

XI. NEW BUSINESS

1. Shawnee Run Sidewalk
  - Mr. Moeller referenced his Manager's Report and said there is a deteriorated asphalt path in front of 7796 Shawnee Run. It is a building lot and is for sale. Mr. Moeller and Council discussed various options for addressing the issue. It was decided that the Administration would reach out to the property owner and list out options for getting the sidewalk brought to code.
2. Citywide Shred Day
  - Mr. Hilberg asked the Administration to investigate options for a shred day for residents. Mr. Moeller said the Administration would do so.
3. Public Art Project
  - Council discussed the piano that has been placed near the fountain; it will remain there through the end of August. It was noted that many people were playing it at the last Farmer's Market.
4. Farmer's Market
  - Chief Schaefer said the Police Department would be the kid's booth at the Farmer's Market on August 15.

XII. OLD BUSINESS

- None

XIII. EXECUTIVE SESSION

1. Real Estate: Sale/Purchase
2. Pending Litigation

**Motion to adjourn into Executive Session for the purpose of discussing pending litigation and to consider the purchase or sale of real estate for public purposes made by Ms. Adrien, second by Ms. Spencer. Motion passed by unanimous roll call vote at 8:54 p.m.**

XIV. LITIGATION CLARIFICATION

**Motion made by Mr. Hilberg, second by Mr. Gehring, to adjourn Executive Session and return to the regular session at 9:45 p.m.**

1. Motion Clarifying City Council's Authorization Regarding the Vexatious Litigator Filing, and Advising of Council's Intentions should that Action Require an Appeal or Refiling
  - Mr. Fox explained the Common Pleas Court issued a decision, which the City still contests, saying the complaint was procedurally in error. Nevertheless and in order to resolve all doubts and to make as clear as possible for the Court and its record, Council is undertaking this motion to make plain for the Court that the past authorization, prior to the commencement of the suit, was in place, and that going forward, Council is also authorizing actions to be taken relative to that case, whether it be an appeal of the Trial Court's decision or a refiling of the Complaint in the Court of Common Pleas or a combination of the two, depending on what the Law Director's office determines to be the best and most expeditious path to resolution.

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- Mayor Theis read the following motion:

“Inasmuch as the Court questioned whether the City of Madeira authorized the initial filing of the vexatious litigator action currently styled as Hamilton County Case No. A1802415, which is pending before the Hamilton County Court of Common Pleas, City Council now **MOVES** as follows:

- City Council **MOVES** to clarify the City did, indeed, direct the Law Director to file Case No. A1802415 on behalf of the City of Madeira, even indicating as much prior to the filing of the same, with the Hamilton County Court of Common Pleas on or about May 11, 2018; and,
- To the extent ambiguities remain regarding the authority of the Law Director’s filing of Case No. A1802415 on the City’s behalf (or any subsequent actions undertaken in furtherance of the City’s claims in that litigation), City Council **MOVES** to clarify that any and all actions taken by the Law Director in Case No. A1802415 were authorized by the City; and,
- Moreover, should the Court maintain its position that authorization from the City was lacking at the inception of Case No. A1802415 (or should such determination be upheld by the First District Court of Appeals), City Council **MOVES** to clarify that any steps undertaken by the Law Director as of this date with respect to Case No. A1802415 are unambiguously ratified; and,
- City Council **MOVES** to clarify that this Motion was made in response to a specific decision issued by the Court in Case No. A1802415 (a decision which considers neither the authorization provided by City Council in 2018 nor the City Manager’s authorization in connection therewith), and, as such, the City does not waive any of its legal arguments before the Court in Case No. A1802415, legal arguments yet to be advanced in Case No. A1802415, or legal arguments to be advanced in any appeal resulting from Case No. A1802415; and,
- Should this Motion be approved, City Council **MOVES** and directs that a written copy of the same be provided to the Court for its consideration in Case No. A1802415; and,
- Finally, should the Court proceed under its previously announced analysis and Case No. A1802415 be dismissed without prejudice, City Council **MOVES** to clarify that the Law Director has the City’s authorization to appeal the trial court’s decision to the First District Court of Appeals and/or to refile an action to have Mr. Douglas Oppenheimer designated as a vexatious litigator with the Hamilton County Court of Common Pleas as soon as practicable.”

**Motion Clarifying City Council’s Authorization Regarding the Vexatious Litigator Filing, and Advising of Council’s Intentions should that Action Require an Appeal or Refiling made by Mr. Hilberg, second by Ms. Spencer. Motion passed by 6-0-1 roll call vote.**

Mayor Theis	yes
Melisa Adrien	yes
Scott Gehring	yes
Chris Hilberg	yes

Doug Moormann	abstain
Brian Mueller	yes
Nancy Spencer	yes

Mr. Moormann said he abstained because he was not a Council member when Council initially authorized the Law Director to move forward with the case. But he said he finds this to be a situation where the Court ruled on a procedural matter and not on the merits of the case, so he is in support of Council going forward and seeking the Court's decision on the merits of the case.

XV. ADJOURNMENT

**Motion made by Mr. Gehring, second by Ms. Adrien, to adjourn the regular meeting at 9:53 p.m. Motion passed by unanimous roll call vote.**

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Christine Doyle, Clerk of Council

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