

City of Gahanna

*200 South Hamilton Road
Gahanna, Ohio 43230*



Meeting Minutes

Monday, January 28, 2013

7:00 PM

Council Committee Rooms

Committee of the Whole

*Ryan P. Jolley, Chair
Beryl D. Anderson
Karen J. Angelou
Brian D. Larick
Stephen A. Renner
David L. Samuel
Brandon Wright*

Members Present: Stephen A. Renner, Ryan P. Jolley, Brandon Wright, Beryl D. Anderson, Karen J. Angelou, Brian D. Larick and David L. Samuel

Additional Attendees:

Dottie Franey, Mike Andrako, Karl Wetherholt, General Williams, Tony Collins, Chief Murphy, Lt. Spence, Sue Wadley, Donna Jernigan, Mayor Stinchcomb, Brandi Braun, Jennifer Teal, Anthony Jones, Tom Weber, Shane Ewald, Chris Green, Brian Grubber, Harold Feldman and Greg Feller for Otterbein Homes; George Parker and Lew Griffin for 73-77 Mill Street, Press.

PENDING LEGISLATION

ORD-0032-2013

TO AMEND SECTION 161.03, IMPOSITION OF TAX, OF CHAPTER 161, INCOME TAX, OF THE CODIFIED ORDINANCES OF THE CITY OF GAHANNA, RELATED TO INCREASING THE CITY INCOME TAX RATE TO THE RESIDENTS OF THE CITY OF GAHANNA

Jolley called the meeting for Monday, January 28, to order; first order of business is pending legislation; ORD-0032-2013; does the Administration have any comments. Mayor said I have nothing to add. Jolley said is there any discussion or questions from Council members; there was none.

Recommendation: 2nd Reading, Regular Agenda; postpone to date certain after election results if Resolution for Tax Increase passes.

Clerk's note: the correct Recommendation was determined by the City Attorney after the meeting.

Recommended for Postponement to a Date Certain

ORD-0034-2013

TO AMEND SECTION 161.18, CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY, OF CHAPTER 161, INCOME TAX, OF THE CODIFIED ORDINANCES OF THE CITY OF GAHANNA.

Jolley said ORD-0034-2013; this is the tax credit portion; any questions or discussion. Larick said what is the plan. Jolley said any changes to Chapter 161 of the Code requires 3 public hearings; those have been scheduled for the next 3 regular Council meetings; on the 4th, the 19th and on March 4.

Samuel said for clarification, that can be approved by Council; it does not have to go to ballot. Jolley said it does require 3 public hearings.

Jolley clarified with Jernigan when this would go on the agenda. Jernigan said it will go on February 4 agenda for 2nd Reading to then be postponed.

Ewald said point of correction; ORD-0032-2013 will be on for 2nd Reading; Ordinance 34 on for 2nd Reading but postponed; that is the difference between the two; ORD-0032-2013 will actually be voted up or down.

Larick said so it is written as contingent. Ewald said yes. Jolley said so we will go ahead and vote on that. Ewald said yes; it will be attached to the resolution.
(See Clerk's note with ORD-0032-2013 Recommendation)

Recommendation: 2nd Reading, Regular Agenda; postponed to date certain.

Recommended for Postponement to a Date Certain**ORD-0031-2013**

TO REZONE 5.478+/- ACRES OF PROPERTY AS SO, SUBURBAN OFFICE; SAID PROPERTY LOCATED AT 975 NORTH HAMILTON ROAD; CURRENT ZONING PCC; OTTERBEIN HOMES, APPLICANT

Jolley said next is Ordinance-0031-2013; a request to rezone 5.478 acres at 975 North Hamilton Road.

Jones said this is a follow up to the public hearing we had last Monday; it's to rezone 5.5. acres of land on the southern portion of the property located at Beecher and Hamilton Road; the applicant is Otterbein Homes and they are here tonight; the current zoning is PCC (Planned Commercial Center) which allows for a shopping center or other commercial center to be located on the site; the requested zoning change is to SO (Suburban Office and Institutional District); this allows for administrative and professional types of businesses, institutions, organizations and associations; the proposed use does fall within SO zoning; it will be a skilled nursing facility; as previously discussed the considerations for zoning change approval depend upon consistency with our land use plan, compatibility of the environmental features of the site with the proposed use, availability of other sites with similar zoning in the City, compatibility with the surrounding uses of the property, capacity and impact it has on City infrastructure and services and the apparent demand for those proposed services; it is compliant with our Comprehensive Land Use Plan; that plan calls for a mixed use development for that site; we believe the mixed use is a quality blend of office, commercial and higher density residential; this is a low impact site good for this sort of transitional land use that buffers between more commercial and residential; it is similar in zoning to other properties along that corridor; the proposed use will also retain the natural buffer on the western side of the site to accommodate McKenna Creek as well as the residences in Academy Ridge subdivision; use will have minimal impact on City services; I have maps for the proposed site plan; should be with your Council report; any questions or comments for me or the applicants.

The applicants were introduced as Chris Green, CFO of Otterbein Homes, Brian Grubber, General Contractor with Bridgestone, Harold Feldman, Administrator at Springboro Center, and Greg Feller, Civil Engineer.

Samuel asked what were your chief reasons for selecting Gahanna as a site. Green said we felt it was a great piece of land and the demographics of the area showed a need for this type of facility.

Anderson said with regard to the possibility of a shopping center, is there any flexibility with that; do you have specific views on that and how it relates to that area and the residents of a skilled nursing home. Grubber said we are only purchasing the 5.5 acres for the nursing home itself; the 5 acres left are still owned by Arshot and we do not control that; they would be the ones proposing a shopping center on that; we have asked that whatever they develop there be compatible to our site; we don't control that piece.

Wright asked Jones what is the date of the Land Use Plan you quoted. Jones said 2002; minor adjustments to it, but created in 2002. Wright said do you think there is a need to look at that plan. Jones said absolutely; market trends need to be identified and incorporated into the plan in order to recognize activities for the plan that have occurred since it was adopted; it is our hope to do that in the future. Wright said I would like to see that come forward; we are relying on a tool that goes back to 2002 which is as you say, there have been a lot of changes since then; regarding the natural buffer on what was submitted here, is that commonplace for most of the applicants; do we look for that. Jones said absolutely; one of our goals is to minimize the impact of what one land use does to another property owner; in this case the natural buffer is perfectly placed

between the residences and this facility; we encourage buffers on all properties to lessen impact from development.

Larick asked how many staff will this facility have. Feldman said my neighborhood has approximately 85 staff total. Larick said and that is the same number of residents. Feldman said yes exactly the same size.

Renner said I have a question for Jones; think the project is beautiful; I was stunned to hear that Franklin County needs 800 nursing home beds; I have a question for Development about the natural buffer; the information we got talks about this being an in fill project; wanted to make sure the tributary there that feeds McKenna Creek, that will not be touched, correct? Jones said that is correct; site is confined and won't touch the creek area; a separate parcel was created when the site was identified and that will remain under Arshot's ownership which is not able to be developed so there is no way for it to turn into a problem. Renner said when you look at the drain, you see a lot of movement; I was worried about storm water management. Jones said our engineers worked on that quite a bit to insure that.

Larick said is any of the paving, guttering, edges, any of that going to be similar to the pilot we are doing over in the Founders Ridge area. Jones said the Final Development Plan has not been submitted; actually it was submitted just this evening; we can work to see if any of that can be incorporated. Larick said that would be wonderful.

Anderson said often businesses coming into Gahanna work with us to offer job opportunities to residents; what is the criteria for someone to be in Otterbein Homes in general. Green said anybody can come to our facilities we accept everybody; if you are private pay or Medicare Part A or Medicaid we accept all; we typically don't give any preference to the area we are in; if there is an open bed and someone from Gahanna has a need we are happy to accommodate. Anderson said often there is a long waiting list; for employees is there any preference given for Gahanna residents for employment. Green said typically no; we would accept all applications and we hire people on merit. Feldman said we can't say we would hire from only a specific area because of discrimination; normally you get a lot of residents and it does draw on the local community usually within 3 to 5 miles.

Samuel asked where is your corporate office and how many people do you currently employ in the whole system. Green said our corporate office is in Lebanon Ohio; we have about 1600 employees throughout the organization; we have 5 retirement communities and 5 neighborhoods.

Jolley said the design looks great; you have done a lot of work to make sure this fits into the neighborhood; my only question is are there access points strictly from Hamilton Road; or will there be one from Beecher. Jones said from this site as designed the access is solely from Hamilton Road; for the northern property they are to be determined.

Angelou asked how will trash be dealt with for 5 different homes. Grubber said it is similar to they way you do it in homes; in trash cans to be picked up weekly by a local trash company; in and out as required; no large dumpsters; no 6 AM pickup to hear noise. Angelou said I am happy to hear that; often dumpsters become eyesores.

Jolley asked for any more questions; there were none.

Recommendation: 2nd Reading, Consent Agenda.

Recommended for Adoption, Consent

ISSUES - Director of Public Service:**Revocable Encroachment Easement for LGI Building, LLC 73-77 Mill Street**

Jolley said next is the Revocable Encroachment Easement for LGI Building, LLC located at 73-77 Mill Street.

Wetherholt said this was on my report so I will begin; basic situation is the building needed to be rehabbed; the way to do it so it was acceptable to the area provided encroachments; the building already had encroachments on it; but the new plan calls for some other encroachments of pilasters into the sidewalk area; there are mechanisms to make that work which is an easement that the City would grant to the property owners and it would expire when it is no longer needed; a lot of the details need to be worked out with the property owner; we are not requesting any legislation until those details are completely worked out; turn it over to Jones to explain why the encroachments need to exist.

Jones said the owner, Lew Griffin, and his architect, George Parker, are here tonight; he purchased the Mill Street property to locate his offices there; he planned to do a significant renovation to the property to improve the real property value in our downtown community; he currently has visqueen on the sidewalk, encroaching on it; he has a permit to have temporary access to that right of way; he has building permits to do the improvements to the interior at the site; and he has received Planning Commission approval for the design of the building; I believe the design renderings were supplied to Council in the Service Department Report; what we are trying to do this evening is to lay out what the project is and give Council members the opportunity to ask the property owner and architect any questions they may have; there are, as Wetherholt mentioned, some elements that need to be worked out; one specifically is what the language will look like in any legal instrument that will allow for an encroachment; Ewald has been evaluating that option; one has been submitted to Council as part of this report; make sure everyone is aware we are not asking for action because the language has not been formally finalized; wanted to see what the sentiment is from Council towards this project and identify any questions or concerns so we may incorporate them in our process of evaluation.

Ewald said the document submitted to Council is a typical revocable easement; it leaves the easement within control of the City; revocable at will; that is our starting point for discussions with the property owner.

Jones said there were 4 key points raised about this project; one is safety and welfare of our citizens; two, does the design fit the general downtown area; three, process to handle requests like this; four, what this actually looks like; I can speak to the design elements; the downtown requires risk takers to make investments in the community; this project exemplifies what we are looking for in the downtown; the facade is a significant improvement to what was there; the investment here is significant and I would like to encourage that; asked Wetherholt to address safety.

Wetherholt said our primary concern for safety is, does it meet ADA requirements; 4 feet is needed for that on the sidewalk; the pilaster encroachments stick out 1.7 feet into the sidewalk area from the right of way; also a light pole is there; there is a little more than 6 feet of clearance between those and what is needed is 4 feet for ADA compliance; there is enough room to meet the safety requirements and for people to walk in either direction through the encroachment area.

Jones asked Franey to speak about a process for how we handle these requests. Franey

said there is no Code to speak directly to someone building in the right of way; what we have been working on with the City Attorney is an easement of some kind; our original Council report asked for legislation; we postponed that until next committee because we know we have to work on the actual instrument more; it will be some form of easement. Jones said that is our summary; would you care to ask any questions.

Angelou said going south down 2 properties there is a planter box out about 1.5 feet; is the sidewalk here the same as at this location. Wetherholt said the sidewalk is the same width. Angelou said so the pilasters will not create any issues just as these planters do not create any issues; there is no problem with the size of the sidewalk. Franey said it appears to be completely ADA compliant.

Samuel asked is this encroachment required to provide structural integrity to the building or is it cosmetic. Parker held up a drawing; the existing building had the 2nd floor cantilevering about 3 feet in one place; lesser dimensions in other parts of the 2nd floor; the existing building wall was already over the property line; we took off the thickness of the brick to bring back the front wall behind the property line; then all we had to work with was this flat surface; we had no way of giving it any sculptural qualities; we put back several 2nd floor pieces that stick out approximately 1.7 feet over the property line so they didn't look top heavy; we would not do that without having some type of support over it; showed breaks that were flush with facade on drawing; it is 1.8' wide and deep but we are starting an inch or so behind the property line; it would be possible to build those structurally without those but it would really look strange, like nothing is holding it.

Wright said it seems the permits were pulled at the proper time, but I am concerned about the process; feel we are checking for compliance at the back end where this all should have been negotiated up front; can anyone speak to how we are going to improve the process before we are asked to sign off on this one; my big issue is how are we going to stop this from happening again; I had citizens asking me about this before I had any notification from the City; my second question, is this building has a modern feel to it; our other buildings here have an old feel; how did Planning approve this design.

Jones said the way the process started we received facade improvement plans from the applicant that was required to go to our Planning Commission; they approve all design improvements under the Design Review application process; it was approved by Planning Commission; the levels of encroachment were not stipulated with that improvement request; subsequently they have applied for building permits which they also received and gave them the approval to start construction on the building, but only on the parts of the building that did not encroach in the right of way; they are working on the interior and they are allowed to do so. Wright said it is shocking that it is through the planning process and no one said, hey, is this design encroaching on the sidewalk; this is a normal question that should be asked of each design. Jones said going forward, for all non conforming buildings, we are requiring a site plan; currently they are only required for final development plans which locate buildings or parking lots; this is a unique building because it is non conforming; it doesn't match setback requirements under the current Code; it was built before the Code was formalized; for future prevention, we now require a site plan to go with the application on all non conforming buildings so something like this would be identified before we get to this point. Wright said so you are saying this would be identified inside the site plans in the future. Jones said yes; that is one way we will rectify this from ever occurring again from a planning and zoning standpoint; we don't have a lot of non conforming buildings, so it was not previously identified as a concern; now with more investments in downtown, an older area with more non conforming buildings, this will help us identify these particular items before

we get to this point; we are making these adjustments from the planning standpoint; for the encroachment in the right of way I would ask Franey to speak to that process.

Franey said the sidewalk was closed by the contractor without us knowing it; we found out the day he closed it and contacted him; the contractor said he wasn't aware a permit was needed. Wright said who is the contractor that would not be aware of that. Griffin provided a name. Franey said the contractor did not originally plan to close off that much of the sidewalk but he felt it would be unsafe for people to get around the street light so he brought it out further; still they needed a permit; we contacted them and said they had to get the application in or remove the items; they complied with getting us the information; they also complied for signage at the crosswalk at each end; we received information that those signs could not be seen; they put lights on the signs; they have complied nicely with everything we asked them to do with regard to the sidewalk closure.

Wright said my other question was on the character of the building. Jones said we feel that this facade, the stonework, the texture, and the breakup so it looks like multiple facades adds to the aesthetics of downtown compared to post modern which is vinyl siding, or all one uniform frontage; from our planning standpoint we think it is a good fit for the downtown area.

Jolley asked when the applications are submitted, are they looking at blue print or a drawing or just text explaining it. Jones said for design review they look at renderings; whenever they are doing a renovation of a commercial building, pictures are submitted with how it will look; standard for every situation; when some buildings are non conforming, the actual footprint like in this instance, goes out into the right of way; Planning Commission has no authority over the right of way; that is strictly a Council matter; for this, recognizing they had a design that encroached into the right of way, we went back to the Planning Commission and requested they consider adding a variance under the Code that allows for the footprint of a non conforming building to be increased; they are not increasing square footage but they are increasing boundaries of the building; we did not want that done without a thorough vetting; this then passed Planning Commission with a 4/3 vote after a lot of discussion; after that passage, we were then able to bring it to Council this evening.

Anderson said there are different types of site plans and the members of Planning Commission come from different backgrounds; I think it would be helpful to have a checklist of questions instead of just looking at a site plan; a lay person should have a basic checklist showing what to consider. Jones said we have one for our Final Development Plan applications; we can make sure we have something similar for the site review for non conforming buildings.

Larick said I appreciate Griffin and all the money being put into this building; takes a good deal of effort to take a building down to its masonry structure and start over; what permits were pulled before it was recognized that the sidewalk had been blocked. Jones said Fultz, our building official, alerted me and our team as soon as he received the building plans that identified the location of improvements that encroached in the right of way; at that time we saw a formal survey of the building footprint in relation to the right of way and we took action to rectify the situation. Larick said before or after the sidewalk had been blocked off. Mayor said it was after. Jones said he could not speak to that for sure. Larick said so construction began before any permits were pulled. Jones said no; the plans allow for renovation to occur on what is not in the right of way. Franey said it all happened at one time; maybe on the same day. Jones said I can verify it for you; Fultz had worked on it and they were doing interior improvements before the

exterior and he approved all the interior work as needed; once we knew materials were coming in, Franey and I wrote a letter, said they could do the inside as approved by Fultz; told them no improvements could be made to the right of way until the proper approvals have been made; so they have continued with only interior work.

Larick said am I mistaken in understanding the Olde Gahanna Vision Plan outlines a 5 foot curb in or easement for trash cans, etc; a 5 foot sidewalk and a 3.5 foot planting area for construction. Jones said I don't know specifically what the figures are; I can tell you that would be a hard order to fulfill for most existing buildings; one of the goals of the vision plan is to encourage pedestrian activity; the best argument against this is that the encroachment on the sidewalk would prevent that from occurring; what we try to accommodate is similar to outdoor seating where we allow it because it helps add to the uniqueness of our downtown. Larick said I am challenged to compare a railing and 5 tables to a wall; there really is no comparison because the rail and seats could be taken out in an hour versus the building that is not going anywhere; taking that sidewalk down to ADA minimums is not what was intended by the Olde Gahanna Vision Plan or the neighborhood; distinct difference between a planter that is knee high and a 2 story wall and there is a lamp directly in front of the building. Jones said I agree. Larick said I am hard pressed to believe that this would have gotten to this point if normal processes had been followed; I would expect that there would have been discussion on the design; concerned with how we got to this point and feel very bad for the property owner; any time there has been an error, usually multiple errors, we are the last stop; I think that is what we need to do here. Jones said make corrections to the process to prevent reoccurrence. Larick said make corrections to the design of this building before it gets to the place where it can't be changed; a week ago the building was gutted to the masonry walls; no facade. Jones said I believe that is the current status. Larick said no, there is a facade there now; it is incomplete but it is now enclosed by tyvek; further along than a week ago; without this being vetted it is additional costs to the property owner; this needs to be readdressed. Jones said ok.

Samuel said does approving this expose the City to any future right of way settlement. Ewald said the case could be argued that we normally do not put structural supports in the right of way; I can't recall us ever allowing this; there is no process to deal with it; going forward if we do allow this, my suggestion would be to create additional Code to handle it in the future; it does set a precedent.

Franey said that is one of the reasons why we are asking to hold the legislation off and bring it back to next committee; we are trying to avoid the situation you are asking about where we would have to end up purchasing the right of way or something like that. Jones said we understand the delicateness of this proposal; it does impact the downtown community; that is why we are having these discussions so we can hopefully direct the property owner on his best course of action.

Angelou said I am not a builder or contractor; how difficult is it to take a non conforming old building that doesn't look very good and turn it around and use the footprint but make it more palatable; I felt it fit in architecturally to the Creekside area; it appears to be the same kind of thing that was done for Creekside's large buildings; I believe it is going to be an asset to the area; how do we as a Council and non professionals decide; do know there has to be some give and take.

Griffin said I would like to extend an apology that this does come after fact; I also did to Planning Commission; I am in the insurance business; I haven't done a commercial building or rehab; I bought this building to paint the inside and move into it; it is extremely difficult; started out with one thing and after getting into it found it needed this and a lot of other things; we are doing the 2nd story because the floor wasn't level;

the building was extremely out of Code; so one thing led to another; I understand you want to take your time and do things the right way; but we have a project that is being held up and we also have businesses down there that the sidewalk is holding up; a 2 or 3 week delay will put another month delay on that sidewalk being blocked; talked to Old Bag of Nails and Zodiac and they feel it is affecting their business; so it is not just the issues you have to deal with myself and the businesses down there are also dealing with it; it was much easier to build a home which I did in 2 years than to do this project over 6 months.

Renner said Mr. Griffin, I want to say thank you; an investments like yours is exactly what we need in the Olde Gahanna area; my experience comes from the job I do at the County; so because of that experience and that as a citizen of Gahanna in looking at the Olde Gahanna area, I believe the design is fixed for the area and is a very good design; I am stuck on the fact of giving away right of way for a structure; as an elected official we are a trustee and caretaker of the Code and plans the City buys and develops; the 2009 plan for this area is pivotal to what we want to do; also looking down the road, this would set a precedent for all the others; I understand that the building had encroachments already but I don't agree that that is a reason to make another encroachment; there should be other options explored; I believe as we are developing that area that we should hold really fast to the line; agree we need to make everything pedestrian friendly; I understand about the other permits granted but we are talking about one of the busiest arteries in Gahanna, Mill Street; we want the sidewalks here nice and wide and free for people to walk through; for clarification all these numbers are being talked about for the width of the sidewalk; what is the true area that is unobstructed by anything with this current design.

Jones said we received this afternoon from Myers Surveying a document that speaks to this; only one copy; there are some elements not on this to also answer your question. Wetherholt said we have here in section A the pilasters are indicated on the sidewalk level; it is the smaller square in the dash square in 4 locations on there; can see the existing light pole is plotted up at 25 feet from the building wall; other dimensions are on there that show where the pilaster is; it could be calculated what the clearance is between the light pole and the pilaster; that would be the next step; just scaling it I would say about 7 feet. Larick said minus the light pole. Wetherholt said no between the light pole and the corner of the pilaster; the sidewalk without any encroachment is 9.1 feet from the back of the curb to the right of way line; the pilaster sticks out about 1.5 feet; across the pilasters not where the light pole is 7 feet. Larick said from the inside of the light pole to the outside of the column is 4.43 feet. Wetherholt said no; that is not where the column is; the outer line is the footing; it is described as well because it encroaches; it is underground. Jones said it is the interior box of the shaded area. Wetherholt said it is just about 7 feet; it would require some additional measurements to get that and we just got this at 6:30 tonight. Jones said again one of the reasons why we are just discussing.

Angelou said how do we move this along; right now we have plastic over the sidewalk; would like to move it along so the building can be done; Griffin and Parker have done what we want to be happening down there; so how do we move it forward so we don't have 4 more weeks of plastic and no sidewalk; what does the applicant have to do for us to make it happen; some think a new design needs to be done for the facade; I don't know if that is a possibility; a different facade that would not encroach upon the right of way.

Anderson said bringing this back in 2 weeks, will any ideas help to move forward on this. Mayor said will it then have to go back to Planning Commission. Jones said if the facade is redesigned to accommodate a flat surface there would have to be a Planning

Commission process for a design review for it; we would turn it around as quickly as we get the information.

Larick said we are talking about a month or 2 versus a building that will be here for 30 to 50 years. Mayor said how long could Planning Commission take to do that. Jones said they would do it on February 13. Angelou said is there any other way to not change the facade and still accommodate the issues; I think we need to be proactive in trying to get this done as fast as possible; right now it is not a good situation; done in a more timely fashion than 2 months.

Jolley said I echo what Renner said; this is what we want to encourage for the area; I am very sympathetic to the cost and time involved; on the flip side, I am one of the folks who saw the covering and scaffolding go up and didn't have any knowledge of it; I am not sympathetic to the other businesses; it is a problem that someone else created; not this Council; do not agree our goal is to move this along as quickly as possible; our goal is to get this right; to get the process right; to get the facade design right; so I don't want to move this along at the expense of those things; Mill Street is only going to get busier as we create other development in this area; don't want to hold it up with red tape but it is crucial to get it right with the one shot we have at this; I have some other questions for the City Attorney; the easement would be revocable, but when you talk about going into the foundation and sidewalk, I have a hard time seeing how we would make that work; so not looking to move it as quickly as we can.

Anderson said coupled with the legal ramifications and the precedent that it will set, I agree it needs to be done right for a long term commitment and fit the plan that so many had input into.

Wright said I do want to make clear my position; I am all about development and the bigger picture; but I have concerns about the City having a tendency to bend all the time when it comes down to the sake of the business; can't be like that; point out the process was broken; mistakes all around; we have to get the process clear so it doesn't happen again; there is a lot of money involved here and I do want see the downtown Creekside do well; it is the process that I have a big problem with.

Mayor said I have listened very carefully to all the debate; some of it has surprised me; I understand Council's point about fixing the process for the future; but I also understand that there are very few non conforming buildings as in this situation; over the years we have had challenges with retrofitting downtown; especially the Mill Street area; it was built with narrow sidewalks to start with; we had challenges when Old Bag of Nails was put in; it had to be rebuilt the way it was for Corps of Engineer standards; we have challenges in that old area; we are trying to keep it looking somewhat historical; there is floodway with the creek there as well; I spoke to Mr. Griffin when this happened and we discussed permit issues and he has apologized; I hear your concerns and it can be fixed for the future; but at the same time I cannot ignore the fact that we have somebody in this community that is trying to take a very old building in a very difficult spot and put a lot more money than he planned to put into it; I am very concerned about asking him to go back to the drawing board at this point to start over; what that will cost him and his business as well as those businesses around it; Parker what are we talking about for a redesign.

Griffin said a flush front to that building is a stone wall; there is no room to do anything else; I am not sure I would put a stone wall on it; we have other issues that have not been discussed or brought out that we are working with Ewald on; we may be up against a rock and a hard place here; if I am going to own something, I want it to look it's very best and I am not going to accept anything less than that; if you have a design to match

this one I am open to it, but I am not going to spend another \$10,000 to redesign the front of this building to make it flush.

Jolley said in talking about a revocable easement, what circumstances would cause the City to revoke it; and what are the repercussions to the owners of a permanent structure; why is it a revocable easement and what are the appropriate lease terms.

Ewald said he looked at what other communities have done before; we don't have a lot of experience in this area; Westerville allowed a ball in the Right of Way; they gave it a license; some allow lease holds; most cities use easements or permits for temporary and permanent structures; bike racks, half walls, things that can be removed all the way to this structure improvements for non conforming buildings; we provided a platform and we need to reserve the ability to provide for things that occur in the future; could be widening of the road; width of the sidewalk; any municipal purpose that would make sense; we need the ability to go in and make adjustments later; that is why I wanted to build the revocability into it; it would not be for any administrative changes; it has to be a municipal purpose; some of that language has been shared with the applicant; however we just had that discussion today so that is why we are not bringing legislation forward tonight; we are still working on this language issue; not everyone is in agreement on what the particular language should be; I always start with the strongest position from the City's viewpoint; we need the ability to make adjustments in the future; does not always work out best for the applicant because it clouds the title which makes the property difficult to sell or transfer; as you can imagine, they do not appreciate that position; these are some of the legal challenges we are dealing with; Griffin alluded to this when he said there are still some other things to be worked out apart from the other issues; I think simply because we haven't dealt with this before doesn't mean we can't create a process but ultimately the policy decision lies with Council; we can continue to work on our issues, deal with the language, and bring a proposal back to you; in the end it is a policy decision that Council will make.

Jolley said I am less concerned with what vehicle we end up approving to make this work; I don't believe that one instance sets a precedent necessarily; my next question is, in theory, if this is a lease, some money will be spent on it over time; does that cost more than redesigning the building with a facade that does not encroach but has no lease; are there any other options we are not exploring from a cost benefit perspective; given the current state of the building are there changes that could be made in the building that may be somewhat costly now versus the cost of the lease over time; my other concern is if we do want to widen the street, what are the repercussions to the property owner if we do have to take back the space; then what would the cost be to retrofit it to a flat front at that time; those are some of my concerns.

Ewald said assuming we come up with language that is acceptable to both parties, and assuming our position is taken and accepted, then the building would have to be prepped and ready during this construction process for when that might occur; that would be the most cost effective way of dealing with it but I don't know if that will be the result we end up with; in practicality, once it is in, it would be difficult to remove, expensive and highly unlikely.

Jolley said one more for Wetherholt or Franey; what is the possibility and cost of relocating the light pole farther south. Franey said it is a possibility and would probably cost less than \$5,000. Wetherholt said I think it could be done for around \$2/3,000. Jolley said where the light pole is seems to be the biggest constraint right now; we don't want ADA minimums all the way across, but if we could relocate the light pole it would make for easier passage.

Mayor said I think it is extremely unlikely that Mill Street will ever be widened in our lifetime; I understand the legal ramifications of wanting that available to us in the future in case there was a fire or something else at some point; I think it is highly unlikely; I am concerned with the precedent but agree that one building doesn't necessarily make a precedent; as a policy decision, you and your associates made the assumption that we would be charging for a lease; Mayor said I do not see that; I don't know how we would collect it or track it; my recommendation to Council is, if there is a payment, it would be something token and up front; I had no intention of recommending that we make any money off of this; I do understand the issue; we have a private business essentially taking public right of way; but I am also seeing that we are talking about a foot and a half in four spots; like the idea of moving the light pole and seeing if there are other more practical ways to do this; if we were talking about a 4 foot sidewalk I would share your concern; but what I have heard is we are talking about 7 feet which is more than we had before we renovated Olde Gahanna; the streetscape work did that; ultimately I can make the recommendation and you all have to make the ultimate decision.

Jolley said I was not suggesting this would be something that would cost thousands of dollars a year. Mayor said you compared it to the cost of redesigning. Jolley said we charge for streetside cafes; we charge for some of the right of way on the Creekside office buildings; I am not saying we should gouge anyone but there are others in the area that we charge for.

Angelou said if this were farmland being established into something, that would be different; these are unique pieces of property; we can't ignore the ADA compliance; it fits that and I love moving the light pole; we have a good project with a few issues here and we just need some give and take.

Samuel said so you want this to come back to committee. Jones said we wanted the feedback and to know the concerns and issues to then take back to our discussions with the applicant; my commitment to Griffin is we will give you an option; you can either proceed and do the improvements as you wish and require public approval which will take time and money from your pocket; there is a time and risk element to that; or you can say I am going to renovate in a different way to accommodate it there; there are costs to both scenarios; my goal was to get feedback to help us evaluate the options; this was helpful and the applicant will have to feel comfortable with and make the determination of a course of action.

Ewald said one final thing, to clarify the fee, typically when you look at a revocable easement, you are looking at a processing fee because the control remains with the City; to make them pay more is overkill.

Jolley said you can continue to gather feedback individually; going forward we would like to consider it again at next committee; there is the possibility of a special meeting to vote on it; we don't want to delay it more than necessary or rush it.

Wright said so the next time it comes back it will have written legislation that we can see. Franey said that is our desire.

Angelou said if this can be done in the next week and we have it on Monday, can we introduce it. Jones said if both parties agree to the language, then yes. Angelou said even if it is not on the agenda, you can bring it up if you have it and we can add it to the agenda; then we could come back and discuss it; that would take 2 weeks.

Recommendation: Back to Committee of the Whole in 2 weeks.

ISSUES - From 1/22/13 Council Meeting:**Discussion - Charter Section 4.02 Council Composition and Term**

Jolley said we had this issue come up at our meeting on January 22 and we decided to have some discussion regarding the Charter change for Section 4.02 Council Composition and Term, after the November 2011 election.

Samuel said there were 3 Council members that came to the Charter Commission meetings, we talked about ways to stagger terms; it was not our intent to have it the way it actually was stated; the law says once the Charter Commission recommends it, it has to go on the ballot that way; we couldn't do anything about it.

Weber said that is correct; it has to go on the ballot; Council's only function is administrative, to see it goes on the ballot; their opinion doesn't matter.

Samuel said after it went on the ballot, it was difficult for the public to actually understand the issue; Mr. Hogan came to our last Council meeting and brought this up and I agree with what he says.

Angelou said I went to the commission meetings; if there is a time when all 7 elected officials are voted out of office, there is a good reason for it; never has happened; I would never have voted for 4 year terms for ward Council persons; can't change salaries; Hogan called me and asked me what I thought; I was surprised he wanted to come forward with this; when Charter changes are put on the ballot they typically pass; this is not what most of Council wanted; I do not think it was the right decision; do not see anything wrong with voting on it again in May.

Samuel said there is no additional cost to put it on the May ballot.

Angelou said this does create issues for ward Council persons; huge difference between running an at large campaign compared to a ward campaign; not only time but also with money; I think that 2 year terms are the correct amount of time.

Renner said whenever items like this come up, I ask what is need; what has changed; especially since the voters resoundingly voted to do it one way; so what is the real need; why now.

Angelou said if you don't do it now, you won't be able to do it. Wright said you could when the commission meets again. Jernigan said that would be 2016.

Samuel said if I were a candidate considering running for office, I would certainly plan to run for a ward instead of at large; you may have fewer candidates, maybe none at large.

Jolley said Council cannot vote for their own salary increase; they vote the increase and don't get it until the next time; we haven't seen the effects of this system yet; we don't know what the results are going to be; we don't know how many people are going to run; a 4 year term could be more attractive to some; we do not have an overabundance of candidates; I don't think we should rush it on the May ballot because there are options other than just going back to what we had; could do 7 ward people or probably better, 7 at large; stagger them so 3 run in 2013 and 4 in 2014; my position is I am not persuaded to take up this issue now without seeing how it plays out and without examining all options; a resolution would have to go on Monday's agenda for the May ballot and I am

not convinced we could be prepared to make a recommendation by then; not saying no; look at later; also confusing to voters; would like to research and study other possibilities.

Angelou said a ward is one quarter of voters; a ward person could get 50 plus 1 per cent of one quarter of the registered voters and have a 4 year term the same as the at large.

Mayor said for the record, when I spoke to the Charter Review Commission on this, it was and remains my recommendation that we stagger terms; remember when I was first elected and how helpful the experienced people were; a whole new Council would slow government progress for a long time; because it has never happened doesn't mean it won't; the commission struggled with a way to do it.

Weber said they did consider all these options and had lengthy exhaustive discussions about it; they voted unanimously to put this on the ballot this way; that was their job and that is what happened; the Mayor came, people presented pros and cons, and they decided this is what they wanted to do; this did take the most time during the review.

Larick said I voted against it; not as simple as reverting to the previous way of doing it; hard pressed to review other options by Monday.

Jolley said unless someone wants to bring this forward for action Monday, I think we bring it back to committee later in the year.

Angelou said that won't work; it can't be on the November ballot.

Jolley said we could but the terms would not take effect for a while doing it that way.

Anderson questioned the process for when someone leaves. Mayor said it is in the Charter. Ewald said it is in the Code; they are appointed and have to run in the next municipal election.

Recommendation: Follow as a monitor item.

ISSUES - From Director of Human Resources:

Mt. Carmel Health 2013 Wellness

Wadley said basically I am bringing forth an agreement that we do every year with Mount Carmel Health Care to help with our wellness; this contract is less expensive; it is \$1,815 for 2013; previously it was \$2,280; reduced substantially; I am asking for wavier and emergency due to the timeline; I am asking for the Mayor to have the authority to sign the agreement.

Samuel asked what are the changes in the level of service. Wadley said we do brown bags sessions every month with topics; we had the exercise physiologist come for multiple hours at a time and we were not seeing the utilization of that; he is coming for less time; that is the drastic decrease there; we are looking for other avenues to get people involved in exercise.

Wright said for health care costs, this is cheap; when there is a brown bag lunch, is there an email blast or what is the communication effort. Mayor said everyone gets one. Wadley said people in the wellness program do receive a reduced cost, are required to attend so many of them; we also do potlucks, and at the beginning of the year we do a calendar on the Internet so people know the topics each month and we do flyers.

Recommendation: 1st Reading; Waiver of 2nd Reading, Consent Agenda; Emergency Language.

ISSUES - From Council Office:

Council Rules of Procedure

Jolley said the last issue is from the Council office; it is a continuation of the discussion for any changes to Council Rules of Procedure; we are limited to changing the business titles and the business to be discussed by the 2 standing committees.

Larick said there are some clean up things I was looking at but they are not important enough to bring forward other than the Robert's Rules needs to be changed to the latest version.

Jolley asked for any other desired changes.

Wright said I believe in the future we should look at the balance of the responsibilities and rules around the VP and President of Council; seems like the President does a whole lot.

Jolley said we can talk about it at some future point.

Larick said that is the role.

Jolley said I will see that Council Office updates the version of Robert's Rules.

(Clerks Note) Recommendation: Motion Resolution to approve with the latest version of Robert's Rules added; Consent Agenda.

Meeting Adjourned

Della Brandenberger, Reporting