

Child day care homes, both Type A and Type B are regulated in two sections of the Zoning Code, under Accessory and Conditional Uses. Type B day cares only allow up to six children and are a permitted accessory use in single and two-family zoning districts. Type A home day cares are a conditional use because they allow between six and up to twelve children permitted only in the single-family zoning districts. The proposed changes to the accessory use section 1262.03 for Type B home day cares include a requirement of registration and inspection for all child home day cares. The City has had an explicit requirement of registration and inspection for all child home day cares. The City has had requirements for many years that there be safety inspections, but the explicit language was not included in the code. This is to tighten up that loophole. There is also language to update City department information like the lack of a health department, etc. Some proposed changes in the conditional use section 1263.09 which applies to all Type A home day cares as well as Type B home day cares when proposed in an apartment building. We added the Type A and Type B definition to this section so anyone reading it out of context with the rest of the code would understand what those are and added additional requirements for Type A home day cares that are very similar to those imposed by both the City Planning Commission and Council for the only Type A home day care that was approved on Aberdeen Road. These additional conditional use requirements include verification from the Bureau of Child Day Care Licensing that there is adequate interior space in the home to have a Type A home day care. There is a requirement through the state based on the number of children and square footage. They must demonstrate a track record of having a Type B home day care at that same residence without violations. This would preclude someone from moving to a home and starting a Type A home day care immediately. They would need to have a working Type B home day care home first. They need a working pickup and drop off plan submitted as part of the review. All interior Housing Code violations in spaces used by the children must be corrected before application. An outdoor play area must be enclosed by a six-foot tall solid fence. They must comply with all City ordinances including the noise ordinance. They must limit outdoor play hours to between 9 a.m. and 7 p.m. They must limit weekend participation on Saturday and Sunday to only six children, basically no more than a Type B home day care would have on a weekend. Inspections can be conducted by the City and an administrative review may be conducted after one year. That is a synopsis of the code changes being presented.

Barbara Franzen of 3303 Aberdeen Road stated that she is against Type A home day cares. She feels we need an additional conditional use on the permit requirements that the day care owner must be the owner of the home, not renting, and must also live in the home. This would prevent someone from buying homes and renting to someone with the idea of them assisting the renter starting a Type B home day care and going to a Type A home day care. This could ruin neighborhoods all over Shaker Heights. We have only had one Type A home day care in the last 25 years, but she can see someone coming in and doing this.

Celeste Terry of 17414 Scottsdale Boulevard who lives next door to a Type B home day care stated that she is against Type A home day cares and feels no day care should be allowed in rental properties. She read something in the news about North Canton and Lakewood recognizing that landlords change the fabric of the community by who they rent to so she is hoping that Shaker will begin looking at that because there are a lot of rental properties and vacant homes that could change the fabric all over. Landlords should be required to cover the driveway with soft asphalt. It is a backyard and a driveway not a playground. They should also be required to pay for the grass for the neighbors next door to them that is being trampled on by guests of the business being operated.

Vanessa Ball of 17406 Scottsdale Boulevard stated she has been a resident for 34 years and asked who monitors the indoor day care to make sure they don't go over the limit for the number of children. She asked if the limit of 6 includes the children of the day care operator. She also asked if residents are allowed to report when they see more children than is allowed and to whom they report it.

Mr. Feinstein stated in response to Ms. Franzen that the home day care provider must live in the home. There is a requirement that a childcare provider can be a lessee and provide a copy of the lease or other satisfactory documentation as evidence that there are no contractual restrictions which preclude them from having a day care at the residence. They may be a renter if the lease does not prohibit it and/or if the landlord stipulates that it is allowed. In response to Ms. Ball, he stated the state regulations stipulate that children on the premises related to the provider are counted as part of the number of children allowed if they are under the age of 6. Anyone may report a violation or suspicion of a violation to the Zoning Inspector, Mr. Feinstein, who would investigate. It can also be reported to the state, but the City would be able to act quicker than the state.

William M. Ondrey Gruber, Law Director, stated that any damages to a neighbor's property are treated no differently than if a neighbor has a party, meeting or other activity at their home and cause damage to their neighbor's property.

Council member Ms. Moore stated that the risk to the quality of life in neighborhoods where there is a Type A day care, is that the additional number of children presents a very big negative, and therefore she would be supportive of a condition that states that for a Type A day care the operator should also be the owner of the property in question. The owner is profiting if they rent to the lessee and the lessee is profiting with the establishment of the day care, but the neighborhood is not necessarily profiting. The argument is about how to balance the needs of the neighborhood versus the needs of a home-based business. She does not see why all the protection should be for the business and none for the neighborhood. If the legal issues are permissible she would like to add this as a City imposed condition.

Mr. Gruber stated that the City could add this limitation for Type A, but not Type B home day cares.

Council member Ms. Williams stated that is a valid point to add a condition that the operator must be the homeowner for a Type A home day care, and worthy of consideration.

Council member Mr. Zimmerman stated that this item is on second reading and he asked if it would be appropriate for the City Planning Commission to review this particular condition since it is a fairly substantive change. Ultimately it is Council's decision, and he is not advocating either way. This condition was not discussed by the City Planning Commission previously, but they will meet again before the third reading of Council

Council member Mrs. Senturia stated that she has not considered this either and asked if anyone can articulate why they think it is a good idea?

Council member Mrs. Moore stated that the argument is one of quality of life. The residents that have testified before City Council have said that a day care in their proximity which is a rental operates according to the regulations, but their quality of life is impacted. They believe if a Type B home day care applies to the state to become a Type A and all the conditions are met, the impact on the quality of life in their neighborhood already being impacted by 6 children would be even greater. Their issue is at what point we weigh the right of the homeowners against home-based businesses. They feel their rights should

be at least equal to the rights of businesses to operate. Ms. Franzen is suggesting that even with all the conditions of the Type A home day care, it is allowing more rights to the owner of the property, more rights to the operator of the day care, and no rights to the adjacent property owners or the neighborhood if they object to their quality of life when it is impacted.

Council member Mrs. Senturia stated this is tricky. The renters are also community members, neighborhood members and deeply committed to their neighborhoods as well. Often they are long term residents. A day care is not a regular business it is a public service. Our families rely on access to day care. She is not sure that home ownership or owning the deed is what makes you a good neighbor. Her instinct initially when she heard it was that maybe there is something to this because you have made a purchase into the neighborhood so we perceive that as a bigger commitment, but she does not know if it is. She appreciates her colleagues' comments.

Council member Mr. Williams stated that he appreciates both points of view. One of the conditions we already have is a continuing obligation to comply with the City's noise ordinances. The comments we received at prior meetings indicated that noise was a big issue. This will be a continuing obligation and has reached the point where those adjacent homeowners feel they are being deprived of the enjoyment of their property. We are not going to be able to pinpoint when someone feels they are being deprived of the enjoyment of their home. This is the first Type A home day care so we don't know what to expect and we have built in conditions that will measure where we are 6 months to a year down the road.

Council member Mrs. Moore stated that it is not just the noise. It is the cars coming in and out of the driveway, the traffic, and the lights shining into the windows. There is a dimension to a day care operation that is much wider than simple noise. These are the impacts that neighbors feel.

Mayor Weiss stated that it does not seem that there is a negative to sending this back to the City Planning Commission for review of this particular point re: ownership versus rental of Type A home day cares only. Whether they recommend for or against, it will still come back to Council and ultimately Council will have to make the decision.

The Mayor closed the public hearing on the proposed Zoning Code Amendments.

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The Mayor opened the scheduled public hearing on the proposed Tax Budget.

Robert H. Baker, Finance Director, stated that the tax budget procedure is mandated by state law. Many years ago there was a case about how much real estate taxes can be imposed without a vote of the people. The Ohio Supreme Court said that 10 mills of real property tax could be imposed on all property in the State of Ohio. That caused the state to develop a system of how to allocate that 10 mills amongst the various governmental units that have the right to levy a property tax. The City of Shaker Heights shares the taxing base with the schools and Cuyahoga County. The County Budget Commission under state law allocates the portion of the 10 mills to each of the overlapping jurisdictions. The City has 4.4 mills of the 10 mills and the other 5.6 mills are for the Shaker Heights School District and the county. The City of Shaker Heights in addition to the 4.4 inside mills has 5.5 mills of property tax that was adopted by the voters of Shaker Heights in the passage of the original charter of the City in 1931 and subsequent charter amendment. Inside millage estimated for 2020 by Cuyahoga County is \$3,520,000. The charter millage is \$4,400,000. Each government has to prove that they need their portion of the inside millage. If your tax

budget shows you have far more revenues than expenses in theory the county has the power to take your inside millage away or reduce it. If the county tried to do that to anyone there would be significant litigation. Every jurisdiction each year files a tax budget to prove they need their inside millage. On the basis of the tax budget the county approves the property taxes. A tax budget always shows a budget deficit, so the deficit for 2020 is \$607,662. That is down from over \$2,000,000 last year. State law does not require a public hearing on this budget but Shaker Heights has a public hearing every year on the tax budget. Prior to the public hearing the City published a notice in the *Sun News* in excess of 10 days before this hearing. State law requires that we adopt a resolution approving the tax budget and authorizing us to file it with the county.

Council member Mr. Williams asked about tax anticipation notes.

Director Baker stated that we have no plans to issue tax anticipation notes.

The Mayor closed the public hearing on the proposed Tax Budget for the year ending December 31, 2020, and Council returned to the regular meeting.

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Resolution No. 19-45, by Mr. Malone, adopting the 2020 Tax Budget of the City of Shaker Heights, Ohio, for the fiscal year beginning January 1, 2020, and submitting the same to the Cuyahoga County Budget Commission through the Cuyahoga County Fiscal Officer.

It was moved by Mr. Malone, and seconded by Mrs. Moore, that the rule requiring ordinances to be read on three different days be suspended and Resolution No. 19-45 be placed upon its final enactment.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Motion Carried

Moved by Mr. Malone, and seconded by Mrs. Moore, that Resolution No. 19-45 be enacted as read.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Resolution Adopted

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It was moved by Mrs. Moore, and seconded by Mr. Williams, that the minutes of the April 22, 2019 regular meeting of Council, be approved as recorded.

Roll Call: Ayes: Ms. Williams, Mr. Williams, Mr. Zimmerman
Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia

Nays: None

Motion Carried

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The Mayor invited members of the audience to comment on any of the agenda items.

No comments were offered.

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Ordinance No. 19-36, by Mr. Zimmerman, amending Sections 1262.03 and 1263.09 of the Zoning Code of the Shaker Heights Codified Ordinances in order to improve the regulation of Type A and Type B child day care homes and to protect the public health, safety and welfare.

Mayor Weiss stated that this item will remain on second reading.

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Ordinance No. 19-46, by Mr. Zimmerman, approving the recommendation of the City Planning Commission to amend the Zoning Map and the rezoning of a portion of Permanent Parcel No. 733-26-001, with conditions.

Joyce Braverman, Director of Planning, stated that this request is from the Shaker Heights Country Club proposing to create two single-family parcels from one main parcel, currently zoned Park and Recreation. They propose to rezone it Single Family 1. The City Planning Commission held a public hearing on July 11, 2018 and again on May 7, 2019 and recommended approval with the following conditions: that the riparian setbacks be clearly delineated on the site before any land is disturbed; that the club may not establish any onsite storage organic material, which is what the land is used for now and must be removed; a maintenance easement be established so the City can access both banks of the Doan Brook; a permanent conservation easement be recorded with each parcel that includes the boundary of both the riparian setback and wetland; that the conservation easement be assigned to a third party; and that the final subdivision plat must be filed with the county and submitted to the City. A hearing is scheduled for June 24, 2019 with a more complete presentation.

Council member Mr. Williams asked about eliminating the source of contamination.

Director Braverman stated that a report done recently by the country club shows a level of a certain contaminant that is determined to be safe for parks and commercial areas, but not for residential property. Removal would be necessary. There is also a geotechnical report that shows the same soil is too soft to build on without certain reinforced footers. It is likely that soil would need to be removed anyway in order to be stable.

Council member Mr. Zimmerman stated that the City Planning Commission had a comprehensive discussion on this matter and provided a few basic highlights. There was an issue raised about environmental contamination on site. There was a report from the applicant about phase one and phase two environmental that the City Planning Commission talked about in a lot of detail. Ultimately for anything to be done on the property or developed any environmental contamination will need to be remediated as a condition. Quite a few residents raised concerns about the environmental conditions. There was also a concern about the development of this green space and residents in the direct line of sight were not happy about this proposal going forward. The City Planning Commission heard from the representative of the country club who gave a comprehensive presentation giving a history of ideas that they had to deal with this land which is an admitted eyesore for many. The thought was the land would be more productively usable if it were rezoned, subdivided and sold for residential development. These were some of the larger issues that were discussed as well as some discussion about preservation of green space, which is interesting because this is privately held land, not public land. The ultimate vote by the City Planning Commission was to recommend the Zoning Code amendment to Council, with the vote of three in favor, one against, and an abstention.

Mayor Weiss stated that there are two different issues: the Zoning Code issue; and the potential development of the site. At one level they wanted to know if they could actually build, but the action being proposed is only the Zoning Code issue. Landscape plans and development are yet to occur.

Council member Mr. Zimmerman agreed and stated that was a clear distinction that was made by the City Planning Commission. There is a standard in the Zoning Code for rezoning and they voted on it.

Director Braverman stated that in talking about the rezoning they discussed the use of the land and how big the lots will be, but they will need to come back for site plan review, etc. The City Planning Commission did make the point that there should not be any clearing of the land before site plan is achieved. There is also an issue about soil removal and tree clearing that will need to be negotiated.

Council member Mrs. Moore asked why the contaminated soil and reinforcement of the substrate was not included as a condition.

William M. Ondrey Gruber, Law Director, stated that is not a condition of the change in the Zoning Code, but could be a condition as part of the site plan approval. The site plan approval will look at how the site will be used, what needs to be removed, and what will be replaced.

Council member Mrs. Moore applauded those involved for recommending the conditions that resulted in the conservation easement of land and riparian setback of Doan Brook. It is very important because it is one of the only sections of the Doan Brook that is privately owned. The rest is controlled by a lease with the City of Cleveland and various municipalities.

Director Gruber explained that years ago the Administration adopted regulations for the riparian setbacks so they were already required in the Zoning Code. If the club gets the Zoning Code changes approved it does not mean they have to ever develop housing on the land. They are not required to remove the contamination because it is safe as long as it is green space. It would only have to be removed if they add residential housing.

Mayor Weiss stated that this item will remain on first reading.

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Ordinance No. 19-47, by Mr. Williams, to approve the creation of an Outdoor Refreshment Area as permitted by Ohio law for the consumption of alcohol in specified public areas of the Van Aken District Development.

Joyce Braverman, Director of Planning, stated that there was a great discussion when this item was presented at the Council work session. There was a recent state code addition which allows open containers in downtown districts. It provides regulations for establishing the district, and allowing open containers purchased by vendors in the district. The state also makes provisions to establish boundaries, signage, hours of operation, sanitation and safety plans, and to consider the area impact. RMS has submitted a petition to Mayor Weiss, and Mayor Weiss is now submitting that petition to City Council. Council approval is required to establish the Outdoor Refreshment Area (ORA) and the process is dictated by state code. The City must comply with the state regulations including a public hearing to be held and a notice for two weeks advertising the public hearing, which is tentatively scheduled for June 24, 2019. Council must act in no less than 30 days after the notice is published, and no more than 60 days. It is scheduled to be published on Thursday. The City must notify the State Board of Liquor Control and the Department of Public Works if we do approve the ordinance, which must include the requirements for signage, boundaries, hours of operation, number of personnel needed for public safety, sanitation plan, and the requirement that drinks will be served in plastic cups was included in the petition. Council also has the requirement to review this five years after approval and every five years thereafter. Council has the authority to dissolve all or part of the ORA with proper notice. In the petition there are a couple differences from the last discussion. The hours have been shortened on week nights to 10 p.m. from 11 p.m. and it clarifies that the cups cannot go into any other establishment. They must remain out doors or in the original establishment where it was purchased. A full presentation will be done during the public hearing where Jason Russell of RMS will participate.

Council member Mr. Zimmerman asked about the hours of operation in respect to the businesses.

Director Braverman stated that Craft Collective probably has the longest hours and will be open after the ORA closes at 10 p.m. These are the maximum hours they are requesting. Once it is approved RMS may post shorter hours within this timeframe. This is also seasonal, from April 1 to October 31. It does not operate during the winter.

Council member Mrs. Moore stated that there were two public meetings: one with the Thornton Park Community Association and one with the Sussex Community Association. There will be another presentation tomorrow night by Jason Russell of RMS at the Market Hall.

Mayor Weiss stated that this item will remain on first reading.

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Ordinance No. 19-48, by Mr. Malone, authorizing the application for and acceptance of a grant from the Cuyahoga County 2019 Community Planning Grant Program to fund a Commercial District Redevelopment Analysis of the Lee-Chagrin commercial area, and declaring an emergency.

Joyce Braverman, Director of Planning, stated that this request authorizes a grant application to and acceptance from the Cuyahoga County 2019 Community Planning Grant Program for planning services by the County Planning staff for a variety of community planning projects. The County Planning Commission is allocating \$150,000 toward this grant program. There is no match required. The awards will be determined by the County Planning Commission. We are proposing a commercial district redevelopment analysis that will be both a physical plan and a feasibility assessment of the Chagrin/Lee commercial area. We have been looking into some of the Lee Road facilities as part of the Forward Together facilities plan, including both of the Shaker Heights School District facilities, as well as Chelton Park and the City's car wash site owned by the Shaker Heights Development Corporation (SHDC). On Chagrin we are looking at if there could be some colocation opportunities with the land available and the City's Service Center. We thought this was a good opportunity to get some additional help looking at these items. It is more of a commercial revitalization plan. We will be collaborating with the SHDC on this and requested for the City of Cleveland to also collaborate on this project as the Chagrin sites are adjacent to City of Cleveland land. This item is requested as an emergency and with a suspension of the rules as grant applications are due June 7, 2019.

Council member Mr. Williams asked if there is an opportunity to get funding from the City of Cleveland concerning any planning they may be interested in doing since they may be participating

Director Braverman stated that we are not making that request at this time because there is no cost to us and no match required. If we progress on something that crosses the border and do a further study or planning we could ask for some financial help from Cleveland.

Council member Mr. Malone stated that this is great that we are working with the City of Cleveland. He asked about the timeframe, who will work on the project and the expected amount of the grant award.

Director Braverman stated that this should be a relatively short planning exercise, lasting six to nine months. We do not know how much we may get and the county may not tell us the allocation but instead simply say they are funding our project since it is all in-kind services. The county knows how much they are going to allocate to each project but they have not indicated a dollar amount. We are very familiar with the county planning staff and we try to craft a project where they have expertise. The end result will be a written report.

It was moved by Mr. Malone, and seconded by Ms. Williams, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-48 be placed upon its final enactment.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Motion Carried

Moved by Mr. Malone, and seconded by Ms. Williams, that Ordinance No. 19-48 be enacted as read.

Roll Call: Ayes: Ms. Williams, Mr. Williams, Mr. Zimmerman
Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia

Nays: None

Ordinance Enacted

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Ordinance No. 19-43, by Mrs. Moore, enacting new Chapter 516, entitled "Discrimination Prohibitions in Employment and Public Accommodations" to the Business Regulation Code of the Codified Ordinances, in order to establish anti-discrimination ordinances, regulations, procedures, and standards, consistent with county anti-discrimination law in employment and public accommodations.

William M. Ondrey Gruber, Law Director, stated that this was introduced at the last Council meeting. It would enact a new Chapter 516 and based on comments that were received a couple of changes were made. In Section 516.01 Public Businesses has been changed to Public Accommodations. In Section 516.02 (t) the sexual orientation definition was simplified to the standard definition used in the County ordinance. In Subsection (m) the words "or expression" was added after gender identity. There may be additional amendments as they are still researching issues and talking to the County.

Mayor Weiss stated that this item will remain on second reading.

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Ordinance No. 19-49, by Mrs. Moore, amending Sections 515.01 through 515.05 of Chapter 515, "Fair Housing," in the Business Regulation Code of the Codified Ordinances, in order to update and make the Chapter consistent with the language and protections of new Chapter 516 entitled "Discrimination Prohibitions in Employment and Public Accommodations."

William M. Ondrey Gruber, Law Director, stated that in preparing new Chapter 516 the Law Department reviewed the Fair Housing Ordinance to make sure it will be consistent with the proposed changes. The changes being proposed are to make the definitions of the protected classes consistent between the Public Accommodations and employment discrimination terms, and the Fair Housing ordinance. They also added a better definition of gender identity or expression in Section 515.02 (f) so that it would mirror the definition in the antidiscrimination ordinance. Section 515.02 (o) re: the definition of sexual orientation was simplified as in the antidiscrimination ordinance. The substantive change to make it more consistent with state law is to remove the Ms. Murphy exemption, which has to do with the application of Fair Housing law to residential units of up to four units referenced in Section 515.03 (h) which already applies to single-family houses sold or rented by an owner under the terms and conditions set forth in federal law.

Mayor Weiss stated that this item will remain on first reading.

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Resolution No. 19-50, by Mr. Williams, reaffirming and expanding the City's Equal Employment Opportunity Policy.

William M. Ondrey Gruber, Law Director, stated that item is to replace a resolution that Council passed a number of times over the years in order to be consistent with the Equal Employment Opportunity Policy for the hiring of City employees. The City requires the same employment terms when we enter into contracts with contractors. This resolution now includes the language that is consistent with the proposed non-discrimination ordinance and Fair Housing Ordinance.

Council member Mrs. Moore stated that Council has been working on anti-discrimination legislation in employment in one form or another for many, many years. For the 16 years she has been a member of Council there has never been anyone who has not supported this. This is putting it into legislative form.

Director Gruber stated that this is a county ordinance and the City has had a policy of non-discrimination among our own employees. However, we have never had an ordinance that applied to public accommodations in employment. We often hear from others that one of the reasons businesses decide to locate in communities is partly based on attracting younger people. Businesses owned by younger people, and employing younger people are really interested in communities that are open and diverse. In addition, it bolsters the county ordinance, supports the county, and tells the public that we can receive complaints to investigate discrimination.

Council member Mr. Zimmerman stated that we are living in a political environment where certain states including our own are aggressively chipping away at other rights we thought were settled. By and large these ordinances reflect our current practices, hence we are writing them in the books of law as an expression of our values.

Mayor Weiss stated that this item will remain on first reading.

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Ordinance No. 19-51, by Mr. Malone, authorizing a three-year personal services contract with West, a Thompson Reuters company, in the total estimated amount of \$44,280 for the approximate period June 1, 2019 through May 31, 2022 for computerized legal research services for the Department of Law, and declaring an emergency.

William M. Ondrey Gruber, Law Director, stated that this item is for a three-year personal services contract with West (formerly Westlaw) for legal research services. Between 2015 and 2018 the City switched from Lexis/Nexis to Westlaw at a cost of \$54,000 for printed materials and the online service. That contract expired and the City now has a month-to-month lease. They did reach out to Lexis/Nexis, but they were not responsive and it is difficult to switch services once you have trained on one service, so they decided to go with West. The Law Department eliminated some print materials to reduce costs and stay within the established budget, offset slightly higher costs of online services, and to add a few services. This item is requested as an emergency and with a suspension of the rules as they are currently paying month-to-month.

Council member Mr. Malone stated that this item was reviewed and unanimously approved by the Finance and Administration Committee.

Council member Mr. Zimmerman stated that the Law Department reached out to Lexis/Nexis who was not responsive, and more importantly the Law Department is more heavily trained and aligned with Westlaw. Each service has their own terminology and search engine, so it does not make a lot of sense to switch.

It was moved by Mr. Malone, and seconded by Mr. Zimmerman, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-51 be placed upon its final enactment.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Motion Carried

Moved by Mr. Malone, and seconded by Mr. Zimmerman, that Ordinance No. 19-51 be enacted as read.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Ordinance Enacted

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Ordinance No. 19-52, by Mr. Malone, accepting a proposal and authorizing a contract with Tyler Technologies, Inc., in the total not-to-exceed amount of \$95,000, for the ExecuTime license and support agreement, Employee Self Service module and time clocks for the City's automated Advanced Scheduling and employee time and attendance system, without competitive bidding as a sole source, and declaring an emergency.

Cheryl Arslanian, Assistant Finance Director, stated that this item is for a contract with Tyler Technologies for a not-to-exceed amount of \$95,000, for a time and attendance and scheduling system, including employee self-service and four touch screen time clocks. This request is for a contract without competitive bidding with a sole source provider, as Tyler Technologies is a proprietary software. Currently, the process is manual with one employee in each department entering time-keeping data. Automating this process will save time and increase efficiencies in each department. In addition, the scheduling system would enable employees, especially in the bargaining units, to schedule time off and trade time in an efficient manner. Electronic scheduling will also assist managers in ensuring appropriate staffing. Two other systems were reviewed, but the results were inconclusive as to whether they could interface with the current MUNIS system. They could require double data entry and maintaining two systems does not make sense when MUNIS has a solution that is fully integrated with our payroll, human resources, financial and budget systems. The appropriation for this project was already approved in the 2019 budget. The software and hardware request includes touch screen, biometric reader time clocks, Executime advanced scheduling, Executime advanced scheduling mobile access, Executime time and attendance, Executime time and attendance mobile access, employee self-service, and estimated travel for training and web training. The City's goal is to have one system for all the departments. All department

directors agreed on this product. This item is requested as an emergency and with a suspension of the rules as Tyler Technologies requires three months to schedule the beginning of the project. There was a change since the presentation to the Finance and Administration Committee. The City currently hosts MUNIS and we were going to have Tyler host the employee self-service portion, but we need to purchase another server so the City will host that aspect as well. The costs went down for Tyler, but we will have to spend more money on the server and maintenance costs.

Council member Mr. Malone stated that this item was reviewed and approved by the Finance and Administration Committee. He asked about the maintenance costs for the server and additional costs related to the installation of the software. Council has traditionally foregone competitive bidding with sole source providers in scenarios like this, especially when all the directors believe it would be impractical to switch software. The City has already made efforts over the years to integrate with MUNIS software.

Mrs. Arslanian stated that the server costs are unknown at this time, but there will be ongoing maintenance fees for the software that will be submitted to Council every three years.

Council member Mr. Roeder asked about the cost benefit analysis, data accuracy, data integrity, or any other benefits that the City will get from automating this historically manual process.

Mrs. Arslanian stated that there will be benefits with accuracy and time. The four largest City departments with the most employees: Public Works; Police; Fire; and Recreation will see the most time savings with this process going through workflow, which will also be more accurate. Scheduling time off will be consistent throughout the City. There will be many efficiencies and a calendar to see when employees are off. Police currently schedules time off in Excel and this solution came about in the last few years with Tyler.

Council member Mr. Malone asked about monitoring and compliance of employees while offering mobile access.

Mrs. Arslanian stated that there are several ways to enter time: time clocks, computers, or mobile devices. The system can determine the location of the mobile device when it enters data.

It was moved by Mr. Malone, and seconded by Ms. Williams, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-52 be placed upon its final enactment.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Motion Carried

Moved by Mr. Malone, and seconded by Ms. Williams, that Ordinance No. 19-52 be enacted as read.

Roll Call: Ayes: Ms. Williams, Mr. Williams, Mr. Zimmerman
Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia

Nays: None

Ordinance Enacted

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Ordinance No. 19-53, by Mr. Malone, accepting a proposal and authorizing a personal, professional consultant contract with Springsted, LLC in the total not-to-exceed amount of \$38,000 for the City's Classification and Compensation Plan Study, and declaring an emergency.

Sandra Middleton, Human Resources Manager, stated that the last time the City contracted for a classification and compensation plan study was in 2004. Since that time, City services have expanded, departments have been reorganized or abolished, and several position classifications have been restructured. The City has maintained our classification plan by updating it to reflect when people took on additional responsibilities, or were promoted. We have 82 positions that Council is being asked to approve under the classification and pay plan adjusted for jobs that were created or abolished. The last time this was updated was 2017, effective January 1, 2018. The actual job descriptions have not been revised since 2004, so they need to be updated especially as it relates to any ADA regulations. When employees are injured and off work, their job description is sent to their physician to review in order for them to return to work and perform the job functions. However, these job descriptions are outdated. Our current compensation plan is based on merit, although employees have not received a merit increase since 2008. Each year there is a cost-of-living adjustment afforded to employees where salaries are adjusted, but the pay plan is outdated. In January 2019 the City submitted a request for proposals for a classification and compensation study. It was posted on the City's website and sent to 12 companies. We received responses from 11 companies and prices ranged from \$23,891 to \$85,000. We want to attract and retain qualified employees, ensure positions performing similar work were combined, update job descriptions, and provide salaries that support internal equity as well as maintain our competitiveness externally. That has become a challenge for us when we hire externally as our employees have not received merit increases since 2008. When we hire externally they may require more money than someone who has been in the same job at the City for several years. The companies who submitted the top four proposals were interviewed. We considered their experience, the project leader who will work closely with the City, and their plan for the City. Springsted was chosen as the best company for a not-to-exceed amount of \$38,000. They were also the company who did it in 2004. Their project leader had municipal experience. They had a large municipal client base. We know we can't continue to increase our base salaries so we are looking for innovative ways on how to compensate staff in traditional and non-traditional ways. Springsted offered an employee perception survey which will give us insight as to what our employees value, hoping to integrate what they deem important into their compensation package. It could be time, educational benefits, etc. The scope of work includes a minimum of three site visits, a market comparison survey, and compression comparison for bargaining units. This item is requested as an emergency and with a suspension of the rules so that the study is completed in time for consideration in the 2020 budget process. The funds for this project are already in the Human Resources Department budget. The Finance and Administration Committee members asked why this work could not be done in house. Staff would not be able to perform their duties as well as conduct the study. These studies last

six to seven years, but for \$38,000 Springsted can provide these services which we believe will actually last for ten years.

Council member Mr. Malone stated that this item was reviewed and approved by the Finance and Administration Committee with one dissenting voice, who felt it was not necessary to hire a consultant and that the work could be done in-house. The remaining members felt it was important to have an independent voice making the recommendations, looking at the City from the outside to see whether we are competitive, and also to see what the employees' perception are of the City. An independent voice will allow the employees to speak their minds freely.

Council member Mr. Roeder stated that this sounds like a logical time to do this and it is helpful to see how we compare. He understands that the \$38,000 is budgeted, but asked how we connect this to the bigger conversation we are having. This study is likely to make a lot of recommendations which might mean pay raises. Our budget is tight and we have held pay raises this year because of the current budget situation. He asked if there are guardrails or are we waiting to see the recommendations.

Ms. Middleton stated that when the study was done in 2004 the financial impact, which the consultant will report to us, was \$17,700 with wage increases. We connect to the overall financial picture by looking at the total package. We know we can't continue to add to the base salary, which is why the perception survey is so important. There may be other things we can be doing that does not significantly impact the bottom line or our budget. What we are seeing in the industry is when there is a substantial amount of growth it is being phased in.

Mayor Weiss stated that from his perspective the study will provide a roadmap for us to where we think we need to go. He is not necessarily comfortable relying on anecdotal information about where we are or how competitive we are, and this provides some benchmarking. To that extent it does provide guardrails as opposed to relying on other sources of information which may or may not impact the bottom line. We will obviously have to deal with budgetary issues, but this gives us a goal to shoot for over time. In some cases we may be high or low. We will need to see how it plays out and where we end up to see if we need a partial reallocation. We know we are probably low in some areas, but we don't know for sure which ones and by how much. This gives us the comfort of knowing.

Ms. Middleton stated that we may also find that our job descriptions are outdated and even if we updated them does not necessarily mean more compensation. We want to actively reflect the work employees are currently doing. A good example is the Communications and Marketing Specialist who now handles social media, which did not exist in 2004.

Council member Mr. Roeder clarified that the study will look at the current roles, update the job descriptions and assess the pay.

It was moved by Mr. Malone, and seconded by Ms. Williams, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-53 be placed upon its final enactment.

Roll Call: Ayes: Ms. Williams, Mr. Williams, Mr. Zimmerman
Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia

Nays: None

Motion Carried

Moved by Mr. Malone, and seconded by Ms. Williams, that Ordinance No. 19-53 be enacted as read.

Roll Call: Ayes: Ms. Williams, Mr. Williams, Mr. Zimmerman
Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia

Nays: None

Ordinance Enacted

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Ordinance No. 19-54, by Mr. Williams, amending Section 141.22 of the Administrative Code of the Shaker Heights Codified Ordinances relative to Thornton Park Ice Rink Fees, and declaring an emergency.

Alexandria Nichols, Recreation Director, stated that in 2018 the City conducted a rink fee study. At that time it had been six years since the Thornton Park rink fees had been reviewed and adjusted. Each community is unique and sets pricing based upon a unique formula for their community so it is not always easy to make an apples to apples comparison. Private rinks tend to charge higher fees because they have a pricing model that is more about cost recovery than public service. We found that our fees tend to be lower than other rinks except for our hourly ice rink rental rates. Our Learn to Skate fees are on par with others. The last fee change for the ice rink was in 2013, which was approximately 5%. Prior to that fees had increased between 2% and 7.5% depending on what was going on in the years the changes were made. We reviewed fees to improve cost recovery as labor, materials, supplies and other items related to the rink rise each year. The Shaker Youth Hockey program is a City program that includes a youth hockey sports league, spring hockey, and skills clinics as well as a camp. Youth hockey fees have been posted and registration has begun, so they are not being considered as part of the Thornton Park ice rink fee changes. Those will come to Council for review at a later date. The Shaker Heights High School hockey team varsity and junior varsity both use the ice skating rink for games and practices at no charge to the schools. The proposed fee increases are at a rate of approximately 5%. The Recreation Committee meeting members suggested fees be rounded up to whole dollars to make it easier during fee collection for public skates and other activities. While expenses seem to be on the rise, we are also seeing an increase in our revenues. If approved the fee changes would increase revenue by about \$17,000 every year for the rink. The majority of the revenue is collected in the “other” category, which includes ice rink rentals, parties, drop-ins, fees, and public skating fees. This item is requested as an emergency and with a suspension of the rules so this can take effect, and to plan for the fall.

Council member Mr. Roeder stated that this item was reviewed and supported by the Recreation Committee although there was no quorum. There was a discussion about hockey fees which will be discussed at a later date with Council. There was also talk about rounding up the dollar amounts to make transactions easier, although rounding up would result in larger percentage increases. Guests who may be

paying in cash would need to carry coins and cashiers would have to deal with drawers full of change. This was also the first increase since 2013. These discussions about the ice rink call in to question our needs for the future and how it compares to the communities around us.

Council member Mr. Malone stated that this item was reviewed and approved by the Finance and Administration Committee. Members discussed that this will not make much of a dent in the subsidy that the City extends to recreation of several hundred thousand dollars from the General Capital Fund. There is an effort underway to get a better handle on the breakdown of expenses and revenues for each program so we can make improvements to the programs which aren't as profitable and continue to generate revenue for recreation. There were a few suggestions about potential uses involving the youth hockey and sponsorship from the business community to defray some of the costs and using Thornton Park for more tournament events. It was recommended that this be discussed further when the hockey fees are discussed.

It was moved by Mr. Williams, and seconded by Mr. Roeder, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-54 be placed upon its final enactment.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Motion Carried

Moved by Mr. Williams, and seconded by Mr. Roeder, that Ordinance No. 19-54 be enacted as read.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Ordinance Enacted

* * * *

Ordinance No. 19-55, by Ms. Williams, approving and authorizing execution of a Purchase Agreement for the City-owned property located at 3685 Winchell Road, Shaker Heights, Ohio, and authorizing the disposition of City-owned property without competitive bidding, and declaring an emergency.

Kamla Lewis, Neighborhood Revitalization Director, stated that this item is for the purchase of a City-owned vacant lot located at 3685 Winchell Road by adjacent neighbors of 3689 Winchell Road. The proposal is to pay the City \$1 for the lot and install several enhancements including a rear patio, play area, landscape and fencing, for a total investment of approximately \$3,000. As with all the City's side lot proposals, the City requires the applicant incur the cost of consolidating the parcels into one lot, which may cost up to \$2,000. The application was reviewed to ensure all the program criteria have been met, which it does. When this program was established, the long term investment in the neighborhood and impact on the community was considered more important than the price paid for the lot. This is a more

important way to dispose of land as an asset, since once we dispose of it we will not get it back. Our lots are all very different, in different neighborhoods, different sizes, some are not buildable, and some have easements. We felt it was important not to anticipate what might be done with it, but hear what applicants were proposing. We have had proposals we could not have imagined, such as one lot being subdivided between three bordering neighbors, making lovely use of it. The Heights Christian Church took a side lot for a labyrinth and a community garden, also very successful. The proposals have run the gambit and we expect they will continue to do so. If this application is approved it would be conditional to approval from the City Planning Commission for potential variances and for the consolidation. Applicants will work with the City Planning and Law Departments to finalize their projects. The property would only transfer once all those approvals are in place.

Council member Ms. Williams stated that this item was reviewed and unanimously supported by the Neighborhood Revitalization and Development Committee.

This item was reviewed and approved by the Finance and Administration Committee. Members were hopeful that more can be done to promote this program. Of the roughly 15 or so vacant lots that have been sold over the years, all except one fully followed through on their proposal and the properties remain well maintained.

In response to a question from Council member Mr. Roeder about the property tax, Director Lewis stated that the property tax is assumed by the applicant. The County does not make a straight calculation because once the parcels are consolidated they do a reappraisal with a new valuation. We can only approximate the taxes so an applicant can weigh that in their decision. The County calculation takes into account the neighborhood, the square footage, and adjacent zoning.

Council member Mr. Roeder stated that in addition to saving the money on maintaining the lot, the City and schools will also get additional tax dollars. It would be interesting to see new tax appraisals from the lots which have already been sold. Director Lewis offered to research this.

It was moved by Ms. Williams, and seconded by Mr. Malone, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-55 be placed upon its final enactment.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Motion Carried

Moved by Ms. Williams, and seconded by Mr. Malone, that Ordinance No. 19-55 be enacted as read.

Roll Call:	Ayes:	Ms. Williams, Mr. Williams, Mr. Zimmerman Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
	Nays:	None

Ordinance Enacted

It was moved by Ms. Williams, and seconded by Mr. Williams, that the rule requiring ordinances to be read on three different days be suspended and Ordinance No. 19-57 be placed upon its final enactment.

Roll Call: Ayes: Ms. Williams, Mr. Williams, Mr. Zimmerman
Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
Nays: None

Motion Carried

Moved by Ms. Williams, and seconded by Mr. Williams, that Ordinance No. 19-57 be enacted as read.

Roll Call: Ayes: Ms. Williams, Mr. Williams, Mr. Zimmerman
Mr. Malone, Mrs. Moore, Mr. Roeder, Mrs. Senturia
Nays: None

Ordinance Enacted

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Motion for Liquor Permit Manifest Van Aken LLC
3440 Tuttle Road

No objections were voiced by Council.

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The Mayor invited members of the audience to comment on any issues.

Jeff Rothman of 20145 Lomond stated that he lives at Sussex Courts across from Juma. He is present tonight as secretary of their homeowner’s association with their president Mr. Hitchcock, regarding the letter Council received from them. They would like to go on the record concerning ongoing disturbances in the commercial strip parking lot across the street from where he lives, which have been occurring for quite some time. Those concerns were heightened recently as a result of the shooting that occurred there and they are interested in hearing from Council as to their thoughts on that situation, what might be going on now, and what kind of discussions or actions Council is considering so that he can report back to the residents of Sussex Courts to make them aware that they are looking out for their best interests, as well as the reputation and the quality of their community.

Mayor Weiss stated that he believes Council did receive a copy of their letter along with him, as well as the Chief of Police. The City formed a multidisciplinary internal working group with the administration, zoning, planning, and law enforcement. He is painfully aware of a number of the events that occurred particularly in the late evening hours, and we are using all methods available to us to address these issues from a carrot and a stick. The Mayor will allow the Chief of Police to address citations, but there have also been fees. The City has reached out to the owner of the real property, who is different than the operator of the restaurant and had multiple conversations as recently as last week to express our concerns

and try to work through issues, from the addition of security personnel, cameras, and other suggestions including changing operations. There was an application to the City Planning Department by Swerve to expand their use to adjacent space, which has been continued. No action has been taken.

Police Chief Jeff DeMuth stated that the Police Department shares Mr. Rothman's concerns in regards to the activities in the back parking lot. Police Chief DeMuth and the Law Director met with the owners of the building who wished to appeal the criminal activity nuisance letters from the City for citations which totaled approximately \$3,500. They talked about a number of issues at that time and Police Chief DeMuth asked the night manager if he had been with the business since it started and if he noticed the number of incidents rising over time, which the night manager did. Police Chief DeMuth feels that the crux of the problem is that as the business has grown, the manager did not take the necessary steps to control their business, the noise, and the crowds in the parking lot. They also talked about having an increased amount of incidents which are escalating in severity. Initially they had issues with trash, noise and public urination, but now the incidents are escalating in nature, which is very concerning for the City. The Police Chief cannot discuss the investigations surrounding those incidents but the City is actively and vigorously enforcing the criminal activity nuisance ordinance which gives us some pretty good leverage. Police Chief DeMuth was uninspired by Swerve's management in regards to their proposals to mitigate some of the problems they have. Police Chief DeMuth recommended they close at midnight, but they said they would take it under consideration. They changed promoters which is bringing in an older crowd and feel that will help the situation. Swerve takes a tremendous amount of Police Department resources every night, and when they are using those resources they are not able to be deployed in other places, which is very concerning for the Chief. They are monitoring the situation on a daily basis. The Police Department has resources there on a daily basis, day and night. Both appeals on the criminal nuisance citations were denied. Swerve can still appeal to the Board of Appeals within 30 days.

Council member Mrs. Senturia asked about the criminal nuisance citations.

Police Chief DeMuth stated that it goes to the owners of the building. In this case both owners indicated their contract with the business allows them to pass those fines along to the business to pay.

Director Gruber stated that if those fines are not paid an assessment is placed on the property and charged to the property owner.

In response to a question about the citations cycle from Council member Mrs. Moore, Police Chief DeMuth stated that it is on an 18-month rolling basis. Every time the Police are called, they review how many citations are current.

Council member Mrs. Moore stated that she visits that retail strip every day. The description of the egregious behaviors and the criminal behaviors are compounded by what she has been reporting. The dumpsters in that location do not require enclosures so retailers need to keep them closed. The dumpster for Swerve is never closed so the smell and exposed trash is a draw for all types of pests. This is part of what the Sussex neighborhood has to tolerate. The Economic Development Specialist has initiated an entire campaign to address dumpster issues for every business in Shaker Heights, which was prompted by two businesses: one of which was Swerve. Everything that is going on there is outrageous.

Council member Mr. Zimmerman stated that he is concerned about the length of time of these issues, especially since things have gotten worse. He is in favor of the most aggressive action that can be taken including shuttering the business. This cannot continue any longer. We must be as aggressive as we

possibly can to stop this. He was not aware of the amount of resources being used by the Police Department. The Police Department cannot continue to be there every day.

Police Chief DeMuth clarified that although Mr. Rothman spoke only about activities taking place in the retail strip parking lot, there have been no other calls regarding nuisances from any other business in that block except for Swerve, which is why he referenced Swerve by name.

Council member Mrs. Moore stated that she has received complaints from business owners there who arrive early and witness activity at Swerve that is concerning.

Council member Mr. Zimmerman asked the Law Director if the City can shutter this business. We need to be aggressive.

Director Gruber stated that the City is looking into all of our legal options.

Council member Mr. Malone asked about the security cameras.

Mr. Hitchcock, the President of the Sussex Court homeowner's association, stated that he attended a zoning variance meeting last fall. He believes the retail strip has five separate landlords: two of them who represent Swerve and the old Curves exercise studio were present. Since then individuals have come forward expressing concerns. The landlords said they would address their concerns. He feels this is an issue of the landlords not disciplining their tenants. He also mentioned that on busy nights at Swerve customer parking overflows to the other establishments in that strip. He is not sure why cameras cannot be added to the back of the City-owned parking lot like they were in the back of the south side of Chagrin lot. He is asking Council to talk to the landlords about doing what they said they would.

Council member Mr. Zimmerman stated that he does not care what it takes, this has to stop. He was at that meeting in September with the business manager and the landlord and other interested parties. This just can't go on. He is interested in hearing from the Law Department on our options.

Council member Mr. Williams asked about the parking issue and occupancy limits.

Mr. Rothman stated that all the patrons do not actually enter the restaurant.

Police Chief DeMuth stated that many times people will drink alcohol in their cars prior to going into the bar. He is also looking into maximum occupancy standards and the Fire Department will be investigating.

Council member Mr. Williams asked about the liquor license renewal.

Mayor Weiss stated that the state grants the license but the City can object.

Director Gruber stated that the renewal and objection process for any liquor establishment is a very high bar. There was a discussion the last time this came up and the recommendation was to not object at that time because we were building a case. A lot has happened since then. The state has liquor renewals on an annual basis for all establishments in the City.

Council member Mr. Zimmerman stated that he looks forward to imposing our most aggressive legal options as quickly as we can including an update on the working group because this problem must be solved.

Mr. Rothman and Mr. Hitchcock thanked Council.

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Mayor Weiss gave a brief update on revenue receipts. Through May 24, 2019, we are about \$495,000 above 2018 numbers. April collections received in May were good. May collections that we will receive in June are down. May 2018 collections were about \$117,000 less than 2017, but there were subsequent changes so it is hard to make a correlation.

Council member Mrs. Moore stated that we lost \$1.4 million between October 1 and December 31 in expected receipts. She would like to know how much of the receipts between January and the end of June we have netted. She is not concerned about what we have each month, she wants the total.

Mayor Weiss stated that since dollars are fungible it is hard to say how much of that we have recouped. He can provide the dollar amounts we have received to date and the shortfall amount in 2018. He can also have the Finance Department report on what we have received to date and how much that is over 2018 totals, but he cannot necessarily link that to the shortfall.

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There being no further business before Council, the Mayor adjourned the meeting at 9:55 p.m.

DAVID E. WEISS, Mayor

WILLIAM M. ONDREY GRUBER, Clerk of Council Pro Tem