, they say they strongly recommend that the city form a collaborative task force to work with LC on further refining their plans for the site. These are beautiful words. We will not get the opportunity to do that if we don't act tonight. We will not get the opportunity because we have an aggressive property owner who will act for us. We need to act tonight.

Ms. Hermann added, speaking of aggressive, doesn't this feel like an aggressive move that we might give them the feeling that we are not willing to talk. Mr. Smith replied that allowing for us to pass a moratorium will allow them to engage with the community. It will allow council members to engage with the community. It will allow the community to engage with them and council. It is the only way.

Ms. Brewer agreed with what both of her colleagues said. The comment that Ms. Hermann mentioned, she believes you said that it was in an MPC meeting and that stuck out to her too where Attorney Hart said, they gave you something. We didn't know how much you wanted. You didn't tell us how much you wanted. By trade she is a bankruptcy attorney, so she believes in a fresh start. She believes the opportunity and the time we need to talk with not only residents but to talk with LC and perhaps form a better relationship than we have in the past, it takes time. While it might cause initial negative feelings from the owner of the property, she thinks we can start fresh with them. We have a brand-new council, and her hope is that we open these lines of communication and we can really work to get all of the community groups we have, and we can really make a community collaborative effort to tell LC what we want because she doesn't think we are all that different on what we want. She thinks we all want what is in the vision principles and we just need to make some changes to a good comprehensive plan that may just need some updates. She thinks this is a fresh start that we all have tonight.

Ms. Kowalczyk agreed with her colleagues that it is very concerning that we have this proposal that was not put on the agenda and that was not open to public comment. It just really bothers her that members are having this conversation without giving the public the opportunity to consider it and offer their comments. She agrees we just had that discussion on the last vote. While she understands why this is being proposed this way, she doesn't agree with it. She doesn't believe it needs to be conducted by emergency moratorium. All the things that Ms. Hermann said about what the issue is here, let's really look at what is the issue. What are the disagreements? Most of the things that have been proposed by the community, by these other the groups, are in the comprehensive plan. She thinks the issues are and it was very clear in the election, certain people don't want apartments, people want the city to buy the property and create a park and people on this dais have pushed for that option and then looking at affordable housing. Those pieces are not in the comprehensive plan.

Two of those things, she thinks we can work through with any plan that LC forwards and instead of giving, it's nice to think they're going to say after a few months, they understand why we did the emergency moratorium for a year after several years and the past couple years where we were basically told not to engage with them. Let them just present a proposal. They did talk to the community. That is what that whole MPC processes is for. These things that we are talking about that are real issues can be vetted through that process. Ms. Hermann explained beautifully how that process is supposed to work. In the end, if we go through this and the comprehensive plan basically stays the same, where are we? Are we going to then entertain a proposal from LC again? She thinks we have one council member, the President of Council who has been quoted as saying he couldn't imagine any proposal that LC would put forth that he could support, so why are we going through this exercise? She is very concerned about the entire process, the way it was brought up and then the thinking behind it. We really owe our community the opportunity to have an open dialogue, a transparent dialogue, and a real dialogue. What council member Smith quoted was that we work with the developer. If members pass this tonight, she highly doubts that is going to happen. Instead, we're going to send a message to this developer and to developers in the future potentially that we could be doing this again. That we don't want to talk to developers. That we aren't working in a collaborative fashion. That we can't figure out how to do that and how to get to work with them to come up with proposals that meet the needs of the community. She wants a housing study. She wants to look at how we can serve older adults who continue to tell me her they are distraught because they can't stay in this community. We can do that. We don't need this moratorium to do that, and we should do that for the entire community, not just this property. Those are her thoughts

Mr. Bucher taking from comments made by former council member Myers during last month's discussion on this property and to councilman Smith's point about the need. LC has a track record of not genuinely engaging the community and truly hearing concerns, in my opinion, in a way where they might consider moving from their base model that we've seen three times. Without this action tonight, he doesn't believe we will be able to have a lengthy, unobstructed process to have a comprehensive plan update for this property, which he believes the community desperately wants and needs. He believes the timing is also critical as stated earlier because the city's only recently been able to take such action, to force a pause, to force a breath and to truly create space for community collaboration with groups, with members, with public, and with a developer to ensure that we as a community have ample time to not only continue to discuss this moratorium but also future update processes and details. He thinks we have with strong written or verbal commitment from this Council to act in a robust community engagement way following tonight's action. He is supportive of it currently.

President Robinson asked if it is worth considering amendments or do, we wish to vote on the ordinance as presented. It will require six to pass as written so we can probably all get a sense of the room. He asked if it is worth amending. If not, we will

move to a roll call.

Ms. Kowalczyk shared that she had considered amendments, but she thinks she will withdraw that.

Roll Call: Aye – 4 (Bucher, Smith, Brewer, Robinson), Nay – 3 (Hermann, Kowalczyk, Michael)

Ordinance No. 04-2022 failed to obtain the six “Aye” votes needed to pass.

Next Item of Business

At President Robinson’s request, Mr. Lindsey explained to move forward with a public hearing and discussion of an ordinance regarding a moratorium, members would need to introduce an ordinance and schedule it for public hearing. An ordinance could be introduced this evening and then schedule it for a public hearing on the 7th if that is the goal. The legislation would have a new number and then anyone can introduce it. Mr. Robinson then asked what action is necessary to set the public hearing in February. Mr. Lindsey replied that members have an ordinance in front of them that would need a few adjustments, such as removing language that waived the right of a public hearing. Ms. Michael interjected that Ms. Kowalczyk indicated that she might have some amendments. The six-vote emergency clause is still in there. Is the intent to keep that? Mr. Robinson replied yes. Ms. Michael shared that she is aware of amendments that others would like included.

Mr. Robinson added that amendments can be made on the 7th as part of the discussion. Ms. Michael suggested amendments be submitted ahead of time so that everyone can see them as opposed to trying to do it on the fly at the council meeting. Mr. Robinson agreed. He added that to introduce it for a public hearing on the 7th of February, we would need a new number. Ms. Thress confirmed that it would be Ordinance No. 05-2022. *Mr. Lindsey set to work preparing the legislation for introduction. *

President Robinson understands that it is a late night, but he believes this warrants it and he asked members to bear with them. Ms. Michael suggested members introduce a new ordinance using the language that was voted down tonight and then prepare an amended version for members to consider on the 7th. When asked by Mr. Robinson if that suggestion is a possible way forward, Mr. Lindsey replied they could come back on the 7th having included it in the agenda, having made any suggested amendments so that whatever is in the packet would go out to the public. It would basically repeat what was considered tonight but would have provided more public awareness of it. You would provide for the public hearing that same night.

Mr. Robinson thinks the goal is to have public notification where we can discuss this and while it still may not pass, at least it would address that specific issue. He asked Mr. Lindsey to prepare an ordinance along the lines members discussed. Mr. Lindsey said he would be open to individuals sending proposed amendment to him and he will do his best to draft it. We must be continually mindful of, especially for the benefit of our two new council members but a reminder for all, we want to make sure our process is consistent with the open meetings act. That means you can't have a majority of you discussing those. As we do those inputs, he will send out a draft of

how he has heard and incorporated those but at that point members can't be replying "all" to an email because that in essence would be considered a meeting. You must trust him to do his best to incorporate them, he will provide them to members and then we will sort of go with it absent additional amendments being proposed to him. We will put it on the agenda as revised.

Mr. Greeson summarized that the packet would include the original ordinance introduced, and then the memo would reference the as amended. Mr. Lindsey thinks the plan now is that we are not introducing anything tonight, but we will essentially be doing an introduction and a public hearing and a vote all at the same time, but we will have at least told the public that is what we are doing. Mr. Robinson agreed. He asked if that would at least address the issue of prior notification? He was told yes.

President Robinson stated that given the outcome of the vote, failing to get six of seven and creating an immediate effect upon the capacity of Lifestyle Communities to introduce something, and our desire to have an amended comprehensive plan, he wishes to introduce a resolution, it is the one that he emailed to his colleagues late this afternoon and that he spoke about with several. This is a resolution text amending the comprehensive plan. [Mr. Robinson provided hard copies of the resolution].

Mr. Robinson shared how the process will be him briefly talking about it. Then he will request a motion and a second and open it for discussion, then public comment, further council discussion and then a roll call vote. The resolution would go into effect immediately as that is the nature of resolutions. It requires a majority vote of council. He explained that he has attempted tonight to make a case for why immediate action would serve the public interest in preventing a proposal being submitted where we would be, in his mind, burdened with operating under the current comprehensive plan. Having failed with the emergency moratorium this is an alternative approach to present what he would describe as a summary principled general statement text for the comprehensive plan. He attempted to be judicious and open to all the concerns held by his fellow council members. This is simply a plan, and it was articulated in language that he thinks is open to wide interpretations, as he thinks it should be at this point, but it would serve the function that if Lifestyle Communities submits a proposal that this would be the current operative comprehensive plan which he believes reflects more clearly the public thinking at this time. Not everybody, that would never happen, but it is a clearer expression of dialogue that we have heard and been exposed to over the years far more so than the 2014 plan. That is the rationale behind this.

Resolution No. 04-2022 Adopting an Amendment to the Comprehensive Plan Update and 2005 Strategic Plan, and the 2014 Amendment (Resolution No. 39-2014), for the United Methodist Children's Home Focus Area for the City of Worthington.

****Introduced by Mr. Bucher****

MOTION Ms. Brewer moved, Mr. Smith seconded a motion to adopt Resolution No. 04-2022.

Ms. Michael commented that having not received this until almost 6:00 tonight, she hasn't had a chance to really read this and digest it. In general, she is not opposed to a comprehensive plan review, but to vote on this tonight is a little too fast. Again, this was not on an agenda and did not give the public any notice to be able to see what we were considering. She suggested it be placed on the next to the agenda for the next meeting. That will provide an opportunity for the people to have input and give members a chance to read it and digest it.

Mr. Robinson stated the rationale behind acting on this this evening is the same is why it was important to pass the moratorium, which would have been a preferable course of action because it would have been completely without content and would have given members a year with time and space to consider and then amend the comprehensive plan. This resolution is Plan B and this in no way means that we cannot, and in fact he thinks we should have prompt, immediate public discussion following. If this passes tonight, then we can have the public discussion. He again stated if members don't act now, we are subjecting ourselves to the risk that an application or proposal will be brought to the city and we will be in the position again of having to review the proposal given the 2014 comprehensive plan. He is not willing to accept that. It is what we have done for seven years. It is time for action and that is what he is proposing tonight.

Ms. Kowalczyk shared that members just had a discussion about why the original ordinance that we would pass through an emergency process, at least some of us have expressed a concern that this wasn't put on the agenda, and now we have this resolution that we received late today, written by you, Council President Robinson expressing what you believe the city's intent and desire is for the comprehensive plan. She is appalled that we are sitting here discussing, okay so if you don't like this, I'm just going to rewrite the comprehensive plan piece that I don't like, put it out for a vote so that at least four of us can say "yea", we agree with that and we have disregarded everything we just talked about, about having a community opportunity for engagement.

Mr. Robinson reiterated that it does not preclude subsequent conversation. The effect would forestall and prevent us from having to work through another proposal with the 2014 comprehensive plan. When asked by Ms. Kowalczyk what the actual legal implication are of this resolution, Mr. Robinson replied that members would be operating within the code and regulatory environment. Like earlier, would there be a risk the council is free to pass by resolution a comprehensive plan update at any time? He asked Mr. Lindsey if there are any legal risks. Ms. Kowalczyk clarified that she was asking about the effectiveness of the resolution to make a change to the comprehensive plan rather than risks.

Mr. Lindsey replied that both the 2005 comprehensive plan update and strategic plan and the 2014 amendment were both passed by resolution. That has been the practice of how we adopt these comprehensive plans. So, the style and format, in terms of approving it by resolution is consistent with past practices. The WHEREAS represents Mr. Robinson's basis or understanding for making those changes. The comprehensive

plan, as is proposed, sets forth those sorts of guiding principles and general components consistent with comprehensive plans. As he understands the presentation, it is an indication of if there is concern with existing comprehensive plan language, this is an attempt at least to replace it with something different but not foreclosing the ability for Council to pass yet another resolution. Legally it would have the impact of replacing the existing with this language.

Mr. Robinson responded by saying the sense is that this is an extraordinary and appropriate course of action that is coming out of the blue. He stated this should have been done years ago. He does not like doing this as a newly elected president. It is not a precedent. It is not what he wants to do but he feels like because we have not done this, he thinks it should have been done in 2016 after the first LC proposal at the Worthington Education Center (WEC). It was obvious that the public wanted nothing of what they were proposing. He believes the city government should have acted to change the comprehensive plan at that time. We did not. He recognized that this is an extraordinary course of action, but it is emerging from years of inactivity on the part of the city. He wants to reassure members this is not an MO of David Robinson. This is him trying to act in a way that much of the public is clamoring for because of past in action. That is why.

Ms. Hermann asked if the proposed resolution is replacement language and if so what for? Or is the language in addition to? If so, what sections of the comprehensive plan update. Mr. Lindsey replied, the operative language in Section 1. would indicate that this attached Amendment Plan Update as it pertains to the adopted so it would be his interpretation of this has written that the proposal is a replacement of that which the 2014 adopted. So, we remove what was adopted in 2014 and replace it with this. The rest of the comprehensive plan would stay the same.

Mr. Hermann shared that the first LC conversation was not a proposal. It was a general conversation to get the input of the community at the time. Mr. Robinson interjected that the presentation was conducted in a MPC forum. Ms. Hermann stated that it was held at the WEC so that it would not be confused as being presented to the city. There was a purpose specifically to do that so that we could help our community understand that the only thing we were trying to do was to get an indication of what they wanted. You are correct, that meeting did not go well. At the time UMCH owned the property. She believes they had not purposely gone into a strict contact with LC. When we talk about these several years that have gone on, there are a lot of different reasons for that. UMCH still owned it. They had needs and desires for what they wanted to get out of that land. That's why the comprehensive plan update was created. UMCH had indicated they wanted to sell. Many were involved in that update. There were many different surveys, which she has already gone through. In 2018, Yaromir Steiner also came forward with indications that he had an interest in that property, but it did not work out. So, when we talk about the reasons why this has gone on so long, she understands the frustration, but we have to understand that there are multiple reasons why. It is not just LC's reasoning. She believes that the denial that the city staff gave for their plan is because of the comprehensive plan.

They used that as a tool. It is a guideline. It is not meant to pinpoint exactly what we want. That is what the housing study would do. It would provide more of a pinpoint for suggestion. A comprehensive plan is giving comprehensively to give a guideline to the city themselves so that they can make the choices. They can make the designations. She doesn't mind changing this and this language is fine, but she wants us to be very clear. Let's get it off the table. This back and forth for several years, there's no one place to put blame. We don't have that one place. There are many different things that have gone on over the last 15 years so if we do this, she has no problems with that but again we need to do a housing specific study. We have sat on the Visioning Plan for nine months when we could have been addressing conversations about the comprehensive plan at the time it was accepted. She doesn't know why that wasn't done. That is why as part of my candidacy she stated that she would not let it sit on the shelf. We do need to act but in doing so, she thinks members need to do it in a respectful manner to our community. She has a problem with these things coming up last minute because transparency, resident lead, resident caring, she came here because of that reason. She came because she loves this place not because she was trying to fix something she thought was wrong. So again, this language is fine. This care for our city but she doesn't understand why when we have a comprehensive plan that gave us teeth to deny that. It is just a piece of paper and it's just guidelines. Ms. Michael still thinks there should be public input on the resolution. She goes back to the transparency and thinking that things should be on an agenda and people should have an opportunity to respond and have thoughts or comments regarding it. She has a problem with literally almost at midnight putting something through that wasn't on the agenda and the people haven't had a chance to be able to digest or participate in. We talk about being a citizen center, residents center, we talked about transparency and involving people. She has no problem with this coming forward at the next meeting. Mr. Robinson stated that is a risk that you are willing to assume and a disagreement of the assessment of the risk. He asked if there were any additional comments.

Tom Burns who spoke earlier this evening, shared that he is disappointed to be back here tonight. He thought this matter was settled. He is disappointed to see that four members voted against transparency and against citizen input. He has some quotes to share.

When Worthington residents are informed, engaged, and listened to, we make the best decisions. This should be City Council's guiding principle. That means Council should proactively share information and encourage us to truly listen and then act accordingly. This is how we achieve sound policies and healthy political culture. Council should be held to this standard.

That is a statement he wholeheartedly agrees with and that is something that he doesn't see happening tonight. This is his City Council who is making sure that he has no ability, the only reason he is here is because he lives four minutes down the street, and he happened to be up because he doesn't sleep particularly well. Where is the rest of the public input? This is a backup plan by President Robinson to ensure that we

have something if the emergency legislation was not passed. We wanted to make certain that we did something to keep certain things from happening in this community with no transparency and no ability for citizen input. The proposal in front of us right now, he can go through all the different people who went through the comprehensive plan, who took parts of the comprehensive plan, different things that they went through, lots of members of a community, it was a legislatively adopted option that had community input. Now this Council, who allegedly embodies the ideal that he just mentioned, wants to change that plan again, that was the will of the people, without listening to the will of the people. He thinks this is quite frankly wrong. He is appalled that he had to come back here and speak again in front of this Council. The foundation of public trust in government is transparency and that is not being served tonight. Show him who you are tonight. He wants to know. He has his opinion based on the last discussion and he think he will have it again after this. Quite frankly he thinks he is wasting his breath, but we will see. Show him who you are. Thank you for your time.

President Robinson shared that a closing comment of his would be that he understands the visceral reflexive judgment that prompt action like this goes contrary to public discourse, public interest. He gets it. As he said, he authored the Issue 38 language. He is committed wholeheartedly to resident empowerment. The irony is that by urging us to not do something like this tonight we would run the risk of not enabling the public to have that dialogue. That was the entire purpose of the proposed moratorium and this resolution to update the comprehensive plan is to avoid the developer from blocking an update to the comprehensive plan and our ability to have the public discourse toward that end if they have a proposal on the table. So, this is an action in itself in a manner that he doesn't like doing but that serves the greater good of enabling public discourse and we will if this passes tonight or even if it doesn't, we will as best we can depending on what Lifestyles decides to do.

Ms. Michael stated if this gets passed this is what it is. She doesn't know where the public dialogue comes in because we've already said okay public this is what our new plan is, and you've got it. She was part of the review of the last comprehensive plan, and we had many meetings, and she doesn't see why this must go in place even if Lifestyles comes up with something. What's to stop us from continuing to do a comprehensive plan update. Mr. Robinson said the last thing you shared was if in fact there is a proposal before the city, we cannot amend the comprehensive plan related to that property because they have a vested right in their proposal with the comprehensive plan in place when they file their proposal. Secondly, he thinks it would be hard to imagine if Lifestyles is before the MPC arguing, presenting, working back and forth with staff, while we are concurrently having a robust public discussion about that very property. He would not be surprised if they cried interference, or this is how can we be trying to advance our proposal on this basis when we are having public groups and city council advocating for different ideas. It is unimaginable. He thinks the reality, just like we experienced for 14 months, is if they have a proposal for us, we are responding to their proposal with the current comprehensive plan as the

basis of their proposal. Ms. Michael interjected that council has not had MPC/ARB review or input on and this is something that they work. That is another area of concern because that is input that she thinks would be valuable. Mr. Robinson agreed. He added that there is nothing to prevent us from doing that moving forward. This is an immediate action that would have an immediate effect and he is sure, as a council, we can and will discuss what the next steps are.

Ms. Hermann stated that she doesn't know how many people have read the comprehensive plan or the entire Vision Worthington statement. The back portion contain appendixes where you really get to the meat of it. Full disclosure, her husband is the one that wrote the comprehensive plan. MKSK is the one that won the RFP back in 2002-2004 so she was a part of that. She was also part of the comprehensive plan update. She was aware of the appendix, which is basically everybody that had input, who did, what did, what their priorities were or what their thoughts were. She would encourage council members to read the comprehensive plan and then read the Vision Worthington document because they are extremely similar with Vision Worthington asking for more housing, more multi-family, diversity, inclusive housing. As we move forward, she wants to make that clear that we spent over \$150,000 and over a year on the Vision Worthington effort so if we are moving forward with any comprehensive change whatsoever, this is our community speaking to us. With that in mind, she doesn't have a problem with the verbiage that he wants to change but rather a problem that it is an emergency. As we move forward with transparency that is her full expectation.

A roll call vote ended with four "ayes" (Bucher, Smith, Brewer, Robinson) to three "nay" (Hermann, Kowalczyk, Michael).

Resolution No. 04-2022 is hereby declared passed.

Executive Session

15. Executive Session

Minutes:

Mr. Greeson confirmed that he would like an executive session to discuss board and commission appointments but that could wait until the next meeting. After some discussion, members agreed to convene in executive session.

MOTION Mr. Smith made a motion to go into executive session for the appointment of personnel and pending litigation. The motion was seconded by Mr. Robinson.

The clerk called the roll on Executive Session.

Vote Results: Ayes: 7 / Nays: 0

Council recessed at 11:49 p.m. from the Regular meeting session.

Council returned to open session at 12:07 a.m.

Adjournment

16. Remaining Business Item

Minutes:

Resolution No. 05-2022 Appointing Katherine B. Brewer to the Worthington Municipal Planning Commission. **Introduced by Mr. Bucher.**

MOTION Mr. Smith moved, seconded by Ms. Michael to appoint Katherine B. Brewer to the Municipal Planning Commission.

There being no additional comments, the motion to adopt Resolution No. 05-2022 passed by a voice vote.

17. Motion to Adjourn

Minutes:

There being no additional items to come before City Council, President Robinson declared the meeting adjourned at 12:09 a.m.

Contact: D. Kay Thress, Clerk of Council (Kay.Thress@worthington.org (614) 436-3100) | Minutes published on 03/16/2022, adopted on 03/21/2022

/s/ D. Kay Thress
Clerk of Council

Attest

/s/ David Robinson
President of Council