



City Council Agenda

Minutes

Monday, March 21, 2022 at 7:30 pm

6550 N. High Street, Worthington, Ohio 43085

1. Call to Order

Minutes:

Worthington City Council met in Regular Session on Monday, March 21, 2022, in the John P. Coleman Council Chambers of the Louis J.R. Goorey Municipal Building, 6550 North High Street, Worthington, Ohio. President Robinson called the meeting to order at or about 7:30 p.m.

2. Roll Call

Minutes:

Members Present: Katherine Brewer, Rebecca Hermann, Beth Kowalczyk, Doug Smith, and David Robinson

Member(s) Absent: Peter Bucher, Bonnie Michael

Also Present: City Manager Matt Greeson, Assistant City Manager Robyn Stewart, Assistant City Manager Economic Development Director David McCorkle, Director of Finance Scott Bartter, Director of Planning and Building Lee Brown, Director of Parks & Recreation Darren Hurley, Chief of Fire & EMS Mark Zambito, Chief of Police Robert Ware, Clerk of Council D. Kay Thress

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:

There were no visitor comments.

Special Presentation

5. Resolution No. 11-2022 Good Neighbor Award - Andrea Nadolny

To Congratulate Andrea Nadolny on Her Recognition as the Recipient of the 2021 Good Neighbor Award From the Worthington Community Relations Commission.

Minutes:

Introduced by Ms. Kowalczyk

MOTION: Ms. Kowalczyk moved, seconded by Ms. Brewer to adopt Resolution No. 11-2022.

Mr. Pauline explained how there were a record number of Good Neighbor Award nominations this year, so the competition was stiff. While we are living in tumultuous times, the City of Worthington should be proud that it is taking the time to recognize its citizens in this way. These individuals have integrity and embody a collaborative approach to problem-solving that defines our community and we should be optimistic about our future. He read the text of Resolution No. 11-2022 and presented Ms. Nadolny with a copy.

Ms. Nadolny expressed her appreciation and how she wants to spark education and awareness around suicide in our community.

6. Resolution No. 12-2022 Good Neighbor Award - Ray Lees

To Congratulate Ray Lees on His Recognition as the Recipient of the 2021 Good Neighbor Award From the Worthington Community Relations Commission.

Minutes:

Introduced by Ms. Hermann

MOTION: Ms. Herman moved, seconded by Mr. Smith to adopt Resolution No. 12-2022.

The motion carried unanimously by a voice vote

Mr. Pauline detailed how Mr. Lees exemplifies the term "Good Neighbor" through his service to his neighbors and the entire Worthington community. He takes action with no hesitation when he sees someone in need of an issue that needs attention. His neighbors say that they do not know what they would do without him. Adults and children alike recognize Mr. Lees as the man who helps everyone and he sets an example for all of us to follow. Mr. Pauline read the text of Resolution No. 12-2022 and presented Mr. Lees with a copy.

Mr. Lees expressed his appreciation and how much he loves this community. He and his family work hard to make sure Worthington is a welcoming community to all people.

Approval of the Minutes

7. Approval of Minutes - January 18, 2022, February 7, 2022 (Joint Meeting), February 7, 2022

Minutes:

MOTION: Ms. Brewer moved, seconded by Ms. Hermann to adopt the minutes as presented.

The motion carried unanimously by a voice vote

Public Hearings on Legislation

8. Ordinance No. 62-2021 Amend Code Chapters 1151 (Nonconforming Uses) and

1129 (BZA)

To Amend Chapter 1151 Nonconforming Uses and Chapter 1181 Wilson Bridge Corridor Districts of the Codified Ordinances of the City of Worthington.

Minutes:

Mr. Brown overviewed how on December 6, 2021, City Council verbally directed staff to start researching and draft language to the Planning & Zoning Code to review Chapter 1151 Nonconforming Uses section to recommend amendments that would lessen the impact of the nonconforming uses of properties throughout the City with a focus on the properties affected by the rezoning of the southside of E. Wilson Bridge Rd. On December 13, 2021, City staff introduced an Ordinance for Council officially directing staff to amend Chapter 1151 Nonconforming Uses section of the Planning & Zoning Code and referring a future amendment to the Municipal Planning Commission (MPC) for investigation and review. On December 20, 2021, City staff mailed letters to the ten property owners that were affected by the rezoning of the southside of E. Wilson Bridge Rd. offering to meet with the property owners and answer any questions related to the rezoning and the proposed changes to the Nonconforming Uses section of the Planning & Zoning Code.

Staff looked at several changes to the Nonconforming Use section of the City Code, any changes to the Planning and Zoning Code are citywide, not just for the residents on the southside of East Wilson Bridge Road. Mr. Brown overviewed the listing of proposed changes listed in the staff memo provided to the Council and reflected in the proposed legislation. Staff is recommending approval of the proposed text amendments to the Planning and Zoning Code as it addresses many of the comments and concerns brought up during the rezoning of the southside of East Wilson Bridge Road. The proposed changes will also have a positive impact on other nonconforming single-family residential structures found throughout the City today. The MPC recommended approval on February 24, 2022, to the proposed amendments. If approved by Council, there is a sixty-day waiting period before the amendment to the Code would be effective.

Mr. Smith explained how in his experience in the construction realm, they are seeing some projections on replacement construction costs that will be unpredictable in the future. He wondered what was the formula used for the change from 10% to 25% for replacement and how that is justified. Mr. Brown responded that in looking at surrounding areas, there are a variety of percentages used, and changing it from a fair market value to a replacement cost was an additional benefit. With a fair market value, we are looking at the auditor's valuation of the structure, with the replacement cost it is the quote of what it would cost to replace today, and we are using 25% of that.

Ms. Hermann said that in reviewing the notes, there was concern about loans and financing and that we have already looked at that and the City provides letters if there are any concerns. She asked for Mr. Brown to expand upon that. Mr. Brown explained how there are fifty plus nonconforming uses in the City and we get requests for letters. We get a lot of letters because an even larger portion of the City does not meet code requirements. The letters outline what can and cannot be done. The

thought here is to provide a certificate of nonconforming use within the code itself, because if you are going through a process to change, but if it is codified, it is a more difficult process to change arbitrarily and allows for more security.

Mr. Robinson explained how he is trying to get his head around the purpose of nonconforming use and asked for a description of what cannot be done by a nonconforming property that could be done otherwise. Mr. Brown replied that nonconforming properties would need to go to the BZA to get approval to do expansions. Under the proposed language, if someone wants to expand or make changes, a homeowner would be able to be administratively approved. Mr. Robinson clarified that a conforming property owner would not need to go through that process. Mr. Brown replied that is correct if you meet setback requirements in that district. Mr. Robinson asked if someone could still go before BZA to get an expansion approved. Mr. Brown replied that any deviation from the Planning and Zoning Code goes before the board, and decisions are appealable to the Court of Common Pleas. Mr. Robinson asked if this is approved, and what remains that is more difficult for a nonconforming homeowner. Mr. Brown replied that the constraints are the time to get on a monthly agenda and go through that process to ask, and the chance that the BZA could say no, or neighbors could mount opposition. The ones that we have had in his time here, he has not seen the BZA deny or neighbors come out against a request for expansion. Mr. Robinson asked about the logic behind the 25% replacement cost value, or frankly behind any constraint. Mr. Brown replied that the idea is to make sure people are maintaining their properties and making improvements, but the ultimate goal with the nonconforming use is to eventually come to the use that is desired on that site and in the district.

Mr. Robinson asked if the 25% only pertains to maintenance. Mr. Brown responded that in the scenario with a detached garage or shed, as long as it meets the overall code requirements for accessory structure size and setbacks, they would not need to go to the board.

Mr. Robinson asked about the sequencing for the City to provide a letter to a homeowner if needed. Mr. Brown replied that the City can have the requesting financial institution reach out to the City. With the proposed changes, we would be able to issue a certificate to property owners, so the property owner would have that for refinancing or further down the line.

Mr. Robinson asked about the complexion of the majority of nonconforming use properties throughout the City. Mr. Brown explained how the majority of them are residential uses that are in our S-1 or commercial districts, but there are several duplexes and apartments in our R-10 Single-Family zoning district. We also have some single-family homes that are zoned industrial.

Ms. Hermann asked when any resident wants to expand their property, do they come to the City for a permit. Mr. Brown replied that is correct, they would come and need to get a permit. Ms. Hermann explained how everyone needs to have some sort of conversation with the City, there will always be some connection between the homeowner and City. Mr. Brown explained how with an application we look at

everything from the setbacks to the size, what it is being used for, accessory size, in addition to things such as fences. Ms. Herman summarized how everyone contacts the City, but with a nonconforming use, there would need to be a couple of extra steps. Mr. Smith conveyed that he is stuck still on the current replacement cost, and who would provide that number. Mr. Brown replied that the applicant would do that. Mr. Smith asked if that would be based on a quote from a contractor. Mr. Brown said that is correct, he did not think we needed to get in the business of doing that. Mr. Smith expressed that he does not want to put an additional burden on a resident to find a contractor willing to come out and give a quote or bid on something that is never going to happen. Mr. Brown said that is not the intention.

Mr. Thomas Barrett of 235 East Wilson Bridge Road expressed his appreciation for updating the City Code regarding nonconforming uses, however, it is unfortunate that nonconforming status causes multiple issues for homeowners. Even with the letters that the City can provide, it is an unnecessary burden. Fannie Mae will not finance a traditional mortgage on a nonconforming house, and financing requires local, manual underwriting. Still, the bank underwriting for nonconforming uses is a risk and manifests in higher than market lending rates. Nonconforming status negatively impacts home values and can lead to disqualified insurance claims, or drive appraisals lower than they would for a conforming home. The sale of nonconforming homes requires a special disclosure statement. They consulted with a variety of mortgage brokers, real estate agents, and insurers, they all agree that nonconforming status creates all kinds of issues and is a red flag. Many residents within the impacted area, moved here in the past five years and plan to for the long term. A solution that would benefit all parties is to allow single-family homes to remain in conforming use in the rezoned areas of Wilson Bridge Road.

Dr. Kristy Townsend of 7080 Westview Drive asked why rezone these properties to begin with. If there is an interest by a developer that fits with the City plan, why not offer to let them buy the property. Instead, there are major financial penalties for homeowners, and asking the City to trust the insurance letters has never been an issue in the past, but that is not a reassurance when nonconforming use is a penalty to homeowners. The MPC agreed that these rezonings were unnecessary. There is the question of other renovations that homeowners may want to make to their properties to expand and the risk of the City not granting approval because of an outdated plan. 25% is still not enough. Why not meet 50% as a bare minimum if other cities are using this. Mentioned were 50 nonconforming uses in the City and she wants to know how many are in areas that are planned for redevelopment within the City. If there are none, she would like to know about the conflict of interest in coming to the City and getting a letter of waiver or having the BZA agree to have homeowners make changes outside of these changes. We repeatedly hear from the City staff that there is no reduced appeal for homeowners when they put their properties on the market for a nonconforming use, the fact is they have independently talked to real estate agents and there is a penalty.

Ms. Brewer asked if there is ever a reason we could go above 25% replacement cost,

codifying it in the code. Mr. Brown explained that Council is the one that adopts the law at the end of the day. If there is an interest to increase from 25% to 50% that could be done. He did correct that when talking about a storm or something damaging property, that is built into the new clause that they do not have to go to the BZA for approval if that exceeds the percentage proposed. Ms. Brewer asked if there is a reason a jurisdiction may say no to that higher percentage. Mr. Brown explained how most communities are 10%, with some being 25%. If we wanted to go higher, there is no reason we could not.

Mr. Lindsey explained that the nonconforming provisions are protection because absent that, if you rezoned, it could be a nonconforming use, not permitted by the code. Having provisions that address when you are allowed to maintain the nonconforming use, is the purpose of this section. Previously, the damage or destruction was limited to 50%, however, what has been proposed is that as long as you rebuild to the same footprint and did not expand, you could replace at 100%. This allows the perpetuation of the nonconforming use for longer than intended in most zoning codes. These changes, if approved, would be very significant compared to the typical nonconforming use provisions.

Mr. Robinson asked if a structure is replaced with the same footprint, that it would not be constrained by the 25%. Mr. Lindsey replied that the 25% is meant to represent the normal maintenance and repair of your home, to replace your roof or your air conditioner. The concern heard was that the 10% would be restrictive for some of those types of improvement, depending on the value of your home. That is not the rebuild if struck by fire or damaged by a tornado, that would be unlimited as long as you stay in your same footprint. Mr. Robinson clarified that these changes if enacted would weaken or diminish the theoretical purpose of nonconforming. Mr. Lindsey explained that the normal purpose is that you allow property owners to maintain the current use in its current form, but not allow it to expand or increase in any way. Mr. Robinson asked if there are any effects if an existing home changes ownership. It seems that the loosening of these restrictions creates a condition where single-family homes could exist there in perpetuity. Mr. Lindsey explained that any current property owner who sold, the new owner would have the same rights extended to them.

Ms. Kowalczyk said that the clarification is that if you chose to build a new home, that would be the limitation here. Mr. Lindsey replied that is correct, if someone without destruction wanted to rebuild, then that would be where someone would go to the BZA for approval.

Mr. Smith explained how he agrees with the residents tonight, but as we are here today, he likes the changes proposed. He is worried about the 25% threshold and thinks it should be 50%.

Ms. Kowalczyk explained how that is the threshold before you have to seek approval, so you can still seek approval beyond the 25%. Mr. Brown said that anyone has the option to go to the BZA to ask for an increase.

Mr. Smith responded that most people with roof issues are not going to want to wait a month to go to the BZA before their roof implodes on them.

Mr. Robinson asked what the downside would be of increasing the replacement to 50% if there is one. Mr. Brown replied that he does not immediately see a negative impact. Mr. Lindsey reminded Council that the 1151.07 - Repairs and Maintenance applies to any and all districts, so that would allow the nonconforming commercial and residential zone to likewise do it. If the concern is about residential property owners needing somehow the ability to do a greater repair without going to the BZA, he might suggest that be done separately for residential. We wanted to assure that the provisions of the replacement if destroyed were limited to the single-family residential structures, whereas the section immediately above, applies to any of the other zoning districts. Mr. Robinson asked about the downside of that. Mr. Lindsey replied that the downside would be the nonconforming industrial building that is right next door, which would continue to make significant repairs and improvements, perpetuating the industrial use in your residential district.

Mr. Smith expressed that he does not know the vastness of that impact, but if that would have a negative impact, he would be happy to separate that out specific to residential.

Ms. Hermann expressed that the bump to 50% is concerning to her, she could agree with an increase to 35%, but the lower percentage gets people to maintain their homes and stay involved. This 50% is rather large. It seems that this would be fewer possibilities that would need to go past even 35%, and she would be more comfortable choosing something in between.

Mr. Robinson explained how the maintenance cap seems like a very clumsy tool for the City to be using. He asked Mr. Greeson if there was an example where a nonconforming property owner vacated and left and what motivated them to do so. Mr. Greeson responded that in one commercial instance, it was the land was purchased by a conforming use, but also we did not allow them to expand the use. An example was Tilton's Automotive. Mr. Brown said that he cannot think about the residential side. You find this in nearly every jurisdiction, and it is enforced with a lighter hand approach. Mr. Greeson said that there are some examples of nonconforming use that have moved from conforming to nonconforming and uses have flipped back and forth. Mr. Robinson asked if any of these changes have been driven by the property owner feeling that they were unable to operate as they wanted and they were forced out. That seems to be the essential purpose of the nonconforming, putting incentives for people to move on. Mr. Greeson said that looking back in history, that is, even more, the case. City Hall is on a site where there was a former Volkswagen dealership. It is the underlying zoning and inability to expand those uses over time that resulted in them being sold to become uses that the community thought was the more desirable, higher value, use. In recent times, the only example is Tilton's who felt that they had to move because they could not grow. Looking back, Worthington today is a product of the zoning decisions that were made in 1971, particularly outside of the Historic District. There used to be 4-5 gas stations along High Street, but when they fell off the vine, they had to be reused in their new zoning classification, not their past zoning classification. Mr. Brown cited the former

BP station that is now Dewey's Pizza, the zoning district allowed for that change. Mr. Greeson explained how in those instances, we would not have wanted to see a continuation of those uses, but a change in use to something that was in conformance with the new zoning.

Ms. Brewer brought up the MPC/ARB meeting where this was discussed, and how one of Dr. Townsend's concerns was the City has said they would grant these letters upon request, but if it was in the City's interest to develop these as commercial, at what point would the City not issue a letter like that. Ms. Brewer asked if there was a way to set when a letter or certificate would be issued, so we do not have a landowner with nonconforming use thinking they could get approval, but it is denied. Mr. Brown replied that with it being in the codified ordinances if we were to change that it would need to go through a public process. We can always issue a letter dated when this language would be effective. If for some reason, Council would change the legislation, there would be another public process. If we change the regulations and write a letter once it takes effect, it would be for that property.

Mr. Smith expressed that the number of 35% cited by Ms. Hermann would cover the majority of repair systems, but he is hedging against what that looks like in the future if values or costs change. 50% for him is just comprehensive to cover for tomorrow. Mr. Brown replied that is why we changed to replacement cost, it is a better value to work from.

President Robinson summarized that the issue of making the houses conform to the WBC districts is a bigger issue than should be tackled tonight.

MOTION: Mr. Smith moved, seconded by Ms. Hermann to amend Ordinance No. 62-2021 to the language presented tonight.

The motion carried unanimously by a voice vote

MOTION: Mr. Smith moved, seconded by Ms. Hermann to amend Section 1151.07 Repairs and Maintenance to read "35%" as opposed to "25%" of replacement cost as written.

The motion carried unanimously by a voice vote

There being no additional comments, the clerk called the roll to pass

Ordinance No. 62-2021. The motion carried by the following vote:

Vote Results: Ayes: 7 / Nays: 0

President Robinson asked if there is any appetite by the Council tonight to look at the issue of conforming vs. nonconforming homeowners in the WBC-1 and WBC-2 zoning categories. Ms. Kowalczyk asked if we are looking to readdress the vote made in December. President Robinson expressed that it would be to look if there is a better way to write the language. Specifically about whether the single-family homes should be considered in their entirety nonconforming. The rationale was laid out in Mr. Barrett's email today and is something worth discussing.

Mr. Smith explained that looking into the idea of the coexisting single family uses on the same property in the zoning, he would be interested. President Robinson clarified allowing single-family and medium density residential.

Ms. Hermann voiced that the zoning was specifically written differently for a purpose.

Her concern is that she does not want to be creating nonconforming situations for another specific group when we are addressing other uses. President Robinson said that the idea is specifically for the criteria and description contained in the WBC-1 and WBC-2 categories that make the single-family homes in those areas nonconforming. The question to him that is unanswered is if there remain penalties or costs for the existing homeowners that are necessary and desirable for us as public policy and whether there would be a way to address the single-family homeowners as well as encourage medium-density residential if a builder wants to come in and build that type of housing. It would enable both uses to exist in that category.

Ms. Brewer said that there could be a policy item to discuss on the agenda to give notice that it is something we are interested in talking about.

Mr. Smith said what sparks his interest is that these houses were bought in the past five years, and would be interesting to get a census on whether people plan to stay long term.

Ms. Kowalczyk said she does not want to discourage discussion on a topic people are interested in, but she is confused because she is unclear about what else is being looked for. She is opposed to reconsidering the zoning decisions made in December.

9. Ordinance No. 08-2022 Permission to Install a Drinking Fountain on the Village Green

Approving the Installation of a Drinking Fountain with a Water Bottle Filler on the Southwest Village Green.

Minutes:

Mr. Greeson explained how any addition on the Village Green requires a 6/7ths vote of Council, and we have two members absent tonight. He recommends that this Ordinance is tabled until the first meeting in April.

MOTION: Ms. Brewer moved, seconded by Ms. Kowalczyk to table Ordinance No. 08-2022

The motion carried unanimously by a voice vote

New Legislation - Resolution(s)

10. Resolution No. 13-2022 Community Grant Allocations 2022

Approving Funding to Worthington Community Groups for the 2022 Community Grant Program.

Minutes:

Mr. Greeson explained how each year Council appropriates funds as part of the budget process to issue grants to community groups that serve a wide variety of community needs. We run a process with a committee that makes recommendations to Council consistent with Council adopted priorities on how the funds should be allocated.

Ms. Stewart described how the last time we talked about this program, we detailed how there was \$37,500 budgeted this year, but there is another \$6000 recommended for an award that was not disbursed from last year's program. The recommendations this year total \$43,500 that are allocated across 14 different non-profits as reflected in the agenda packet. All the grant applications and year-end reports showing how

funds have been spent in the past are available.

MOTION: Ms. Herman moved, seconded by Ms. Brewer to adopt Resolution No. 13-2022

The motion carried unanimously by a voice vote

Reports of City Officials

11. Policy Item(s)

a. Discussion regarding maintenance of right of way at Hickory Grove Court

Minutes:

Mr. Greeson explained how the subdivision was approved back in 1989, but staff first became aware in 2016 when residents of Hickory Grove Court approached the City that only a couple of residents were maintaining the right-of-way. When the development was originally approved, there was a subdividers agreement between the City and the developer, requiring the developer to maintain or cause to maintain through the creation of a homeowners association the right-of-way area between Snouffer Road and Hickory Grove Court. Minutes of the MPC meetings show that there was a subdivider's agreement for right-of-way maintenance, but the deeds of the individual's properties did not end up including the required language that would have resulted in the creation of a homeowner association. The original owners of that subdivision maintained that right-of-way for 20 years, and more recently only a couple of homeowners have borne the responsibility to maintain it. They have now requested that the City consider doing something to ensure that the area is maintained in perpetuity. We did not pick this land up for maintenance as a staff because it is not believed that we have the authority to do so without Council action. Tonight is meant to discuss the options for the City, which are outlined in the memorandum. One option is to do nothing and maintain the status quo, which may be undesirable for the residents. The second would be to file a lawsuit against the property owners, which may be desirable or effective. Third, the City has the legal authority to maintain the area because it was designated as right-of-way when the subdivision was created. Doing this would result in increased costs to the City, including tree removal costs and about \$4000 per year in mowing. The fourth option would be the City assuming maintenance and then charging property owners through an increased assessment. The original subdivider's agreement allows the City the ability to assess the owners for maintenance if the subdivider or subsequent owner of the lots fails to do so. That would require the finance department to file annual bills.

Mr. Dineen who lives on Hickory Grove Court explained how they moved in there seven years ago, and we are approaching the seventh anniversary of when he brought this to the City staff's attention. The person they bought the house from primarily did all of the maintenance over there, paid to put in trees, and was told by the City it was their responsibility. There were four members of the court

that paid for that at the beginning, but that was it for the men who lived there. When moving in he was informed he would have to maintain the area but was unsure of how to do so. Without connecting documents, his legal counsel has said there is no way for the City to assess the property or to make them take care of it, if there was they would be happy to join a homeowners association and put deed restrictions in. The problem has become maintenance, and the City has ordered them to take down and trim trees. His personal opinion is that if they do maintain it, there is no ability for them to do that at their own will without the City at some point being able to say they do not like it. Without it being deeded, there's a big gap and problem with this. The original development was done, then sold to another developer, and then sold to individual homebuilders for each lot, and there were a lot of missteps along the way. They maintain the area, but now as things get older, it is more expensive to manage this type of thing. His opinion is that the City needs to take this over. Ms. Hermann asked if they mow all the way to Snouffer Road. Mr. Dineen replied that this has been the problem, we are looking at the short area between the houses, going west where it is bigger there are four who have had a maintenance company come in to mow the grass every year. Ms. Hermann asked who maintains both sides of Snouffer. Mr. Greeson replied that the homeowners maintain Snouffer and then on the north side there is a homeowners association that maintains the right-of-way. Mr. Dineen explained that anything that is between your property and the street, from a state code perspective is a homeowner's responsibility. The only thing the HOA is responsible for, are the entrances to the neighborhood. In his particular case is that he is responsible for the area from his house to the street, but there is no section of state code directing him to maintain that. That is the difficulty here without an HOA to have people participate in that.

Mr. Lindsey explained that in this instance, the decision was made, going through the City's review processes, it would not make it a reserve. The normal subdividing process would make that a reserve and the developer as the owner would have had every reason to make sure they provide homeowners association and that there was language in the deeds that every property owner when they sold the lots, would be responsible for contributing to a homeowners association. Whether intentional or an oversight, the deeds did not include any language putting the individual property owners on notice as to their deed. There is also the question of the Council on whether to enforce constructive notice on its residents. The cost of pursuing that issue would greatly exceed the cost to do the work by the City itself. Because of Council's action in approving that subdivider's agreement, which indicated that the City would not be responsible for maintaining this large right-of-way area. It is our opinion, that staff does not have the ability to just decide to start maintaining something that a prior City council said was the responsibility of a prior developer or property owner's responsibility. The third option is to place a special assessment on those

properties, which is a provision under the Ohio Revised Code that would do for those sorts of costs.

Mr. Robinson asked if the City currently issues special assessments on other homeowners and what is the experience like if we do so. Mr. Greeson replied that the only assessments are the sidewalk assessments when we are doing our annual program. There have been some sidewalk stretches accomplished using special assessments.

Ms. Kowalczyk asked in terms of taking over maintenance of the property, whether this is something that we do in other parts of the City, and if there is the potential to be asked to do this elsewhere. Mr. Greeson responded that we do not want to regularly accept responsibility for areas that were intended to be the responsibility of private interest. We do have a number of neighborhoods, not unlike this, that has a homeowners association, that conducts maintenance work through assessment of their homeowners. A number of those have some area that is in a common area that is the obligation of the association to maintain. We also have areas where homes were built prior to the modern subdivision regulations and there are areas such as across from the high school, where we mow it and maintain it similar to this situation. This is a unique situation where the correct paperwork was not filed creating the HOA and it has been maintained by a group of people for decades.

Mr. Lindsey emphasized that this is a one-off, oddity. While it is not our intention to take over those that have been properly created, here we are looking at a stretch of right-of-way that is not immediately adjacent to anyone's property, which makes it difficult to determine who should maintain it.

Mr. Greeson said he would express no concern over taking it over or taking it over and charging them because there is a specific benefit.

Mr. Robinson said that as a matter of principle, taking it over and assessing would be fair and just considering the original intent of the developer and Council action, unless there are pragmatic problems in assessing and collecting that would outweigh the damage.

Ms. Brewer asked how during a title search one would find the original document that was filed. The only real legal description in there is the description of the Hickory Grove Subdivision. Mr. Lindsey explained that the fact that the subdivider's agreement that was recorded references the Hickory Grove Subdivision and the plat thereof would form the basis.

Mr. Robinson asked if there needed to be further specificity on which option is preferred. Mr. Greeson replied that it would be best to memorialize the decision in the resolution which would better document for the future. Mr. Lindsey said that to take over the maintenance and to assume the cost, then a resolution to document that would be preferable to leave a record. Going through the special assessment, we would need to go through the process, preparing the necessary ordinance and the right to challenge the assessments. Assessments have to tie back to the benefits to the property owners.

Ms. Kowalczyk explained that if the City takes this over, homeowners would see that the City has the discretion to maintain it however we want to maintain it since we foot the bill. If there is an assessment, as a homeowner I would have some say in how that looks and what would be done to some degree, perhaps through this process.

Ms. Hermann stated that she is concerned about us making a different choice, specifically for a different area, and would want to discuss that, especially if we are taking care of some areas and not charging them. If we do take it over and we simply do it, if we take trees out do we choose the replacement trees, or do we follow what they had. Mr. Greeson replied that we would work with our arborists to identify species of trees for that area. The residents want to screen between Snouffer Road and Hickory Grove Court.

Mr. Dineen noted that the screening was a requirement of the original plat. It was never done correctly and we are now dealing with the ramifications of decisions made 20-years ago.

Mr. Robinson summarized that it sounds like there is a desire for the preparation of a resolution that we would take over this section of right-of-way for maintenance and not prepare a special assessment, but we would work with the homeowners.

Reports of Council Members

12. Reports of Council Members

Minutes:

Ms. Hermann updated that there is a special CIC meeting that will be held on April 8th at 8:30 am, entertaining a presentation from Council President Robinson and this meeting will be open to the public.

Ms. Kowalczyk brought up that there is an invitation at your places from the cemetery board of trustees to take a tour of the cemetery to learn the history of the cemeteries and their value to the community.

She had sent out an email on the Truth, Racial Healing, and Transformation session that is being held on Saturday to bring back together all the stakeholders interested in that issue to talk next steps. City Council will be asked to have a presence in that work.

Finally, she expressed her thanks to Mr. Steve Tennant for coming to her neighborhood and talking to her neighbors about an issue regarding the cut-through between Selby and Melbourne in Riverlea and the challenges dealing with that. The residents appreciated him coming and talking about the options.

Ms. Brewer provided an update on the agenda items for the upcoming MPC/ARB meeting.

Mr. Robinson added that we had received an email from Mr. Scott Taylor for Council to explore a sister city relationship with a comparable city within Ukraine. Apparently Ms. Brown has made initial steps to look into that, and it is something he would find to

be appropriate. Secondly, he was reached out to by Ms. Nikki Hudson to whether he could bring to Council an issue he is supportive of, the issue is there is a group forming in Worthington called Worthington Pride that is being modeled on other citizen groups in other communities. One of their tasks would require Council action, is to fly the Pride Flag in one or more locations within our City during Pride Month. The issue here in basic is that the action would not be a free speech action and could be constrained as a City speech issue, where the Council could regulate what types of flags are flown, when, and where. If we want to pursue this, we would need to consider whether we want to accept the responsibility long-term on a recurring basis. Ms. Kowalczyk expressed she would like to have the discussion and hear about the concerns and constraints involved, and where we do have opportunities.

Other Business

Executive Session

13. Executive Session

Minutes:

MOTION: Ms. Brewer moved, seconded by Mr. Smith to enter the Executive Section for the purposes of considering the appointment of a public official, considering the purchase of a property for public purposes, and considering negotiations for economic development assistance.

The clerk called the roll on Executive Session with the motion carrying unanimously.

Council recessed at 9:43 p.m. from the Regular meeting session.

Council returned to open session at 10:13 p.m.

Adjournment

14. Motion to Adjourn

Minutes:

MOTION: Mr. Smith moved, Ms. Brewer, seconded a motion to adjourn

The motion carried unanimously by a voice vote

President Robinson declared the meeting adjourned at 10:14 p.m.

Contact: D. Kay Thress, Clerk of Council (Kay.Thress@worthington.org (614) 436-3100) | Minutes published on 05/12/2022, adopted on 05/16/2022

Attest

Management Assistant

Council President Pro-Tem