



City Council Agenda

Minutes

Monday, April 4, 2022 at 7:00 pm

6550 N. High Street, Worthington, Ohio 43085

1. Call to Order

Minutes:

Worthington City Council met in-person in Regular Session on Monday, April 4, 2022. President Robinson called the meeting to order at or about 7:00 p.m.

2. Roll Call

Minutes:

Members Present: Katherine 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 and Building Lee Brown, Director of Parks & Recreation Darren Hurley, Chief of Fire & EMS Mark Zambito, Clerk of Council D. Kay Thress

There were thirteen 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:

Tom Burns, 1006 Kilbourne Dr. shared that he wanted to speak briefly about activities that have happened in and around the city of Worthington over the last few months. He reminded members that the entire purpose of the actions taken on January 18th, at least that we were told, was to encourage community input and community participation to figure out what we want to do not just in one area but across the entire city with regards to the comprehensive plan and that sort of thing. Since that meeting and as far as he can tell, this Council has made no efforts to initiate any public outreach sessions. This council has taken no actions to appropriately encumber

and retain an appropriate planning firm to update the comprehensive plan, which is something that should be done with a robust public input process. If we are going to have these conversations this is the council that needs to do something about it, and he has not seen any of that. To reiterate what he shared three months ago, there is already a process in the city of Worthington for doing these things. Let us institute that process. We need to start with the Vision Plan because the hundreds of your residents would not be served if we do not start there. To throw away the time and work people undertook to participate in that effort would simply be a disservice to your residents. That is the beginning. It is who we want to be when we grow up and turn it into a comprehensive plan, which is a roadmap for how we get to where we want to be when we grow up. It is a simple request. He hopes it is something this council will work on. His only addendum to that request is that they had a fantastic inclusive housing seminar last Wednesday and he knows many were on that virtual event. If we were to do a comprehensive plan, he believes the best time to do a comprehensive housing study is to do it as part of a comprehensive plan. There will be public input with lots of overlap and it makes a ton of sense. If we are going to do that, there is a plan in front of us. Let us begin talking about that public input and move forward. He has not seen that from this council and hopes this month that this council will start to change and move the city forward.

Aaron Domini, 770 Morning St., shared that he knows many on council and it is good to see everyone in this setting. He typically lays low. He trusts that everyone is doing their job, both elected officials and staff but there have been some things that have happened recently that have given him serious concern. Upon reading a Business First article he felt compelled to come to tonight's meeting. First, thank you, all of you for being up here doing your service. He greatly appreciates those who are.

He is here to talk about a couple of things. The first is the abomination that Mr. Robinson instituted with that amendment to the comprehensive plan. It is absurd. That does not happen in this City. It does not happen in any City. The fact that he felt compelled to put that on the agenda in the cloak of the night, not letting Ms. Michael or Ms. Hermann or others read it, is a crime. Now we will be punished for that and watching that happen, he truly believes we are going to lose. Why, because he has watched that attorney in other cities with easier cases take them to the cleaners. What is happening here right now with what we did related to the comprehensive plan, emails to the Planning Commission, the constant bullying of our leadership and mistruths to our community about what you are trying to push is out of line. Quite honestly, he thinks he should be ashamed of it. It started for him when Mr. Robinson came to the Wilson Hill back to school party with his plan, which was classless. That was a day for us to be celebrating our kids going back to school, having hot dogs and music and not for pushing a plan that is unrealistic. He is really embarrassed by it. That he is sitting up there as President of Council. Mr. Robinson talks about transparency and about the moratorium and about the referendum, all the things that he is pushing for, but he is not following the same things that he is asking for. He suggests he follow the things that he is asking for with the same decorum and actions

that he is doing because he is embarrassed. He is embarrassed to live here. He is out in the community; he is working with developers because he is a consultant, and nobody wants to come here anymore. If we want to build a park on thirty plus acres, you know how we need to do that? We need to generate revenue to support it. We need to generate revenue to keep the parks up that we have. He is currently working on the Dublin Parks & Rec master plan. Do you know what their parks look like? They are pristine. They are up to date. Ours are not. So, before we build a giant park, he suggests we get the ones that we have in order and upkept. He suggests we implement that non-motorized master plan, which we paid Dan Burden, who is a nationally recognized consultant, to do for us. He has not seen any of those trails done or any of the connections built. We have major infrastructure problems that we are not taking care of because we are too busy talking about this nonsense. We all know what UMCH wants to be. It is a mix of uses. It is a reasonably sized park. It has residential with commercial in the front. So, before we go spending all that time and money, go back and look at the work we have already done. Let us move the deck chair of the titanic over three feet because that is what we are talking about. Council is wasting everybody's time. He asked Mr. Robinson to stop doing stuff in the cloak of the night, undercover. Those members who voted with him should be ashamed too. It is nonsense and he is tired of it. He wrote a long letter to members tonight that he did not read because he went audible, and he thinks that is the best way to go. He is glad this is all on the record because nobody else has the guts to come up here and talk to you like this, but he does. He does not care if that means he does not work in the city anymore because he raised his kids here, he pays taxes here and he believes in this city. But when members do stuff without transparency, what is the point.

Mr. Domini thanked members for giving him the power to come and talk to them. He encouraged any of them to contact him, his phone number is on the speaker slip. He hopes others read the January 18th minutes like he did, they are 39 pages long and that was embarrassing, not just for President Robinson but for everyone who voted with him, and you know who you are, clearly you do not know anything about running a city or transparency or what it means to put a good plan together. He is ashamed. President Robinson stated that he appreciates his comments and is grateful that we live in a country where freedom of speech is a constitutional right.

Approval of the Minutes

5. Approval of Minutes - February 14, 2022, February 22, 2022, March 7, 2022, March 14, 2022 (Special), and March 14, 2022

Minutes:

MOTION Ms. Hermann moved, seconded by Ms. Michael to approve the minutes of February 14, 2022, February 22, 2022, March 7, 2022, March 14, 2022 (Special), and March 14, 2022 as presented.

There being no additions or corrections, the motion carried unanimously by a voice vote.

Public Hearings on Legislation

6. Ordinance No. 08-2022 Village Green Drinking Fountain

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

Minutes:

President Robinson shared that this ordinance was introduced on March 7, 2022, and was tabled at the March 21, 2022 meeting because it requires at least six votes to pass an ordinance that changes something on the Village Green and there were only five members present for that meeting.

MOTION Ms. Kowalczyk moved, seconded by Ms. Michael to remove Ordinance No. 08-2022 from the table.

Motion carried unanimously by a voice vote.

Mr. Greeson reiterated that the historic Village Green is so important that there is a provision in the City Charter that requires any permanent improvement that is placed upon it, in this case replacing a drinking fountain, be approved by six out of seven members. He invited Mr. Hurley to comment.

Parks & Recreation Director Darren Hurley shared that he is excited to bring to Council a small project in conjunction with the Worthington Partnership. Their Green Team asked that we consider adding a water bottle filler onto the Village Green. Our Parks staff began to work with them and access our options. After much review, the decision was made to replace the existing drinking fountain on the southwest Village Green which is part of the Veterans' Memorial. He showed slides of the current drinking fountain, which was purchased by the City, as well as a rendering of the proposed replacement fountain, which features a doggy bowl, a handicap accessible bowl, a typical water fountain and a bottle filler inside the opening at the top of the structure. The fountain will be black in color and its placement will not disrupt the locations of the plaques at the Veteran's Memorial. The timing of this project is great since staff has already been working with the Arbor committee to replace some of the landscaping on the four greens.

Mr. Hurley added that the Partnership's Green Team is willing to fund this project "up to" around \$15,000. Staff thinks we can stay within that amount, so we are grateful to them. We appreciate their advocacy for this change and believe it is a win for us as well. He introduced Annina Parini the Executive Director of the Partnership and Rishanna Denman who is also representing the Partnership.

Annina Parini, 210 Sinsbury Dr., reported that the Partnership is host to the Green Team. This enthusiastic group of volunteers was responsible for winning the Community Energy Savers grant in 2020 by helping educate 100s of Worthington citizens on how to save energy through Columbia Gas and AEP Ohio projects. One of their main goals is to reduce waste by diverting it from the landfill. Much of that is accomplished by changing people's behavior. City's can help by encouraging the use of refillable water bottles and providing the filling stations. They plan to utilize some of the grant money to assist with the purchase and installation of the new water bottle filling station on the Village Green. Placing it on the southwest Village Green takes

advantage of those attending the Worthington Farmer's Market and all the other events that they host in Old Worthington. The Partnership staff and volunteers sold over 1,100 bottles of water at \$1.00 a bottle during the outdoor 2019 Farmer's Market season. That is a significant chunk of revenue that they will happily give up to make sure that we divert as much from the landfill as we can. She urged members to vote in favor of allowing the Parks Department to install the water bottle filling station. She thinks it will be a wonderful addition to the Green.

Ms. Michael, Ms. Hermann and Ms. Kowalczyk all think this is a great project and wonderful use of the grant money. They thanked the group for their energy saver efforts.

Mr. Robinson, in speaking for all dogs in the city, thanked the group for the dog bowl feature.

There being no additional comments, the clerk called the roll of Ordinance No. 08-2022. The motion carried by the following vote: Vote Results: Ayes: 7 / Nays: 0

New Legislation - Resolution(s)

7. Resolution No. 14-2022 Economic Development Incentives for Olive AI, Inc. Investment in 6700 N. High Street

Approving a Financial Incentive Package for Olive AI, Inc. and Authorizing the City Manager to Enter into the Respective Agreements with the Company to Support the Creation of a Global Headquarters Operation at 6700 N. High Street.

Minutes:

Introduced by Ms. Michael.

Mr. Greeson confirmed this resolution is an economic development incentive for Olive AI Inc. Investment in 6700 N. High St. and growth here in Worthington. We are excited to present this to Council this evening and welcome Olive's leadership to the Worthington City Council meeting. He invited David McCorkle, Assistant City Manager and Economic Development Director who has shepherded this project and nurtured our relationship with the property owner, Lawyers Development, with the company Olive AI, coordinating with state and regional partners in helping facilitate our many internal discussions. Mr. McCorkle will introduce our guests, present our recommendation to you and then collectively endeavor to answer any questions members may have.

Mr. McCorkle shared that he is excited and honored to be presenting the financial incentive package for Olive AI, supporting the acquisition and creation of their global headquarters at 6700 N. High St., which we will formally begin calling the Olive Property going forward.

He shared that Olive is an automation company creating the internet of health care. The company uses intelligent automation to address health care industries most burdensome issues. Helping clients increase revenues, reduce costs, and improve efficiencies. He will provide details of the incentive package before representatives of the company are given an opportunity to speak. Sean Lane, founder and CEO is here

tonight as well as Brook Wanless, Chief Legal Officer.

In covering the particulars of the incentive package, Mr. McCorkle stated the incentive package being recommended for approval will support the costs associated with the acquisition and renovation of the Olive property as well as the creation of the global headquarters operation that will create up to 425 high paying jobs with a total estimated payroll of almost \$74M within ten years. Olive utilizes a workforce model called The Grid, allowing Olivians to work remotely most of the time. This financial incentive package assumes that Olivians working from the Worthington property will spend approximately 60% of their time in the office. This is relevant from an income tax revenue collection perspective. The proposed incentive package considers three programs: 1) Payroll grant, 2) façade grant (half grant/half loan) and 3) a CRA property tax abatement that is already in place. The payroll grant is equivalent to 20% of the actual annual net new income tax collections less any refunds issued to employees of Olive for ten years. The grant has an estimated value of \$1.339M based on the project commitments over ten years. This grant is capped at \$3M which provides Olive with some upside, the better they do, the better the City ultimately does. It is still incentive based, still performance based, 20% grant but it is capped at \$3M total. The façade assistance grant is \$75,000. That will be half grant and half loan. The loan is 0% interest, payable quarterly over three years. That will help with exterior improvements to the building. We expect substantial exterior improvements to be made to the property. The final incentive is the CRA (Community Reinvestment Area) property tax abatement. That abatement was approved in 2019 at 75% for ten-years. It starts in tax year 2024 and will commence when Olive's renovations are complete. Tonight Council is being asked to authorize the reassignment of that abatement to Olive AI from Worthington 17, the former property owner.

Mr. Lane shared that this is his first time at City Council on what he thinks is a pretty good occasion. He reported that they would not be here if it weren't for David McCorkle, who absolutely drove this. It is a dream come true to invest in this community, to bring lots of jobs to Worthington, to show off the community. Prior to the pandemic they had 200 employees. Now they have 1,400 employees and they are growing at an incredible rate. The decision to invest in Worthington was because they think Worthington is a great place to bring people from all over the world. To see what Ohio has to offer, to see what we have to offer, to experience the community, to eat and shop here, to become integrated with the community that exists. We think that roads and progress and development can go hand in hand with all the things that make Worthington special so we intend to preserve all those great things that make Worthington special as they continue to invest in the city. They are excited and thrilled that they have been given this opportunity. There is a great deal of work ahead of them and we will be seeing a lot of each other in the future. Thank you so much.

Mr. Bucher thanked Mr. McCorkle and thanked Mr. Lane for being here. He asked if they have finalized site plans yet or renovations. If not, when might those be public? Mr. Lane replied that they do not have plans yet. They are approaching the work

initially in several phases. The initial phase, Phase 0, will be to determine what needs done get the site activated so people can begin working there soon. Phase 1 will include development and we will have subsequent phases to that. As soon as they figure out what those are, they will share them. They will work with the city to ensure everything fits in to the broader picture of how they are not only going to invest in that area of High St. but also the greater vision of what the investments will look like in Worthington. They will be presenting those as they figure it out. They move fast but they still have many decisions to make.

Ms. Kowalczyk thanked Mr. Lane for coming tonight and talking. She asked for a lay person's description of what Olive AI is. Mr. Lane replied that Olive AI is health care's automation company. He described it as compiling all those papers on clipboards that clients receive at a doctor's office or hospital and automates every process from the beginning all the way through your entire experience as a patient, whether it be your billing, the correct medical records, making sure they have all the correct information and wisdom about how to treat a particular patient. They bring all of that together in one spot so there is a great deal of work to do. They do that on behalf of health systems, most health systems in Ohio use their product. Over 1,000 hospitals that use their products and health insurance companies. They are also doing that for many of the larger health insurance companies to make sure they automate those processes. The idea is that we want to remove much of the mystery that exists when you deal with health care by bringing technology to bare.

Ms. Hermann shared that her daughter was born prematurely, and they had to deal with numerous organizations as well as insurance so they stopped paying because everybody had to figure it out before it got to them. She asked if they are incorporating all those different pay groups. Mr. Lane replied yes. He was an intelligence officer and has spent much of his career at the National Security Agency. His hometown, Gallipolis, Ohio was fighting prescription drug abuse and he was wanting to help with that. He found that there was a lot of data that needed to be connected, which is the reason he started the company. He then spent time at Nationwide Children's Hospital with his son and there were many patients and family members who had to deal with Medicaid and different pay systems and wondered whether they would be able to afford the care their child needed. From his perspective, no one should have to go through that when they are experiencing one of the most intensely difficult times of their life, the illness of their kid or family member. They hope to remove all that mystery and shine a light into those kinds of dark corners and make sure that no one has to worry about those stacks of papers that come in the mail and what they might mean. Every piece of that is on the table for their automation and there is a lot of work to do. Ms. Hermann said that is wonderful to hear. She thanked him for his effort. Ms. Michael stated there are many on Medicaid that would like to get off but if they earn too much money, they are no longer eligible, but they don't earn enough money to be able to afford all of their health insurance. She asked if his company provides anything to help bridge that gap or is this just a fantasy? Mr. Lane replied it is not a fantasy. About a year and a half

ago the investors of Olive got together and were talking, and we said what if we could build an insurance company on top of Olive. So we started another company called Circulo Health, they have about 350 employees already and only started twelve months ago, but it is to address exactly what you are talking about. It is a Medicaid focused company that is looking to bridge the gap specifically on what you are saying when you are on Medicaid and you get employed and now you don't qualify for Medicaid anymore, what is your care going to be. Unfortunately, your incentive is to not be employed because you will move out of the income ranges for Medicaid. So, to retain your health care you are not getting employed. They are getting with the state to bridge that gap, so it is exactly as you described. They have an entire team working that issue. Ms. Michael said she would love to talk with him outside of council about that. Mr. Lane said they are very passionate about that effort.

Mr. Robinson shared that he read a bit of his Q2-2021 report that included a thorough letter up front. In there you said something like we actually grow this business and not just develop it for sale. He asked Mr. Lane if he would share something of his passion about why he seems clearly invested in the long term in this business. Mr. Lane stated they talk about perpetuity and impact. They believe they must create an organization that has perpetuity but also drives impact. To build something that lasts forever is harder than building something to sell. When he left NSA, his first company was great, they started a software company in Baltimore, MD, and then sold it. He thought that was what he was going to do after that, build and sell companies but instead he realized that to do something that would make a significant difference, it had to be a large company. It had to be a company that would be around for a long, long time. If you want to transform health care to provide answers to the questions that Ms. Hermann posed or to address issues like bridging the gap in Medicaid, you must build a company with wherewithal. One that had the kind of resources that could change these things. They intend to build a company for a long, long time so it does have the wherewithal and resources to make a significant impact and a significant difference. That is what Olive is about. From his perspective this is a dream come true for him and he intends to do this for many years. If you look at all the big public companies out there and look at health care tech companies, the largest ones aren't that big. They believe that health care deserves a big tech company.

Public Comment Aaron Shearer, 6875 Bowerman St. E., said he had a couple of questions. He thinks this is great news, he agrees with that assessment. As a fellow technologist that lives in Worthington and he is kind of stoked about the energy and more people working on technology will bring to the city, the couple questions that he has is, is that \$1.3M number a floor for what the City is giving and then is there a rough estimate around the gap. He assumes the valuation of the property has changed between the sale. The original sale of the property at 6740 and now, what is the additional amount of money that is being added into that 75% property tax abatement. He is also slightly confused about the income projections. There are gaps between the increases and then the base of the following year. That may be totally normal, but he doesn't deal with those numbers ins and outs on a regular basis. He

thinks the bigger point he wanted to make is this is a great example of following process. There has been a lot of conversations about process with this Council over the last couple of months and this is an example where we have trusted city staff to do their job. We have given them a task and they have completed that task to excellent results and gotten something wonderful for the city. He urged Council to truly consider following the established processes. There has been a lot of maligning of prior work by prior councils and it seems to him based on all the things happening around the city, whether it is High North, or the former Holiday Inn site, or over at the Northeast Gateway, look at all these different pieces, it seems to him like the prior work is working. He urged council to truly step back and take the advice he gave several meetings ago to heart and continue the process that was initiated with the vision work into a comprehensive plan, into a citywide rezoning map. Our overall zoning has not been updated in a long time and it would address many concerns including housing, how we want to set the vision now that we know who the new owner of this property is going to be. It seems like a great situation for Worthington. He encouraged Council to commit to the processes that we have always used.

Mr. McCorkle in replying to the questions: 1) The \$1.3M is not a floor. So, 20% each year the company would get back in the form of a grant. That is clearly a percentage based. If they over-perform in the first three years, they could receive up to \$3M in total payouts and would not receive anything in the subsequent seven years. Conversely, if they underperform in the first few years but overperform in the later years, they will just receive 20% of their withholdings back annuals. The \$1.3M is not a floor but rather an estimate based on their payroll projections at 20%. 2) The second piece was the property tax abatement. The value of a property tax abatement is determined based on the level of investment that goes into that property and then is picked up by the County Auditor. Currently the property has a base-line value of \$6M. Anything above the \$6M is abated at 75%. 3) From year to year the base value, the annual base payroll shifts and does not equal the total value from the year before. That is because it accounts for a 5% annual increase each year on the base value. So not only is the company committing to annual growth of new jobs but they are committing to an annual base increase of 5%.

Mr. Greeson added that the abatement is limited in time, 10 years.

MOTION Ms. Hermann moved, Ms. Kowalczyk seconded a motion to adopt Resolution No. 14-2022.

There being no additional comments, the motion to adopt Resolution No. 14-2022 passed unanimously by a voice vote.

President Robinson shared with Mr. Lane that all on Council were excited about this before this evening. Having met him and hearing from him, particularly his vision and commitment to his business and the mission behind it, he thinks they are all even more grateful to have him here as part of our community. Thank you and welcome to all of Olive and nicely done Mr. McCorkle.

8. Resolution No. 15-2022 Hickory Grove Subdivision Right of Way Maintenance

Authorizing the City Manager to Assume Control and Maintenance of the Right of Way Between Snouffer Road

Minutes:

Introduced by Ms. Brewer.

Mr. Greeson shared that at one of our prior meetings we discussed the Hickory Grove Court right-of-way maintenance and resolving who was going to maintain that and exploring whether the city was going to take over that right of way maintenance because a homeowner's association was never formed when the subdivision was created many decades ago. The Council discussed that issue, and it was the consensus of those who were present that the City should take over that maintenance. Staff was directed to prepare a resolution that would authorize city staff to do so on an ongoing basis. We would be glad to answer any questions but recommend approval.

Ms. Hermann stated when we were speaking about the issue, there was mention of assessment fees. She asked if we decided not to do that. Mr. Greeson agreed that was an option with another option for the city to take it over and a third was to file suit which we did not find palatable. There was a little bit of discussion that acknowledged that essentially if we take this over, we set the standard and if residents want a higher standard than the level of maintenance that we are going to provide, then a homeowner's association may be appropriate. At this juncture, we don't think there is a difference between the level of maintenance that they currently have and what we are able to provide.

Ms. Hermann noted there being a sidewalk there and we know that Perry and Phoenix schools are down the way. She is assuming children use that sidewalk to travel. She asked if the City would be responsible for that during snow removal. Mr. Greeson said that is a great question. He believes it will be the City's responsibility because the sidewalk is not in front of any home. Mr. Lindsey agreed with Mr. Greeson's understanding of the issue. It will be the city's responsibility. Not that property owners could not shovel the snow, but it will become the responsibility of the City.

MOTION Ms. Hermann moved, Mr. Smith seconded a motion to adopt Resolution No. 15-2022.

There being no additional comments, the motion to adopt Resolution No. 15-2022 passed unanimously by a voice vote.

9. Resolution No. 16-2022 Board of Tax Review Appointments

Re-Appointing Jerry Katz and Scott Heitcamp to the Worthington Board of Tax Review.

Minutes:

Introduced by Ms. Michael.

Mr. Greeson reported there being a Board of Tax Review and that Board occasionally hears appeals on income tax matters. There are several appointments that City Council has to that Board. We have two long serving members, Jerry Katz and Scott Heitkamp who are interested in being reappointed and staff recommends that council reappoint them.

MOTION Ms. Brewer moved, Mr. Bucher seconded a motion to adopt Resolution No. 16-2022.

There being no additional comments, the motion to adopt Resolution No. 16-2022 passed unanimously by a voice vote.

10. Resolution No. 17-2022 Approve a Right-of-Way Permit for SummitIG, LLC and Summit Infrastructure Group, LLC

Approving an Agreement and Permit for and between SummitIG, LLC, a foreign (Virginia) Limited Liability Company, and Summit Infrastructure Group, LLC, a foreign (Virginia) Limited Liability Company, to Operate and Maintain a Telecommunications 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 often members see renewals of right-of-way permits but on occasion we will have a new request, which is what this is. Your codified ordinances provide a procedure for telecommunications companies to be able to operate in our right-of-way. Staff has reviewed those for consistency with our rules. They pay the fee, and we present them to Council for approval. SummitIG, LLC and Summit Infrastructure Group, LLC is a new fiber optic provider who wants to locate in our right-of-way and have fulfilled the obligations under our ordinance to do so. Staff is recommending approval of the permit.

MOTION Mr. Smith moved, Ms. Hermann seconded a motion to adopt Resolution No. 17-2022.

There being no additional comments, the motion to adopt Resolution No. 17-2022 passed unanimously by a voice vote.

11. Resolution No. 18-2022 Accepts Grant Funding for Northbrook Sewer Repair

To Accept a Grant from the Ohio Department of Development – Water and Wastewater Infrastructure Program (WWIP) for the Northbrook Relief Sewer and Authorize the City Manager to Execute the Necessary Grant Documentation.

Minutes:

Introduced by Ms. Michael.

Ms. Stewart shared that our capital improvements program has the Northbrook relief sewer project in it. This is a sewer project that was recommended by our southeast sewer shed study that replaces the sewer between High St. and Northbrook subdivision. As we have been planning for this project, we submitted the project for consideration for funding from the State's program that they introduced using the American Rescue Plan Act (ARPA) funding that the state received. They put some funding towards water and wastewater projects, so we submitted this project for funding through that program. We received word that we did receive and were approved for grant funding in the amount of \$345,479.00 for this project. This resolution accepts that grant which will be administered by the Ohio Department of Development for use in that project and gives staff the authority to execute the necessary agreements.

MOTION Ms. Kowalczyk moved, Ms. Brewer seconded a motion to adopt Resolution No. 18-2022.

There being no additional comments, the motion to adopt Resolution No. 18-2022 passed unanimously by a voice vote.

Reports of City Officials

12. Policy Item(s)

a. Liquor Permit Transfer - Worthington Tavern

Minutes:

President Robinson stated this liquor permit transfer is from 673 High St. LLC dba Half Pint to Worthington Tavern LLC.

Mr. Greeson reported that Worthington Tavern is a restaurant that is opening in the former Half Pint space. It is common when one restaurant is going to replace another restaurant in the same location for there to be a request to transfer the liquor permits between the entities, presumably a sale of those permits. This is a transfer of the D5 and D6 liquor permit from Half Pint to Worthington Tavern.

Mr. Lindsey added that the D5 permit is the sale of all things alcohol because it covers the beer, wine, and hard liquors while the D6 includes the hours of operation to the full extent under state law.

Mr. Greeson added that it is customary to have the Division of Police review applications and raise any concerns they may have. None have been raised so we have no objection at the staff level. We recommend that Council approve a motion to not request a hearing.

MOTION Ms. Michael moved, seconded by Ms. Brewer to not request a hearing on this request.

Mr. Hermann reported that one of the things that we had talked about during the other D5 permit discussion is that it had the availability to be open until 2:30 A.M. She asked if that is correct. She asked if we know the hours of operation for this new restaurant. Mr. Brown reported that this application is scheduled for the April 14th Municipal Planning Commission / Architectural Review Board meeting. The application was received today but he has yet to look at it. As part of the conditional use request, we look at hours of operation, seating, etc. Most of the restaurants in Old Worthington are only opened until 11:00 p.m. Ms. Hermann just wants to make that clarification that at the same time we have the D5 liquor license which allows you to go as late as you want but we also have an organization that will usually close at 11:00 p.m.

The motion carried unanimously by a voice vote.

13. Discussion Item(s)

a. Discussion of Commemorative Flag Policy

Minutes:

Mr. Greeson reported that President Robinson raised the issue or discussion about potentially flying the Pride flag during Pride month in June and to accomplish that the idea of developing a policy for when the City would fly what we are describing as commemorative flags. Examples of policies had been sent to us and we have reviewed others and Mr. Lindsey drafted a resolution that

would be a commemorative flag policy and we will talk about why we use that terminology as well as what it accomplishes. Staff wants members' feedback on this and your direction on how you want us to move forward. If there is consensus to move forward this evening with this or something within proximity to it, then we would be prepared to make minor amendments and bring it forward in short order for introduction and adoption. Let us explain what it accomplishes and then we can get members feedback.

Mr. Lindsey shared that we prepared a draft resolution as a discussion tool recognizing that it is not intended to be the final version. This draft contains various policies from a number of cities throughout the country that have similar issues of trying to determine what flags they will or will not fly on their flagpoles. The resolution as drafted first makes a declaration regarding our flagpoles. They are flagpoles on city owned property and are not intended to serve as a forum for free expression. We say that because if you declare something to be a public forum then you have created the right of individuals to have their first amendment expression done. Cities have the right to speak without opening up the opportunity for others who may disagree with the City's speech to have the same forum. It does not mean we prevent them from speaking. They can certainly speak through their own means of communication. They just can't use this particular method of expression. The U.S. Supreme Court has upheld that concept of government speech, most noticeably in the license plate cases. He reported on a case out of Texas in which an individual wanted their own message on their license plate because they viewed it as their license plate, and they wanted to be able to say what they wanted to say since their option was not available in Texas. The U.S. Supreme Court upheld the right of the state of Texas to not permit it because license plates were the state's speaking even though it appears on your car. The same basic concept would apply to the flags. It is the right of the City to determine what flags are flown. Mr. Lindsey added that it would be possible if the City chose to either have no commemorative flags and only fly the U.S. flag and the State of Ohio flag, the city could go to the other extreme and permit it to be a forum for individuals to express by allowing people to apply for a permit through an application process. Additionally, there is a pending case before the U.S. Supreme Court involving the city of Boston which had a flag policy that essentially allowed people to apply to host their own flag. Frequently it was if a visiting country was coming in their might host a flag to honor that country or if they were having their own event on the city property, they might host a flag during their events for shorter periods of time. Somebody requested the right to fly what is described in the case as the Christian flag. The staff member who was in charge of the flag requests determined that that was the first time a specific religious flag was asked to be raised and was concerned about whether that was establishing or endorsing religion and therefore thought it was not appropriate and so denied the request for this group who were having their event and just wanted to host a

flag during their event on the city property. The case has gone up through the district court and the U.S. Court of Appeals level and the courts have relied on the U.S. Supreme Court's rulings in the license plates case to say this is the government speech and not individual speech, so the city has the right to deny it. Factually, there were 284 requests over approximately a ten-year period, and nobody had ever been denied so the argument before the U.S. Supreme Court as recounted through various media sources there seemed to be quite a bit of concern about that case. He will not be surprised if the U.S. Supreme Court determines that in that case Boston had created a public forum by their practice of allowing people to host flags. It is not that they had to but that they did. He will be surprised if the court changes the actual legal analysis regarding government speech. He just wanted to make members aware of that policy and that case that is pending.

Mr. Lindsey added that we tried to clarify a definition of commemorative flag, meaning one that identifies with either a specific historic event, cause, theme, nation, or group of people that the City Council chooses to honor, recognize, or commemorate that is consistent with the City's priorities and policies. The process that we were establishing, at least in this draft resolution, would be that every time Council wanted to speak through its flag, you will adopt a resolution identifying a particular flag and the time in which it would be flown. There is nothing that would prevent you from establishing certain periods of time on a regular basis or it could be done as a more ad hoc approval of flags. The other thing that the resolution does consistent with how some of these other resolutions or policies have been written is that it limits to city council the right to request a particular flag. The reason it is written that way is to avoid once again somebody deciding that Council has created a forum. It is not that Joe Jones asked to have a flag put up, it is that one of the council members has determined that they believe it is an appropriate flag that represents the city speech. By the fact that a majority of Council would have to approve it that the elected representatives of the City to determine that speech.

Mr. Lindsey stated because we do not have a particular flag policy that is adopted in this way, we have past practices, we clarified that flags displayed on city property will follow federal and state law, will follow the rules regarding flying at half mast, we have clarified the ability of the city manager to order the Worthington flag to be flown at half-mast on occasions that the other two flags wouldn't be flown at half-mast. We have done that by way of just the draft resolution for your consideration and discussion at the death of a current and former council members, current and former city employees, or a historically significant member of the community. We thought it covered a range of when that might be of interest to lower the city of Worthington flag.

One last point, to avoid concerns regarding the inappropriate use of this, clarify that to avoid the claim that the city was endorsing religion or a particular religion that religious flags would not be permitted. The same way we indicated

that flags of a particular political party or candidate would also not be flown and that is, so the speech of the City is not in those two realms. He would like to hear members comments regarding this issue.

President Robinson thanked Mr. Lindsey for bringing this forward with due haste. He knows he said that he doesn't think the draft would be suitable for a final resolution, but he thought the sparseness of it was really quite brilliant. By saying little in some ways, he thinks he got right to the point and did not open up a lot of complexities. He thought it was extremely well written as he read it. His motivation for bringing this up a couple of weeks ago was pretty straight forward. He recalls last year when Hilliard was considering and having discussions/debates in their community about their own non-discrimination ordinance and one of their council members, Andy Teater called him and asked him if he would be willing to write a letter to their council explaining our motivation and our experience of our own non-discrimination ordinance. He did so and from what he remembers he concluded in the last paragraph his thinking that a significant importance of our non-discrimination ordinance that we may never know about directly but rather a young person for instance who's struggling with issues of identity and social acceptance and so forth, might take particular heart from our actions in ways we don't see that means a great deal in that young person's life. He thinks the same thing about the flying of the Pride flag. We all know in this world, and in this country the issues of LGBTQ equality and broad acceptance are not finished. There are forces of reaction and regression underway so he thought that flying the Pride flag during Pride month would indicate and express our city's character and sentiment and could mean a great deal to individuals out there. That was his motivation for bringing this issue forward.

Ms. Kowalczyk asked how many flag poles are we talking about? Ms. Hermann acknowledged that being one of her questions. But before you answer her question, in her readings it states that the U.S. flagpole in and of itself has regulations as to what can be underneath that so commemorative flags in her understanding could not be flown underneath that and we would need a different pole to fly those. She asked if that was correct. Mr. Lindsey does not believe that is the case. The U.S. flag always has the priority position and there are rules regarding multiple poles. He will be happy to investigate that. It might be a question of whether a second pole is needed. Ms. Kowalczyk reported that being her question in terms of what poles are we talking about. She knows we have the one pole here at city hall. Do we need additional flagpoles or are there other flagpoles in the city we would be looking at? Then does this also include the ability to fly multiple flags along High St., which we currently have set up. Mr. Lindsey replied, as drafted, it indicates flagpoles on city property. It does not indicate the sort of banners along the roadway. That could be a clarification as to include or exclude those. He does not know the number of flagpoles. Mr. Greeson reported there being three poles in front of the Fire Station and one

pole each in front of the Police Station, City Hall, the Village Green and at least one at the community center.

Mr. Robinson asked what about the options for flying down in the historic district. Mr. Greeson replied there is one on the Village Green. Mr. Robinson asked what about the poles/light post along the street. Mr. Greeson reported there is the capacity to, you see us fly American flags as well as the Tree City USA flags one time a year. The City owns both those flags so in our opinion that is our speech and those are City property so we will have the capacity to do that if we purchase and decide to speak like we do the Tree City and USA flags.

Mr. Robinson asked if his understanding is correct that this resolution would establish the process then through subsequent resolutions a council member would bring forward a specific proposal outlining which pole or poles and the timeframe a particular flag would be flown. Mr. Greeson agreed with that summary. Thinking out loud, we may need to address the different types of places we have because he thinks we wrote this around flagpoles and not contemplating flags on streetlights, which is what you are describing downtown. Mr. Robinson stated if we move forward with this then he would ask when it comes back for discussion and perhaps adoption of the resolution that you could also bring forward for council's benefit a listing of all the sites so that members could then prepare a resolution to fly flags specifically during pride month.

Ms. Kowalczyk asked if this precludes the City administration from deciding they want to fly a flag to celebrate Tree City or some other type of commemoration?

Mr. Greeson replied there are two instances where we have commemorative flags that are flown. One is Tree City, which we would hope Council would memorialize and then the second instance is when we were given a gift of the fish flags from our Sister City, Sayama, Japan. When they have a delegation visiting from Japan, we fly those fish flags. Those are the two instances where City staff in the past has flown what you would be describing here as commemorative flags. In our opinion, those would be considered city speech.

Ms. Kowalczyk asked if that is something we could take care of in the resolution knowing those are practices that we have employed in the past unless council objects to having that happen. Ms. Michael commented that it is very festive having those flags fly while the Sayama delegation is here. It is very special for everyone. Ms. Kowalczyk added that we should not have to have a resolution every time it comes up so if we can take care of it in advance, that would be good. She is fully in support of this and appreciates bringing this to Council for consideration because she knows people have asked about the pride flag and there have been some challenges so this seems like a good mechanism for addressing concerns as well as being able to provide the kind of support and representation. She recalls the quote, "You can't be it if you can't see it". Being able to show that we support the LGBTQ community is one of the ways we can do that. She appreciates having this brought before us and fully supports however we can bring it for a vote.

Mr. Bucher thinks this is a good start and appreciates the work so far. He agrees with Ms. Kowalczyk that the traditional uses of our flags, he would appreciate memorializing that so we would not have to come back every year. He thinks they have a good system in place. His question is do we need to touch on acquisition of flags or appropriation in any of this if we were to move forward with the pride flags. He asked Mr. Greeson if he feels that he has the authority to move that process forward. Mr. Greeson replied that staff would have the authority to move this depending on expense. We regularly purchase new flags that are impacted by weather, and we would be able to accomplish that.

Ms. Michael asked if this has anything to do with the 911 / Village Green flags that we do with the Legion. She would consider all the flags on the Village Green commemorative. Mr. Greeson believes those are U.S. flags. Ms. Michael added if they need to go in, please include them.

Ms. Hermann appreciates the length of time that each flag will be flown is being addressed. In reading several cases throughout the U.S. she noticed that several communities required each request be submitted within a certain timeframe prior to the date. The advanced notice allowed time for acquisition of the flags and preparation for hanging them. She would propose at least 30 days. Her other question is if we receive multiple requests at the same time, how many flags are we going to fly at the same time and how do we decide the order? So, there are a lot of details in all of this that she read so she thought she would throw that out. Mr. Robinson believes those are excellent questions.

Mr. Lindsey replied as to the question of when the request must be made, because we are not opening it up to non-council requests, he is not as concerned. Council will need to be sensitive to the fact of when your meetings are and if it needs a resolution you will need to make sure the request comes in. If a flag requires time to acquire then coordination with the city manager will be important. He is not as inclined to think that is necessary but more of a practice that we should probably develop. It does not necessarily have to be codified in the resolution.

Mr. Robinson asked what members would think about inserting a 30-day advance notice clause. There was no interest.

Mr. Lindsey thinks Council should address the question of how many flags. When he was drafting this and based on the examples that he was looking at, he presumed a single flag. He thinks that is probably cleaner because of the pecking order of the U.S. flag, the Ohio flag, and then the commemorative flag. The question becomes how you would determine between two different commemorative flags. He thinks at that point council could decide how long each one will be displayed. He would recommend sticking with one flag, but he is not ruling out that if council wants to have more than one. . . the other options is because we have different locations you could choose to have one at one location and another flag at another location and then perhaps switch mid-month if we are talking about a month period.

Ms. Hermann added that she noticed an option that one city called a unity garden where they had six poles, which seemed too many but if it gets to the point where we have many requests, she thinks it would be nice if we had a designated area that we could have three flags flying at a certain time. Maybe this could evolve over time depending upon how much response we get, but she thought the garden was a neat idea.

Mr. Robinson asked how requests for flying multiple flags would work if one resolution was passed and then a second one sometime later. Mr. Lindsey replied that in general, the most recently passed resolution takes priority over a prior one. Hopefully, staff would make sure Council is aware of the prior valid resolution before moving on to the next one. Some cities have a flag of the month that they do most of the year so there were some examples where they have an adopted flags that will fly during certain months. He chose to not take that approach because he wanted to allow Council, at least for discussion purposes, to have more flexibility. While that might work one year, there could be times when events within the city or across the country or world call for a different speech so that is why he left it to kind of be that way. Clarifying in terms of the Sister City, we can add a section that says the fish fly whenever the delegation is here unless there is a conflicting flag and circumstances when council may prefer to keep that flag up. He just wants to keep that flexibility with Council.

Ms. Kowalczyk said she was glad the Supreme Court case where the City was taking applications was brought up, however we are not taking applications. It is the prerogative of a council member to bring this issue before the rest of council to decide and we have some parameters in which we make that decision. This is a good start, and we can see how this works and see if we all are able to manage within these guidelines. She just wants to be clear that people understand this is not an open application process. Members of the public can appeal to a city council member(s) to consider potential commemorative flags, but we do have a process that members will be looking at to determine if we think it is appropriate.

Mr. Robinson thanked her for the framing analysis. He thinks it is a smart buffer process. Nicely done Mr. Lindsey. He asked Mr. Greeson if he had enough affirmation from council that they wish to proceed. Mr. Greeson thinks we have enough. We will tweak the ordinance to kind of make permanent our practice with our Sister City and probably Tree City U.S.A. He and Mr. Lindsey will discuss whether there are any other tweaks that need to occur. He also heard members say to bring a resolution forward for the Pride Flag. When we bring all of these forward members want an overview of the opportunities in terms of where the flag posts are so you can discuss when and the where.

Mr. Robinson commented that since it is a resolution, it is effective immediately upon passage. He asked if it would be ready for the third meeting in April and then provide information about locations so that at that same meeting members

can discuss how we want to affect the Pride placement this year. That would afford time at the first meeting in May for members to pass the resolution for enacting in June. Mr. Greeson agreed with that approach.

Mr. Greeson added that when the time is appropriate, he would like to request an executive session.

Reports of Council Members

14. Reports of Council Members

Minutes:

Ms. Hermann reported there being a Special meeting with the Community Improvement Corporation (CIC) this Friday, April 8th at 8:30 a.m. It will be held in the second-floor meeting room and is open to the public.

Mr. Bucher provided a plug for voter registration and early voting for the May 3rd primary minus state legislative elections that begin tomorrow.

Ms. Kowalczyk shared that the cemetery tours are open for city council, unfortunately this morning's tour was cancelled due to the rain, but we will reschedule for those wishing to attend. She will let you know the rescheduled date. She is looking forward to walking the cemetery with everyone. The Worthington Partnership has sent out annual meeting invitations. It is a great event and she encouraged everyone to attend. She encouraged members to get their RSVP in for that event. She shared that she will not be attending the next meeting as she will be on spring break vacation with her family.

Ms. Michael shared that she missed the last city council meeting because of the loss of her son-in-law. She thanked those staff, former council members and current members who reached out to her in many ways during that difficult time. It was so heartfelt, and it meant so much to her to receive those messages. She really appreciated it. On an upbeat note, Bluffview Elementary will be attending Live Government this Wednesday. She created that program in 1997 and 15,000 children had participated by 2016. She invited anyone to stop in. There will be another class in May, so it is slowly coming back.

Ms. Brewer reported the next MPC/ARB meeting will be held April 14th and she will provide an update on that agenda during next Monday's council meeting. Everything was on a Consent Agenda last time and the meeting lasted eleven minutes.

Mr. Robinson observed that it is only 8:40 and it feels like it is a lot later. He wants to commend Mr. Bucher for bringing forward the idea of starting the meeting at 7:00 p.m. He thinks it will pay off this evening.

He shared that last Wednesday; Building Inclusive Community (BIC) held their virtual education forum. He was honored when asked to provide a few welcoming comments at the beginning, and he was glad to do so. He wanted to share some of what he told the group because he feels it strongly and wants to share it with all of council.

Speaking to the issue of housing, the topic of tonight, housing, its availability, and affordability for all is of essential importance to every community as it is to every

human being. We all know that when looked at from a macro-perspective, the demographics, the economy, the numbers tell us in central Ohio we have a shortage, but it is at the individual level with the individual human being that these numbers translate into real human costs. Closed opportunities, and many physical, financial, and psychological stresses that the absence of housing or deficient housing causes people. In short, inadequate housing creates untold forms of suffering whether publicly visible or privately and hidden. As such, this issue is of primary importance to us. So, this discussion tonight (last Wednesday) is most welcome as a way of enabling all of us to better understand this issue so that we can better consider how it weighs in relation to other issues and values and imperatives that we face here in our community. This meeting tonight (last Wednesday) will heighten our awareness and based on the force of the ideas that are presented, the ideas brought forward and the arguments heard, this will move us forward, creating a greater possibility of effective and wise policy here in Worthington suited for this time in this place.

Mr. Robinson shared that hearing the forum that evening he felt glad that this council last fall voted to be a sponsoring organization of BIC so that on the basis of understanding, facts and real numbers, we would have a common language and set of ideas where we can really discuss in an informed way the issue of housing here in Worthington. Ms. Hermann mentioned that this Friday there is a special meeting of the CIC. He will be speaking and raising the issue of housing here in Worthington and how it might relate to East Wilson Bridge Road or not but that will be his focus at that meeting this Friday morning.

Lastly, May is Historic Preservation Month, and he will be sending everyone some information this week about some ideas related to actions that this council can take related to historic preservation and appreciation here in Worthington. So, heads up.

Other Business

Executive Session

15. Executive Session

- a. To consider the purchase of property for public purposes or the sale of City property at competitive bidding.**
- b. To conference with attorney(s) for the City concerning pending or imminent litigation.**

Minutes:

MOTION Ms. Michael moved, Mr. Smith seconded a motion to go into Executive Session to consider the purchase of property for public purposes or the sale of City property at competitive bidding, and to conference with attorney(s) for the City concerning pending or imminent litigation.

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

Council recessed at 8:43 p.m. from the Regular meeting session.

Council returned to open session at 10:42 p.m.

Adjournment

16. Other Business (Continued)

Minutes:

In response to President Robinson's question, Mr. Greeson reported that the attorneys from Frost Brown Todd representing the City in the Top World Legacy LLC appropriation case have recommended a proposed settlement of \$135,000 to acquire the property interests necessary for the NE Gateway Project and the economic remnant. The ODOT representative has approved the recommendation. He asked that Council pass a motion approving the proposed settlement.

MOTION Mr. Bucher moved, seconded by Ms. Michael to approve the proposed settlement of the Top World Legacy LLC appropriation case in the amount of \$135,000 to acquire the property interests necessary for the NE Gateway Project and the economic remnant.

There being no additional comments, the motion carried unanimously by a voice vote.

17. Motion to Adjourn

Minutes:

There being no other business, Mr. Bucher moved, Ms. Brewer seconded a motion to adjourn. The motion carried by a voice vote.

President Robinson declared the meeting adjourned at 10:44 p.m.

Contact: D. Kay Thress, Clerk of Council (Kay.Thress@worthington.org (614) 436-3100) | Minutes published on 05/24/2022, adopted on 06/20/2022

/s/ D. Kay Thress

Clerk of Council

Attest

/s/ David Robinson

President of Council