



# City of Gahanna

## Meeting Minutes

### Committee of the Whole

200 South Hamilton Road  
Gahanna, Ohio 43230

*Merisa K. Bowers, Chair*  
*Karen J. Angelou*  
*Nancy R. McGregor*  
*Kaylee Padova*  
*Stephen A. Renner*  
*Michael Schnetzer*  
*Trenton I. Weaver*

*Jeremy A. VanMeter, Clerk of Council*

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Monday, November 28, 2022

7:00 PM

City Hall, Council Chambers

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**A. CALL TO ORDER:**

*Vice President of Council Merisa K. Bowers, Chair, called the meeting to order at 7:00 p.m. The agenda for the meeting was published on November 23, 2022. All members were present for the meeting.*

**B. ADDITIONS OR CORRECTIONS:**

Vice President Bowers noted that Councilmember McGregor had asked that the Committee discuss a potential resolution for the Gahanna Lincoln High School football team. This will be added as the second item under Items from Council Office, after ORD-0073-2022.

**C. PRESENTATIONS:**

**1. Coalition to End Tobacco Targeting**

Vice President Bowers noted that the Committee is joined by Amanda Turner and Dr. Rob Crane from the Coalition to End Tobacco Targeting who would be presenting on the topic.

[2022-0344](#)

Coalition to End Tobacco Targeting Presentation - Crane and Turner 11.28.2022

Dr. Crane thanked the Committee for a brief moment to talk. They gave this talk about a month and a half ago before the Ohio Mayors and Managers Association. This same presentation concerns flavored tobacco issues. Crane is a family doctor, former professor at Ohio State. He is also the President of the Preventing Tobacco Addiction Foundation and Tobacco 21. He said he presented in Council Chambers a couple times in the past. Tonight, he is going to be an historian to talk about what the City has done in the past, and what they are trying to do this time. He showed a slide from the cartoon Rocky and Bullwinkle. He said the most important contrivance from

that was the "Wayback Machine." Mr. Peabody would take his son back in time to give sage advice to about how to proceed. For Gahanna, going back in time to the year 2005, City Council was presented with a very controversial issue to allow or disallow secondhand smoke in all workplaces, bars, and restaurants. He said Council got a lot of phone calls and emails from both sides. Council looked at the science, looked at the data, looked at the risk of toxic secondhand smoke and took a stand. Columbus and a dozen surrounding suburbs said no to allowing secondhand smoke. One year later, in 2006, the state took a vote trying to decide whether this should be a statewide ban. Reynolds Tobacco mounted to \$5 million campaign. The citizens of Ohio overwhelmingly voted to say all of Ohio, using Gahanna's language, to be smoke free. Fast forward to 2016, the City of Columbus and surrounding suburbs were posed a question. We have an epidemic of youth vaping and e-cigarette use that is overwhelming them. What do you think about raising the age limit for this most deadly and addictive disease from 18 to 21? Crane said that again Central Ohio stood firm, stating this is a good idea. There was a lot of controversy. The vape shops said, "We will go out of business. We cannot handle this." But indeed, that is what happened. The State of Ohio, 18 months later, went entirely to age 21. In 2019, Congress passed, and President Trump signed, a law making all of the United States age 21, but it was leadership in Central Ohio that kicked the ball off. Crane said they ask for Council again to show that leadership. He then introduced Amanda Turner, executive director of the Tobacco Addiction Foundation, who's been leading the fight in Columbus to talk more about what the coalition is doing.

Ms. Turner passed around products for the Committee to touch, smell, and see. She said that she finds about every time she talks about these flavored tobacco products, a lot of people have not really touched or seen them. Turner said she is here as the executive director of Preventing Tobacco Addiction Foundation, and a member of the Coalition. But more importantly, she is here as a mom. Turner is a Franklin County resident. She is also the granddaughter of a tobacco farmer who died of lung cancer when she was 10 years old. She said it is safe to say she has always disliked tobacco products. But as a mom, she fears these products. This is a really innovative industry, and she wants the Committee to see and smell these products and feel how light they are. In Ohio, 50 percent of high school students have tried e-cigarettes, also known as vapes. These are the products in front of the Committee. She said that 30 percent of high school students use e-cigarettes. What scares Turner the most is that 12 percent of middle schoolers use e-cigarettes. This is sixth, seventh, and eighth graders using e-cigarettes. There was research conducted that shows there are more than 15,500 unique e-cigarette flavors, and right now Turner could probably name 100. They would be some sort of version of strawberry or ice. There are around 250 unique cigar flavors. She noted that what the Committee also had in front of them include cigarillos. They are mini cigars. She said you cannot sell combustible cigarettes and flavors except menthol. The loophole that was left that the tobacco industry figured out was wrapping cigarettes with tobacco leaves and call them mini cigars. These you can get in flavor. If you opened

these packages, you would find they smell very sweet, and flavor filled. Those flavored products are attracting kids. She showed a pack of 20 cigarettes. This is equivalent to about 200 puffs worth of nicotine. Turner then showed the Committee a “breezy bar” that she bought. It was lemon mint flavored. It cost about \$19 at a gas station. It advertises as 6,000 puffs. This little device equals 30 of these packs of cigarettes with the nicotine content. She can hide the device in her hand. She can easily put it in her pocket. If she were to use it right now, it would smell like a Bath & Body Works. It would not smell like tobacco. A lot of the products that were circulated among the Committee have the same kind of equivalence of 4,000 or 5,000 puffs. This is not a unique product. This is very standard for what kids are buying. Turner said what bothered her the most was when she purchased these, she was given a free gift with purchase. The product she bought is 5 percent nicotine. The free gift was 6 percent nicotine. This is marketing. This is a tactic. It was not because [the vendor] had extra. This was an intentional thing to get someone more hooked onto nicotine. She noted that 81 percent of kids who have ever used a tobacco product start with flavors. This is not by coincidence. This is by design. This is intentional. Flavors are what lures in kids. Turner noted we used to see candy right in front of the checkout station of gas stations. She showed a picture of one store. There are now three areas of nicotine products. They are all individual vape products, just like the ones that the Committee saw. Again, this is where candy used to be. That was where kids would look and want to ask their parents to buy it. There are 250 cigar flavors and counting, including strawberry kiwi, tropical mist, and cherry dynamite. Turner emphasized flavors is what sets the hook. The nicotine content that is masked by these flavors is what really reels the kids in. Turner and Crane are asking the Committee to try to make sure that poison does not taste like peaches and examine what is in the market, what kids are using.

Dr. Crane noted they were delighted to share the stage and present with Dr. Amy Acton. She was the physician who presented for Governor DeWine during the terrible early part of the COVID-19 pandemic. Crane said it was important to keep in mind that during this terrible time of COVID-19, more people died of smoking and tobacco than died of COVID-19. He said to think of the time, the effort, the money, the stress that everyone underwent with COVID-19 and how little attention we pay to this other problem. Crane said the good news is over the last 20 years, through education, higher taxes, age 21, smoke free, and indeed counter-marketing where they showed those commercial where you have to pull a tooth out to buy a cigarette, we have really done a good job of persuading kids that smoking tobacco is gross. But, he stressed, we are up against one of the most innovative and well-funded industries in the world. They have come back at us. He showed a graph that illustrated in the last eight years, the industry had entirely reversed 20 years of progress. Crane said we are faced with an issue of epidemic proportions of kids using nicotine, which is addictive. These kids are there about four times more likely to go on to Marlboros and Newports to regular combustible cigarettes. Why? Because e-cigarettes, although very easy to start, do not deliver quite the punch that a Marlboro or Newport combustible cigarette does, which hits your brain within 6 seconds. He said this is pretty much like

Oxycontin, where it is easy to start but heroin is where you end up. Vapes are where you start. Marlboro is where you end up. Crane added that all they are asking is that to consider taking the flavor out of the hook out. The City of Columbus is thinking about making it so that retailers would not be allowed to sell any flavored product. That is menthol cigarettes, flavored cigars, flavored vapes, flavored hookah, none of the flavors would be in. They could still sell these products. They just have to take the candy out. Crane said the ban would not be on individual possession, meaning the police are not going to arrest someone for carrying a menthol cigarette or a vape. This is all done at the retail level. In Gahanna's case, this would be done by Franklin County Health. The City would designate them to have the ability to go to a retailer and say, "you must take these off the shelf or you lose your license to provide tobacco products." Dublin, Worthington, and Columbus already have a tobacco retail license which enables the City to count how many retailers there are. In Columbus, there are 825. Crane said he believed there are 7 in Gahanna. The most important thing is that this kind of regulation is done at the retail level through a tobacco retail license that the City will grant authority to Franklin County Health. Enforcement is through a civil procedure. A person would be sent to take a look at a shop. If they find something, the shop will get a letter as a warning. They would get a fine. If they keep on selling, they might get a suspension. Crane noted dozens of local supporters of this initiative. He challenged for one to find any major health group that does not support this initiative. He said these are people you know and trust. He also pointed out national groups on board with getting rid of flavors. Crane played a clip from a reporter outside a smoke shop in Upper Arlington. Even if the flavored tobacco ban goes into effect in Columbus, people would still be able to buy the products outside the city. Business owners say there will still be a health crisis in Columbus because people will just cross into a neighboring city. Crane said the bottom line is that Columbus cannot act alone. If we do not act in concert, it simply does not work. Crane said the Coalition is not asking anything of Council right now except to talk with parents, teachers, the resource officers, and people who deal with vaping in the schools every day - in the bathrooms, the English class, and all around the school. Crane said to ask them what they think City Council should do. Crane said he thinks Council could protect kids with simple measures. They have some sample language that has been supplied and will be adopted throughout Franklin County.

Councilmember McGregor asked if the proposal would be to limit the flavors totally. Would adults be able to buy the flavors? Crane said that this would ban all flavors. He said that, unfortunately, the ability to keep kids from using has not been worked out very well. When they sampled Columbus, for instance, where the health department does this, they find that about 30 to 40 percent of stores are selling to kids who are underage. Older kids also tend to buy for younger kids. Adults tend to buy for older kids. It is hard to keep it out of the hands of kids. If you look at the kinds of flavors they are offering, they are not intended for the adult Marlboro smoker. They are intended for kids.

Vice President Bowers asked if Crane or Turner could speak a little bit about

current enforcement or regulation around tobacco retail regionally or statewide. Turner said there is a tobacco retail license in place in Columbus. Gahanna does not have one in place, so retailers are not being regulated locally. From the statewide level, they do compliance checks at random. It is under the responsibility of the Ohio State Highway Patrol. They have bigger things they are working on, so they are not really checking retail shops. She said the same is true with the FDA. She said that last year they had checked an average of 17 percent of all the retailers in the country. Retailers are getting checked maybe every five years if they get checked by the FDA. The short answer is there is no real regulation happening right now with tobacco retailers.

Councilmember Padova said she had not been in vape stores, but if this were to go into effect, would that essentially put them out of business because then people would just be going to gas stations? Turner responded that they would not be able to sell flavored e-cigarettes. If this is the product that they choose to make their business on, Turner said they probably would [go out of business]. She added that they could always switch their business model. Crane said it would be tobacco flavor or no flavor. Padova asked if that is the majority of those stores. Turner said if it is a vape-only shop, you could probably assume it is mostly flavors because that is what pulls in people. Crane said their argument is that people who are trying to switch from combustible Marlboros or Newports to vapes must have flavors. Crane said it stretches the imagination to think that someone must have a strawberry mango vape to switch. Turner said that the argument is also made that [vapes] are a cessation tool. It is not. A cessation tool is used to get you off a substance. This keeps you on to nicotine. In Europe, they actually do use e-cigarettes as a cessation tool because it is two percent nicotine content. It is not at addictive levels.

Councilmember Angelou said she was once a smoker. She left it 25 years ago. She said it is truly amazing how addictive it becomes and how difficult it is to stop. She said if this is leading people to smoke, you will never get rid of it because it is going to be fun to have it. She thinks this proposal is a wonderful thing to do. She was not sure what the presentation would be when she came tonight. Angelou said this is an opportunity. This is not going to stop people from coming in and getting regular cigarettes if they are 21. For kids, this is not good at all. She said it leads to things that are going to be horrible for them. Turner added that studies show that if you are a menthol smoker and want to quit you can switch to regular cigarettes and your chances of quitting are much easier because menthol has a cooling effect. Angelou said that she could never smoke a cigarette if it was not menthol because it tasted so bad. Crane said there are 22 million smokers in the United States. We are not going to get rid of them with this. This is a prevention measure to keep kids from starting. Angelou thanked Turner and Crane for being here tonight.

Councilmember Weaver asked if the presenters could you repeat the statistic on the percentage of middle schoolers using. Turner said in Ohio, it is 12 percent of middle schoolers that are using e-cigarettes. Weaver asked if blind

surveys are still deployed in schools regarding drugs and alcohol. He wondered if there was any localized data available. Crane said there is the Ohio Youth Tobacco Survey. They have been having trouble doing this because of COVID-19 because kids were not in school. A recent survey had been sent home. So, Crane said that rather than having it be administered in a class and be anonymous, one is perhaps at home with a parent looking over their shoulder. Therefore, he said no one really relies on that data. He said you can request that information on a local basis from the federal government. He said Central Ohio and Franklin County would have data.

President Renner asked if any of these flavored tobacco products could be purchased online. Turner said, yes, unfortunately they can be ordered online. This is hard to regulate. If you are an adult, you can still order them online. Even so, she thought it would be really hard to purchase something like this on a credit card, and have it delivered to your home, if you are a teen. Renner said with any legislation, the City would not be going into homes and regulate what happens there with parenting children appropriately. He thanked Crane and Turner for speaking on the subject. He said on one hand there is the flavored tobacco, but the bulk of this is the licensing program with the county board of health. Renner said he works with the health commissioner. Renner asked if Turner and Crane could talk about what the licensing program does. He said his impression is it opens up wider latitude to regulate tobacco to ensure retailers are following the law, not selling to children any of the products, not just flavored, but any products. Crane said in Ohio you have to have a license, a tax citation really, in order to sell products just so that taxes can be collected. You cannot have this withdrawn for bad behavior. So, it is not a real license. Crane stated that if you want to own a dog, you must have a dog license. If you want to cut hair, you must have a license. If you want to sell the most deadly and addictive product in Gahanna, Crane said you do not have to have a license. This is the first step with legislation: enumerating the number of people who are selling in Gahanna and controlling whether the licensee is too close to a school, or if the licensee is abusing the license by selling to underage or selling flavored products or other contraband. It gives the City a tool to control a little bit of the sale of these products. Turner said the mechanics of this consist of a fee that retailers would pay. Franklin County has set the fee at \$400-\$500 annually. Funding goes to the agency the City designates to manage the program, most likely Franklin County Department of Health. If done correctly, it is budget neutral. It does not cost the City anything because the agency would be the ones managing and collecting fees. They would send underage kids out with an adult to do an underage buy. They would figure out the chain of custody. They would send out the warning letters. They would go through the penalty structure and hear the appeals. All of this is happening through the Franklin County Board of Health. The reason this is recommended as a best practice is that it is a health issue, not a safety issue that would require police engagement. Also, the health department is already in these establishments checking things like hot dog temperatures and cleanliness and signage. They will also be checking for Tobacco 21 signage. If the City chooses to prohibit the sale of flavored products, they will also make sure they are not selling those and

complying with the law. Turner added this is not meant to be a “gotcha program.” She said it is meant to try to level the playing field because there are some good actors and some bad actors. With the state, if they do catch someone selling, they just penalize the clerk. The retailer has no skin in the game. When the onus is on the retailer, the business owner will comply with the law. Turner said this is where behavior will change. They will make sure their clerks know to check for ID. Crane said the average convenience store in Ohio sells \$650,000 worth of tobacco products every year. This is a big industry. Turner said if you threaten the revenue by pulling their license, they will make sure to comply with the law. They saw this happen in Alaska. Turner said it dropped from 30 percent of their retailers violating the law down to 6 percent. Their first penalty was pulling the license for 20 days. Turner said they are not recommending that measure here but said it does show it works.

Councilmember Padova said that the mention of proximity to schools brought up another question. There is a vape store almost across the street from the school. Are there other cities who have parameters around proximity to schools? Turner responded that, yes, a lot of them say 1,000 feet. However, a lot of times the cities will grandfather in ones that are already existing, stating that any new licenses cannot be within 1,000 feet of a school or place that serves youth, such as a boys and girls club. Turner said that Whitehall and Bexley are the closest cities to Gahanna that are in the process of doing a proximity tobacco retail license. She said Bexley has a first reading next week to do a comprehensive flavor ban with their tobacco retail license but doing proximity measures as well. Padova asked Chief Spence if he could speak at all to any of the experiences of school resource officers catching this in the schools. Chief Spence said it is present in schools. The schools are equipped with vape detectors in the restrooms, which is typically where the use is confined to. He said it is reasonable to assume kids are using them in hallways and other places. School resource officers do interact with this issue, as it is prohibited and against school rules. He said he understands the effort here. He said a lot of what they see come from online purchases. They are readily available online. The Department has learned this through interactions in the schools. Crane said that very much like the Smoke-Free and Tobacco 21, this will not really work until it is national. Leadership here is needed to help drive other cities and states to make this same decision. Turner said the proposed legislation is about point of sale, not about possession or use. The tobacco industry spends \$8.5 billion a year on marketing and 95 percent of that is at point of sale.

Councilmember Schnetzer said he appreciated the presentation and statistical detail. What would fall under the purview of what Columbus is considering and presumably what is being advocated for in these Chambers? He added that there has been a lot of talk about vaping and smoking. What about smokeless tobacco chew, or dip? There are a lot of flavors used in that product. Would that fall under this umbrella as well? Crane said, yes. Regular Red Man, which is not flavored, would not be considered, but a lot of the newer products, such as little lozenges that other chews have with a lot of

flavors, they would be removed. This is about taking the candy out. Schnetzer referred to Councilmember Angelou's statement about having used menthol products for many years. What is being advocated for in these chambers, would that prohibit someone who is 40 years old that has been smoking menthols for 20 years to no longer be able to purchase the product in City limits? Crane said yes, and that a significant portion of them would stop. He said we would save lives.

Vice President Bowers thanked Turner and Crane for their time and expertise that had been shared tonight.

**D. ITEMS FROM THE COUNCIL OFFICE:**

[ORD-0073-2022](#) AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF GAHANNA ADOPTED BY ORDINANCE 198-96 ON NOVEMBER 19, 1996, AND SUBSEQUENTLY AMENDED; CHANGING THE ZONING DISTRICT OF +/- 0.299 ACRES OF 3.4 ACRE SITE LOCATED AT 348 GRANVILLE STREET, PARCEL ID 025-000276 FROM SUBURBAN OFFICE (SO) TO COMMUNITY COMMERCIAL (CC); PROJECT KASSEL 348 GRANVILLE, LLC, MATT VON BARGEN, APPLICANT

Michael Blackford, Director of Planning, showed a map and location of the proposed rezoning on Granville Street. This property is currently zoned SO, which is Suburban Office. He noted that the library that's under construction is also zoned Suburban Office. The request is to rezone the property to Community Commercial. Blackford said that pretty much every property on the south side of Granville Street is already zoned Community Commercial. It is only a portion of the property that is being requested for rezoning. This is an existing office building on Granville Street. To the north is some multi-family. That is not part of the rezoning request. There are very mixed uses in this area. There is Dairy Queen, Gahanna Lincoln, BP, and Donatos. Blackford thought the office building was built in the early 1980s, possibly 1982. It might be a good time for some reinvestment in this area. Blackford said this is less than 0.3 of an acre. There is no minimum lot size, but when dealing with the 3/10 of an acre, there is really not a whole bunch of uses that can go on there because of the need for parking. It will be a fairly modest development if the rezoning is approved. It is just a rezoning and not adoption of a specific use. There is an informational site plan. In this case, they are talking about a coffee shop with a drive thru. If the rezoning is approved, any of the uses within Community Commercial could happen on this property. There are future applications. Those applications do require a public hearing. If the rezoning is successful, there would be a final development plan and a design review. This involves looking at site layout and access points, looking at buffers, landscaping, building design, and things of that nature. Blackford stressed that all of this comes after the rezoning if it is successful. He said the main differences between the existing zoning and proposed is not height, not intensity, not setbacks, as all of those are identical. It is really uses. That is the only thing different. Suburban Office is professional offices, medical,



libraries, and banks. There are no retail types of uses that are allowed, no restaurants. Community Commercial does allow for retail and restaurants. It also allows for those same types of office uses. Blackford showed the conceptual site plan, with a small coffee shop and drive thru, with just enough room for a few parking spaces. If approved, they might do a coffee shop or another type of commercial use. The Land Use Plan for this area is mixed use. Mixed use promotes retail and restaurant uses. The current zoning does not allow for that and encourages intense development, with over 60,000 square feet per acre. It does not make recommendations to have a more modern design (building closer to the road and parking to the rear). These are things that would be looked at on the next step if the rezoning is successful. Blackford explained there are six different criteria. It talks about compatibility (the map shows a lot of similarly zoned property in and around that area) and capacity of infrastructure (this is in an area that has infrastructure in place with road and utilities). The planning staff recommends approval. He said the Department finds it is consistent with the Land Use Plan recommendations of mixed use. It is very similar to the types of uses in and around the area. This would be making it more in line with existing development. Planning Commission saw the request a couple weeks ago. They recommended approval with a 7-0 vote. Blackford said he is happy to answer any questions. He also noted the applicant was in attendance as well.

Councilmember McGregor asked if the office building currently there would be demolished. Blackford said it would have to be in order to accommodate any type of retail restaurant type of use. The layout in the parking would not work. McGregor asked if it could be a Valvoline station. Blackford said that automotive uses are allowed, but only by conditional use. He believed that part of the Code says that auto uses allowed by right are gas stations. This would not have enough size for a gas station. He believes the Code was amended to no longer permit those types of uses as McGregor mentioned within the Community Commercial Zoning. McGregor thanked Blackford. This is what she wanted to make sure.

Vice President Bowers said in the Land Use Plan, she is looking back to how it was identified for a parcel to be mixed use. She understands that we can say that uses can be integrated vertically but do not have to be integrated vertically. Mixed use was identified as distinct from Community Commercial in the Land Use Plan. Bowers said that development character for this particular corridor was really intended for a bit more verticality. She understands the depth of this parcel has residential in the back. She understands this conceptual plan would be street facing. She wants to note, since the applicant is in attendance, that the idea of this is to create walkability, kind of like a streetside café kind of feel. Bowers understands that there is a different type of character in some of the existing area, but that this is what was expressed in the Land Use Plan. She hoped this would not land on deaf ears. Blackford said he understood. If the rezoning is successful, this is when they will look at the final development plans and try to incorporate more walkability in the exterior types of activities that Bowers mentioned to help increase the vibrancy of that area.

Councilmember Weaver asked if a traffic impact study needed to be done. He said he knows that sometimes with the Dairy Queen entrance depending on the season and the time of day can be busy. If a coffee shop is one of the possible considerations, a lot of people like their morning coffee. He is thinking that this could create issues with school buses. Blackford said there was a comment by the engineering team that if the rezoning is successful, at final development plan time, they would be looking at more traffic analysis at that point. He showed the conceptual site plan again. It shows possibly a new access point. Engineering looked at this and said access and traffic circulation would be evaluated at the next stage of the application and then discussed with Planning Commission.

**Recommendation: Introduction/First Reading on Regular Agenda on 12/5/2022; Public Hearing scheduled for 12/19/2022; Second Reading/Adoption on Regular Agenda on 12/19/2022.**

### **Resolution for GLHS Football Team**

Councilmember McGregor wanted to address the interest in a resolution for the Gahanna Lincoln football team. Since it has been 40 years since the team had been to a state final four, she wondered if there should be a resolution to honor this. She recognized the letter that had been done to support the team before the game. This would be to honor their accomplishments. She does not have anything drafted yet but offered to bring a draft to the next Committee. President Renner said he thinks it is a great idea and thanked McGregor for suggesting it and also volunteering to write it. He said the Mayor had sent him a message that she planned on having a proclamation to the same effect. McGregor said she would work on it. Vice President Bowers asked when this might appear before Council. McGregor said she did not expect it for the December 5 Council meeting but maybe for the next Committee.

### **E. ITEMS FROM THE DEPARTMENT OF ECONOMIC DEVELOPMENT:**

[ORD-0075-2022](#) AN ORDINANCE AUTHORIZING THE MAYOR TO MODIFY VARIOUS AGREEMENTS WITH SCIENCE ONE, LLC, RELATING TO THE TECH CENTER DRIVE EXTENSION, WAIVING SECOND READING, AND DECLARING AN EMERGENCY

Nate Strum, Director of Development, and Bob Behal, representing Science One, were available for questions. Strum handed over discussion to City Attorney Mularski. Mularski explained that this is a basically a legal issue. Science One, or ADB Safegate, came to us and they were having trouble with a cash flow issue. Behal is here to explain the reasons why. Although, from Mularski's perspective, it really does not matter why. He said what we are doing makes the City more secure. We are not going to get the State Infrastructure Bank (SIB) loan, so we are no longer going to be liable for the loan. That is also why we are canceling the note because as part of the original agreement, the note was to promise to pay us back for the SIB loan.

We do not have to have that because we are not going to get a SIB loan. He said the City has not signed any documents for that. They were on the table when this issue came up, and Mularski told Strum, to hold off on those until we find out how we are going to do this. He explained what they are going to do in short is, since they have already given the City \$1.5 million to hold into trust that was to secure the SIB loan, they are going to instead is take that \$1.5 million and use that money to pay for the construction cost rather than pay the SIB loan. He said the thing to keep in mind here is the City needs to be the general contractor because there are grants involved and the City is the one who can get the grants. The city has to be the general contractor. We are hiring Science One, and they are doing all the work, but in name, we are the general contractor. That is why we are the ones who are paying the bill. The \$1.5 million, he added, was an overestimate. It is about \$200,000 to \$300,000 more than what the City believes will be the cost of this Tech Center Drive extension. However, that also does not consider the fact that we are going to supply TIF funds, money from the Water Fund, and these grant funds. All that money does not change. With this action, the City is identifying what pot it is taking the \$1.5 million out of. In effect, this is going to cost at least \$600,000 less than the \$1.5 million, when you take into account the \$200,000 to \$300,000 we are putting in and what the grants are. Mularski said the Committee will see that there are three documents. One is a note cancellation. That is just saying we do not need the note anymore, since we are not getting the SIB loan. The others are the security deposit and the infrastructure agreement. The basic changes in those are changing to say we are not getting the SIB loan anymore. Instead, we are going to take the money from the security deposit that has already been given to us and use that money to pay. This enables us to do this a lot faster because if you can just give us a bill, we can pay it and be done. Mularski thinks that might be the main reason. However, Mr. Behal is here because it is his client and could speak more to that.

Mr. Behal said when this started, ordinarily the construction company would put up a bond, and Mr. Biondi the president of the company who passed away recently, decided he wanted to get a letter of credit to back the company's performance. A letter of credit is not cash and would have been fine as a means of bonding off the job. Behal explained that right before Biondi died, he decided to just put-up cash. He died before it happened, and his daughter became the president of the company. She had been involved with the company for 25 years, so she is very well acquainted with the operation. He explained that they went ahead, got the cash, and put the cash together. In the meantime, the SIB loan had already been put into effect as a strategy for getting actual cash. With the confusion surrounding the death of Mr. Biondi and everyone involved in trying to get this deal done, so this street could be done in a timely fashion and the ADB folks moved into this facility in a timely fashion (they are not able to move in unless the street is done), Behal said it has been a cacophony of dominos that are falling. Now we have the issue of the SIB loan not having been applied for completely yet. They have got people who have been working on this job, the actual subcontractors. The work is being done. It is moving along and there has been quite a bit of progress

already made on this street. Behal said they have to pay their workers. This is more a matter of efficiency to get these workers paid who have been working and this contractor who has in good faith done all the work without any cash. Behal explained the contractor has submitted his first request for an advance or draw on the job. It was backed up by an engineer who had to go to the site, see that the work has been done, and certified it to the City. That has been done. When they were all talking, it was asked why they are getting the SIB loan and creating all this back-and-forth and all of this unnecessary administrative hassle here when the money to do the job is sitting there. The City has it. The City is guaranteed. They are going to be able to pay for this job, even if any of the parties failed. Behal said everyone realized this could be streamlined and they could get the money faster to the workers. Behal thinks his client is going to probably get lines of credit because he thinks they want to pay today or tomorrow. They would like to get that money flowing for the job because the job is probably 75 to 80 percent complete already and they need to get that money moving to the workers. With the death of Mr. Biondi and desire to get this project moving, Behal said parties maybe got a little blinded by the fact that we could have done this in a more streamlined fashion. So, they have modified the documents. Both sides have looked at it and edited them. They are ready to go. Behal said this is a nice remedy for a problem of getting people who are laboring paid quickly and efficiently.

Vice President Bowers said to clarify and verify for everyone, this is all for the extension of Tech Center Drive, which is a public street. Mularski said that is correct.

**Recommendation: Introduction/First Reading/Adoption with Waiver and Emergency on Consent Agenda on 12/5/2022.**

**F. ITEMS FROM THE DEPARTMENT OF ENGINEERING:**

[RES-0034-2022](#) A RESOLUTION TO DECLARE THE NECESSITY AND INTENT FOR TAYLOR STATION/CLAYCRAFT RIGHT-OF-WAY ACQUISITION

Tom Komlanc, Director of Engineering, said this item is seeking a Resolution of Necessity for the securing of additional right-of-way and temporary construction easements associated with the upcoming improvements to the Taylor Station and Claycraft intersection. This will be modernized as a roundabout from its current signalized intersection operation. He explained that it is customary that as we proceed forward with right-of-way acquisition and before the negotiation with the subject property owners occurs, that we have a Resolution of Necessity in place.

**Recommendation: Introduction/Adoption on Consent Agenda on 12/5/2022.**

[ORD-0076-2022](#) AN ORDINANCE ACCEPTING A DEED OF EASEMENT OF 0.020 ACRES ON PARCEL NO. 027-000110 FROM VALUE RECOVERY GROUP II, LLC, FOR UTILITY PURPOSES ASSOCIATED WITH THE TECH CENTER DRIVE EXTENSION

Tom Komlanc, Director of Engineer, said ORD-0076-2022 and ORD-0077-2022 are in association with the last presentation, as it relates to the Tech Center Drive extension. Komlanc explained that the City has utilities within the corridor, and these are the easements associated with the extension of those public improvements.

Councilmember McGregor asked if this is where the roads are actually going to go on these properties. Komlanc said, yes. He added that for advanced notification, the City is working on another easement for sidewalk purposes in affiliation with the improvements as well. The writing of the deed of easement is in process and being reviewed. The Department will be bringing that forward at a future Committee.

**Recommendation: Introduction/First Reading on Regular Agenda on 12/5/2022; Second Reading/Adoption on Consent Agenda on 12/19/2022.**

[ORD-0077-2022](#) AN ORDINANCE ACCEPTING A DEED OF EASEMENT OF 0.655 ACRES ON PARCEL NO. 027-000113 FROM SCIENCE ONE, LLC, FOR UTILITY EXPANSIONS IN CONNECTION WITH THE TECH CENTER DRIVE EXTENSION, WAIVING SECOND READING, AND DECLARING AN EMERGENCY

Director Komlanc said that a waiver and emergency has been requested because this is on the Science One property and tied with their timelines. The first one was on Value Recovery Group's and adjacent property that went north.

**Recommendation: Introduction/First Reading/Adoption with Waiver and Emergency on Consent Agenda on 12/5/2022.**

**G. ADJOURNMENT:**

*With no further business before the Committee of the Whole, the Chair adjourned the meeting at 8:00 p.m.*

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**Jeremy A. VanMeter  
Clerk of Council**

*APPROVED by the Committee of the Whole, this  
day of 2022.*

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**Merisa K. Bowers**