MINUTES REGULAR SESSION WESTERVILLE CITY COUNCIL

Council Chambers, December 12, 2006, 7:00 p.m.

1. CALL TO ORDER

2. **ROLL CALL**

Council met in regular session December 12, 2006 with Council Members, Damon Wetterauer, Jr., Craig Treneff, Kathy Cocuzzi, Anne Gonzales, William Highfield, Diane Fosselman, City Manager G. David Lindimore and Staff, Law Director Bruce E. Bailey and Clerk of Council Mary Johnston present. Michael Heyeck was excused.

3. *INVOCATION*

The invocation was given by Rev. Brian Brook of Heritage Christian Church.

4. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the November 28, 2006 Regular Meeting, November 28, 2006 Executive Session, December 5, 2006 Executive Session and December 6, 2006 Executive Sessions were presented for approval.

Mrs. Cocuzzi moved, Mrs. Gonzales seconded to approve the Minutes as provided.

Yeas: Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Chairman Wetterauer

Nays: None

The motion carried.

6. CITY MANAGER'S REPORT

Mr. Highfield requested staff to have the construction crew on Knox Drive close the street to traffic during the daytime hours.

7. MAYOR'S REPORT

Mayor Fosselman presented Certificates of Recognition to Westerville City School teachers Kenny Lee and Bobbie Mucha for volunteering their time with the Youth at the Booth program through Kids Voting. Debbie Koch from Kids Voting explained the Youth at the Booth program.

Mayor Fosselman thanked the community for their overwhelming support of Westerville Caring and Sharing.

8. REPORT FROM THE PLANNING COMMISSION REPRESENTATIVE

Mr. Treneff reported the Planning Commission held a meeting on November 20, 2006. Public Hearings:

- PC 2004.038: Preliminary Development Plan and Text for a mixed use development (Office/Retail/Residential) on 99.723 acres in the PD, Planned Development District; located east of Olde Worthington Road and north and south of Polaris Parkway; Applicant: N.P. Limited Partnership. (Postponed to January)
- PC 2006-011A: Conditional Use Permit and Site Plan Review for a mixed use development including 100 residential units, approximately 36,000 square feet of office space and 2, 480 square feet of café space on 20.3 acres in the O/I, Office Institutional District; located at the southwest corner of Sunbury Road and North Street; Applicant: Tabco Development, LLC. (Postponed to February)

- PC 2006-027: Final Development Plan for a 230,000 square foot medical center on 20.6 acres in the PO, Planned Office District; located at the northeast corner of Africa Road and Polaris Parkway; Applicant: Advanced Civil Design, Inc. (Postponed to December)
- PC 2006-028: Final Development Plan for a 178,000 square foot retail use on 17.605 acres and an 18,800 square foot retail outlot center on 2.655 acres in the PD, Planned Development District; located north of Polaris Parkway between Africa Road and Cleveland Avenue extended; Applicant: CRI Polaris Village LP (Charlie Fraas-Casto). (Postponed to December)
- PC 2006-030: Site Plan Review for a 5,845 square foot auto parts store (NAPA) with variances on .388 acres in the CC, Community Commercial District; located at 359 South State Street (SW corner of South State and Central Avenue); Applicant: Genuine Auto Parts Company (NAPA Auto Parts). (Postponed to December)
- PC 2006-031: Conditional Use Permit for a 2,190 square foot financial institution with drive-through (BMI) in an existing building on 1.07 acres in the PCC, Planned Community Commercial District; located at 12 South Cleveland Avenue (SE corner of Cleveland and Main); Applicant: Lusk Harkin Architects (Kirk Paisley). (Postponed to December).

Mr. Treneff stated the Planning Commission will hold their next meeting on Wednesday, December 20, 2006 at 6:30 p.m.

9. CITIZENS COMMENTS

None.

10. LEGISLATION

a) ORDINANCE NO. 06-36(B), To Provide for the Supplemental Appropriation of Funds from the Electric Fund to Cover Expenses for the Substation #3 Project" was read for the third time.

Staff is requesting postponement of this Ordinance to date certain of January 16, 2007 to coincide with the bid award of the Substation #3 Project.

Mayor Fosselman moved, Mrs. Gonzales seconded to postpone Ordinance No. 06-36(B) to date certain of January 16, 2007.

Yeas: Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Chairman Wetterauer

Nays: None

The motion carried.

b) ORDINANCE NO. 06-42, "An Ordinance to Make Appropriations for Current Expenses and Other Expenditures of the City of Westerville, Ohio, during the Fiscal Year ending December 31, 2007" was read for the third time.

Jack Winkel, Finance Director, stated this is the annual appropriation Ordinance for fiscal year ending December 31, 2007. Grand total of appropriations for all funds is \$128,451,474. Mr. Winkel stated that in early February the Five Year Plan be revised to reflect the year end actual numbers. A copy of the Five Year Financial Plan is on file in the Clerk of Council's office and may be viewed during regular business hours.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 06-42.

Yeas: Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Chairman Wetterauer

Nays: None

The motion carried.

c) ORDINANCE NO. 06-43, "To Amend Chapter 154 of the Codified Ordinances to Provide a Code of Personnel Practices and Procedures for all Employees other than those covered by a Bargaining Unit, and to Declare an Emergency" was read for the third time.

Mike Wasylik, Assistant City Manager, stated this Ordinance is for all employees not covered under a union contract which amounts to approximately 300 employees. The changes are consistent with the policies that have been discussed.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 06-43.

Yeas: Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Chairman Wetterauer

Nays: None

The motion carried.

d) ORDINANCE NO. 06-44, "To Establish Employment Classifications, Pay Grades and Pay Ranges for Municipal Employees, and to Declare an Emergency" was read for the third time.

Mr. Wasylik stated this Ordinance adjusts the pay ranges 3%. These changes are consistent with the budget plans presented to Council.

Mrs. Gonzales moved, Mr. Treneff seconded for the adoption of Ordinance No. 06-44.

Yeas: Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Chairman Wetterauer

Navs: None

The motion carried.

e) ORDINANCE NO. 06-45, "To Provide for the Dis-Appropriation, Appropriation and Transfer of Appropriations for the Fiscal Year ending December 31, 2006" was read for the third time.

Mr. Winkel stated this proposed Ordinance would provide for the transfer of appropriation authority from one budgetary category to another within the General Fund to meet anticipated year-end expenditures. The adoption of the Ordinance would not reduce the budgetary fund balance of the General Fund.

Mayor Fosselman moved, Mr. Treneff seconded for the adoption of Ordinance No. 06-45.

Yeas: Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Chairman Wetterauer

Nays: None

The motion carried.

f) ORDINANCE NO. 06-47, "An Ordinance Authorizing the City Manager to Execute a Hydro Developmental Cost Sharing Agreement with American Municipal Power-Ohio, Inc. and Repealing Ordinance No. 06-30" was read for the third time.

Andy Boatright, Electric Utility Manager, stated this legislation repeals Ordinance No. 06-30 that was enacted in June 2006 solely for development of Hydro Matrix technology and broadens the scope to include the development of all forms of hydro technology. Furthermore, additional Ohio River locks and dams are being "screened" for development, thus, the maximum potential hydro capacity has increased from 115,000 kW to 250,000kW. The study cost, however, remains capped at \$1 million. AMP-Ohio anticipates hydroelectric

generation costs to range from \$50 to \$60 per megawatt-hour. It is further anticipated that the first year of commercial operation would occur in approximately 2010. Westerville's participation level is 150,000 kW and the maximum cash outlay is \$88,500 – this amount has been included in the Electric Division 2007 appropriation request. Should the project proceed to construction, Westerville will have the option to participate or decline.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 06-47.

Yeas: Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Chairman Wetterauer

Nays: None

The motion carried.

g) ORDINANCE NO. 06-49, "To Amend Section 935.04 of the Codified Ordinances of the City of Westerville, To Modify Charges for Sewer Service, and to Declare an Emergency" was read for the third time.

Mr. Winkel stated this Ordinance proposes a 14.94% increase to the residents based on 2007 rate increase information from the City of Columbus. The City of Westerville bills its resident consumers on a monthly basis for sanitary sewer services based upon the metered consumption of water. The current monthly sewer charge for the average resident using 1,000 cubic feet is \$37.74. If this proposed rate Ordinance is adopted, the average monthly sewer charge would increase by \$5.64 and total \$43.38. The proposed rates reflect an across the board increase.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 06-49.

Yeas: Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Chairman Wetterauer

Nays: None

The motion carried.

11. <u>TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AND INCENTIVE AGREEMENT WITH NWEP, LTD. AND OHIO HEALTH CORPORATION FOR THE PROPERTY AT 300 POLARIS PARKWAY.</u>

Julie Colley, Economic Development Coordinator, stated this project will be constructed in two phases. The first phase involves the construction of an approximately 170,000 square foot complex consisting of an urgent care and ambulatory service center and medical office building. The second phase involves the construction of a second medical office building and related improvements. The first phase of the project will open in 2008 and employ 258 people and generate a payroll of \$19 million, increasing to 298 people with a \$23 million payroll when completed in 2010. The second phase is expected to be constructed within five years of the completion of the first phase. The second medical building may employ a minimum of 100 people with a payroll of \$8 million. Staff is recommending a 15 year, 100% abatement, with a 35% PILOT payment (65% net abatement) for this project. In the first year of the abatement period for the first phase, the project is estimated to generate over \$240,000 in new income tax to the city and a payment in lieu of taxes to the Westerville City School District in the nature of \$160,000. The Ohio Health/Equity partnership will recognize a net abatement of approximately \$316,000. In addition, staff is proposing the waiver of the water capacity fee of \$45,950 and the fire line fee of \$22,975. For the second phase, staff is recommending identical property tax abatement be approved for a 15 year, 65% net abatement. In addition to the property tax abatement, staff is recommending a 25% income tax offset for a period of five years only on the occupants of the second medical office building and with a payroll threshold of \$23 million having been met and sustained

for the first phase. In summary, this project is anticipated to generate almost \$415,000 in new income taxes for the city and provide a payment in lieu of taxes to the school district of over \$222,000. With the income tax offset, estimated at \$25,000, the total net benefit to the OhioHealth/Equity partnership is anticipated to be \$463,000.

Mr. Treneff requested staff include the actual net cost to the City of Westerville for providing this abatement. Mr. Treneff expressed his concerns with the offset of income taxes and would not like to see this provision in this area of Westerville.

Chairman Wetterauer stated a Work Session is scheduled in early 2007 to explain tax abatements and how they work.

Mayor Fosselman stated tax abatements are a savings to the business and not the city giving away money.

Mrs. Cocuzzi stated she was impressed with the business school partnership plan that will allow the school district to use a portion of the building for the Welcome Center and a proposed COTA bus stop at this location.

Mr. Treneff moved, Mayor Fosselman seconded to authorize and direct the City Manager to enter into a Development and Incentive Agreement without provision for the offset to any income taxes with NWEP, LTD and Ohio Health Corporation for the property at 300 Polaris Parkway.

Yeas: Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Chairman Wetterauer

Nays: None

The motion carried.

12. TO AWARD THE BID FOR THE WESTERVILLE HIGHLANDS AND HANBY HEIGHTS STREET LIGHT REPLACEMENT PROJECT TO COMPLETE GENERAL CONSTRUCTION COMPANY.

Mike Pope, Electric Engineering Manager, stated four bids were ultimately received at the official bid opening on November 30, 2006. Staff recommends that the bid of Complete General Construction Co. be accepted and awarded as the lowest and best bid. Contract Award Amount: \$334,104.00 plus a construction contingency amount of \$25,100.00 for a total contract amount of \$359,204.00.

Mrs. Gonzales moved, Mr. Treneff seconded to award the bid for the Westerville Highlands and Hanby Heights Street Light Replacement Project to Complete General Construction Company.

Yeas: Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Chairman Wetterauer

Nays: None

The motion carried.

13. <u>TO AWARD THE BID FOR THE HEMPSTEAD ROAD ELECTRIC DUCT BANK PROJECT TO MCDANIEL'S CONTRUCTION CORP., INC.</u>

Mr. Pope stated three bids were ultimately received at the official bid opening on November 30, 2006. Staff recommends that the bid of McDaniel's Construction Corp., Inc. be accepted and awarded as the lowest and best bid. Contract Award Amount: \$199,833.72 plus a construction contingency amount of \$15,000.00 for a total contract amount of \$214,833.72.

Mrs. Gonzales moved, Mayor Fosselman seconded to award the bid for the Hempstead Road Electric Duct Bank Project to McDaniel's Construction Corp., Inc.

Yeas: Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Chairman Wetterauer

Nays: None

The motion carried.

14. <u>TO AUTHORIZE AND DIRECT THE CITY MANAGER TO PURCHASE PADMOUNT SWITCHGEAR FROM COOPER POWER SYSTEMS C/O HUGHES SUPPLY AND WAIVE COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.</u>

Andy Boatright, Electric Utility Manager, stated the proposed purchase of two 3-way padmount switches from Cooper Power Systems will replenish the Electric Division's inventory level to a minimum of two. Recently, a 3-way padmount switch located at the intersection of Cleveland Avenue and Hanawalt Road had to be replaced due to damage sustained in an automobile accident. This reduced the on-hand inventory level for this item to one. The remaining unit is scheduled for installation sometime during 2007 at the proposed Ohio Health complex located at the northeast corner of Polaris Parkway and Africa Road. Contract Award Amount: \$34,194.00 (plus a \$3,500 metals escalation contingency).

Mrs. Gonzales moved, Mr. Treneff seconded to authorize and direct the City Manager to purchase padmount switchgear from Cooper Power Systems c/o Hughes Supply and waive competitive bidding and notice requirements.

Yeas: Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Chairman Wetterauer

Nays: None

The motion carried.

15. <u>TO AUTHORIZE AND DIRECT THE CITY MANAGER TO AMEND THE CONTRACT IN THE AMOUNT OF \$40,000 FOR THE STREET REHABILITATION PROJECT, CONTRACT C.</u>

Karl Craven, Planning and Development Director, stated this year's street rehabilitation program consisted of three separate contracts and awards. Approximately \$110,000 in the General Capital Improvement Fund for the completed Contracts A & B was unused. Council awarded a contract to Newcomer Concrete Service, Inc. in June for the Street Rehabilitation Program, Contract C, in the amount of \$1,784,000, including contingency. This contract was primarily for the reconstruction of Illinois, Oneida and Sioux streets. The city directed Newcomer to make repairs to sections of damaged concrete bikeway along Cleveland Avenue and Sunbury Road. This additional work cost approximately \$40,000. Staff is requesting that Council authorize a modification to the Newcomer contract by \$40,000. No additional appropriation is required.

Mayor Fosselman moved, Mrs. Cocuzzi seconded to authorize and direct the City Manager to amend the contract in the amount of \$40,000 for the Street Rehabilitation Project, Contract C.

Yeas: Mrs. Gonzales, Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Chairman Wetterauer

Nays: None

The motion carried.

16. <u>TO AUTHORIZE PAYMENT OF A SUM NOT TO EXCEED \$5,500 FOR THE ACQUISITION AND THE COSTS OF ACQUIRING RIGHTS-OF-WAY ON NORTH STATE STREET AND COUNTY LINE ROAD FROM RAY EARLY.</u>

Mr. Craven stated an out of court settlement was reached for the acquisition of State Street and County Line Road West rights of way from Ray Early in the amount of \$23,000. An amount of \$19,575 was deposited with the Delaware County Court of Common Pleas when the city's petition to appropriate the Early parcels was filed. The balance, plus court costs, needs to be authorized by Council. Staff is requesting that Council authorize the modification, using a portion of the unused 2006 Street Rehabilitation, General Capital Improvement Fund appropriation. No additional appropriation is required.

Mr. Treneff moved, Mrs. Gonzales seconded to authorize payment of a sum not to exceed \$5,500 for the acquisition and the costs of acquiring rights-of-way of North State Street and County Line Road from Ray Early.

Yeas: Mr. Treneff, Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Chairman Wetterauer

Nays: None

The motion carried.

17. <u>TO AUTHORIZE AND DIRECT THE CITY MANAGER TO EXECUTE AN ASSIGNMENT AND ASSUMPTION AGREEMENT WITH THE ESTATES AT POLARIS VILLAGE, LLC AND THE POLARIS VILLAGE CONDOMINIUM ASSOCIATION.</u>

Mr. Bailey stated the Assignment and Assumption Agreement provides that the Condominium Association will accept assignment of the developer's obligations in the Roadway Use Agreement. The developer remains secondarily liable until such time as the property is titled in the name of the Condominium Association, typically after the sale of 75% of the units. This would be consistent with past condominium developments.

Mrs. Gonzales moved, Mrs. Cocuzzi seconded to authorize and direct the City Manager to execute an Assignment and Assumption Agreement with the Estates at Polaris Village, LLC and the Polaris Village Condominium Association.

Yeas: Mr. Highfield, Mrs. Cocuzzi, Mayor Fosselman, Mrs. Gonzales, Mr. Treneff, Chairman Wetterauer

Nays: None

The motion carried.

18. APPOINTMENT OF BOARD AND COMMISSION MEMBERS

Planning Commission

Mr. Treneff read the following names into nomination to fill two vacancies with a term to expire December 31, 2010: James Davis, Gerald Domanik, Shannon Hamons, John Hesson, Timothy Jackson, Gerald Kesselring, Michael Kovalik, Brian Buyack and Bruce Wingfield.

Chairman Wetterauer asked for nominations from the floor. There being none, Mayor Fosselman moved, Mrs. Gonzales seconded that all nominations be closed for Planning Commission. The motion carried.

After ballots were cast and tabulated, Mrs. Johnston announced the following received the required number of votes for appointment to the Planning Commission: Gerald Domink and Shannon Hamons.

Board of Zoning Appeals

Mayor Fosselman read the following names into nomination to fill one vacancy with a term to expire December 31, 2010: Michael Kovalik and Sandy Lynskey.

Chairman Wetterauer asked for nominations from the floor. There being none, Mayor Fosselman moved, Mrs. Gonzales seconded that all nominations be closed for Board of Zoning Appeals. The motion carried.

After ballots were cast and tabulated, Mrs. Johnston announced the following received the required number of votes for appointment to the Board of Zoning Appeals: Sandy Lynskey.

Recreation Advisory Board

Mrs. Cocuzzi read the following names into nomination to fill three vacancies with a term to expire December 31, 2009: Derek Blazo, Eric Busch, Candyce Canzoneri, James Davis, Joe Engelhart, Tammy Grandy, Michael Maier, Timothy Meder and Brian Wilke.

Chairman Wetterauer asked for nominations from the floor. There being none, Mayor Fosselman moved, Mrs. Gonzales seconded that all nominations be closed for Recreation Advisory Board. The motion carried.

After ballots were cast and tabulated, Mrs. Johnston announced the following received the required number of votes for appointment to the Recreation Advisory Board: Eric Busch, Candyce Canzoneri and James Davis.

Uptown Review Board

Mrs. Gonzales read the following names into nomination to fill three vacancies with a term to expire December 31, 2009: Ralph Denick, Kevin Gibbs, Gerald Kesserling, Timothy Kuchler and Brian Ruyack.

Chairman Wetterauer asked for nominations from the floor. There being none, Mrs. Gonzales moved, Mayor Fosselman seconded that all nominations be closed for Uptown Review Board. The motion carried.

After ballots were cast and tabulated, Mrs. Johnston announced the following received the required number of votes for appointment to the Uptown Review Board: Ralph Denick, Gerald Kesserling and Brian Ruyack.

Personnel Review Board

Chairman Wetterauer read the following names into nomination to fill one vacancy with a term to expire December 31, 2009: Joan Backe-Kuhl and Robert Bunsey.

Chairman Wetterauer asked for nominations from the floor. There being none, Mayor Fosselman moved, Mrs. Gonzales seconded that all nominations be closed for Personnel Review Board. The motion carried.

After ballots were cast and tabulated, Mrs. Johnston announced the following received the required number of votes for appointment to the Personnel Review Board: Joan Backe-Kuhl.

Shade Tree Commission

Mr. Highfield read the following names into nomination to fill two vacancies with a term to expire December 31, 2009: William Bausher, Ronald Kudich and Douglas Rankin.

Chairman Wetterauer asked for nominations from the floor. There being none, Mrs. Cocuzzi moved, Mrs. Gonzales seconded that all nominations be closed for Shade Tree Commission. The motion carried.

After ballots were cast and tabulated, Mrs. Johnston announced the following received the required number of votes for appointment to the Shade Tree Commission: William Bausher and Ronald Kudich.

17. ADDITIONAL BUSINESS

Deputy Police Chief Del Roberson invited City Council to view equipment their division is currently running.

18. **COUNCIL COMMENTS**

Mrs. Cocuzzi thanked staff and Council for being so welcoming and helpful to her this past year. Mrs. Cocuzzi wished everyone Merry Christmas, Happy Holidays and a wonderful new year.

Mrs. Gonzales wished everyone a Merry Christmas. Mrs. Gonzales thanked the Parks and Recreation Department, Electric Division, Police Division, Fire Division for their work on the Westerville Children's Christmas Parade. Mrs. Gonzales also thanked the Jaycees and Sertoma for sponsoring the parade. Mrs. Gonzales congratulated all of the board and commission appointees and encouraged those who weren't appointed to re-apply.

Mr. Highfield wished everyone Merry Christmas, Happy New Year and a joyous holiday season.

Mr. Treneff provided an explanation on the budget ordinance and stated the budget projections can justify his yes vote on this budget. Mr. Treneff stated the city will be facing tough budget decisions in the near future and that the budget process is becoming a year round process. Mr. Treneff wished everyone a Merry Christmas and Happy New Year.

Mayor Fosselman thanked Mr. Winkel, staff and department heads for their hard work on the 2007 budget. Mayor Fosselman thanked Mr. Boatright for the Ohio Energy Project held at Otterbein College recently. Mayor Fosselman thanked the applicants for the board and commission vacancies. Mayor Fosselman extended her condolences to the Pomante and English families. Mayor Fosselman wished everyone a safe and very Merry Christmas.

Chairman Wetterauer provided his annual staff Christmas wish.

19. ADJOURNMENT

Mr. Highfield moved, Mrs. Cocuzzi seconded to adjourn.

Yeas: Mrs. Cocuzzi, Mr. Highfield, Mr. Tren	eff, Mrs. Gonzales, Mayor Fosselman, Chairman Wetterauer
Nays: None	
The motion carried.	
The meeting adjourned into Executive Session	at 8:14 p.m.
Mary J. Johnston, MMC	Damon E. Wetterauer, Jr.
Clerk of Council	Chair of Council