

MINUTES
REGULAR SESSION
WESTERVILLE CITY COUNCIL
Council Chambers, October 2, 2007, 7:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session October 2, 2007 with Council Members, Craig Treneff, Kathy Cocuzzi, William Highfield, Anne Gonzales, Damon E. Wetterauer, Jr., Michael Heyeck, Diane Fosselman, City Manager G. David Lindimore, and Staff, Law Director Bruce E. Bailey and Clerk of Council Mary Johnston present.

3. **INVOCATION**

Rev. Mark Gauen of First Presbyterian Church gave the invocation.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the September 18, 2007 Regular Meeting, September 24, 2007 Executive Session, September 25, 2007 Work Session and September 27, 2007 Executive Session were presented for approval.

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

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

Nays: None

Abstained: Mr. Heyeck abstained from September 27, 2007 Executive Session and Mrs. Cocuzzi from September 25, 2007 Work Session

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore updated City Council on construction projects.

- 2007 Street Rehab – Paving will be completed this week on Ottawa. Local traffic is being maintained. Curb and drive approach work is underway on Hillside. Paving will follow on both Hillside and Schrock (Ivydale to State). Local traffic is being maintained. Subgrade preparation is underway on Smoke Burr. Concrete work will follow. Detours are posted with local traffic maintained. All work to be completed by November.
- Annehurst Village Circuit 13 – This overhead pole replacement is underway on Main, Old Coach, Berkeley Place and Storington. The project is scheduled for completion in spring 2008.
- Substation No. 3 – Site work is ongoing. Foundation work to follow. This project is scheduled for completion by the end of 2008.

Mr. Lindimore stated Parks and Recreation Director Jody Stowers has a very special presentation. Ms. Stowers presented to City Council the 2007 National Gold Medal Award for Excellence in Park and Recreation Management from the American Academy for Park and Recreation Administration. Mrs. Cocuzzi presented Certificates to the Recreation Advisory Board members for their service to the community.

7. **MAYOR'S REPORT**

Mayor Fosselman issued a Proclamation for Community Planning Month in October 2007 to City Planner Lisa LaMantia.

Mayor Fosselman presented a Certificate of Appreciation to Army National Guard Specialist Michael Good who returned from a tour of duty in Iraq, for serving in the armed forces and for protecting our freedoms.

8. **REPORT FROM THE PLANNING COMMISSION REPRESENTATIVE**

Mr. Treneff stated the Planning Commission held a meeting on September 27, 2007.

Public Hearings:

- PC 2004-38: 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 October)
- PC 2007-26: Conditional Use Permit to allow a veterinary clinic on 1.68 acres in the CC, Community Commercial District; located at 61 Huber Village Blvd.; Applicant: Patrick Manley for the Manley Architecture Group. (Postponed to October)

Subdivision Reviews:

- PC 2007-25: Final Development Plan for an 82-unit condominium development on 15.981 acres in the PND, Planned Neighborhood District, located at the southeast corner of Spring and Maxtown Roads; Applicant: Epcon Communities. (Postponed to October)

Miscellaneous:

- Discussion on a proposed change of use from a single family residence to a professional office and associated building and site improvements on a 0.468 acre parcel in the O/I, Office Institutional District; located at 435 W. Schrock Road; Applicant: Ronald Laparo/Mike Gordon for Northern Window & Door, Ltd.
- Discussion of a proposed modification to the Hoover Gateway Special Overlay District Development Standards to allow accessory outdoor entertainment as a conditional use; Applicant: Rick Beck for the Hoover Grille.

Planning Commission's next regular meeting is scheduled for October 24, 2007 at 6:30 p.m.

9. **CITIZENS COMMENTS**

Ron Lykins, 1059 Denman Court, commented on the proposed power generating projects and expressed his concerns with these projects. Mr. Lykins stated his concerns are with the cost of these projects, the high risk involved to the taxpayers, the length of the 50-year contract, carbon monoxide emissions and the timeline of the projects. Mr. Lykins stated he does not see how Westerville can afford to proceed with these contracts and urged City Council to go slow and to hold Public Meetings. Mr. Lykins stated he felt the City should get out of the electric power business and outsource this service.

Trent Dougherty, 140 West Lake Avenue, Columbus, expressed his concerns with the cost and technology with the American Municipal Power Generating Station being proposed. Mr. Dougherty recognized the good work American Municipal Power has done in the past but felt they are exposing municipalities to serious cost risks. Mr. Dougherty is requesting City Council to take more time to study this massive investment. Mr. Dougherty stated does not need to enter into the contract until March 2008. Mr. Dougherty is requesting a Public Hearing to discuss this investment. Mr. Dougherty discussed carbon emissions regulations. Mr. Dougherty urged City Council to take their time to evaluate the risk.

Jen Welling, Environment Law & Policy Agency, Chicago, IL, expressed her concerns with the Prairie State Energy Project. Ms. Welling stated there is a financial risk with this project with the uncertainty of future costs. Ms. Welling urged the City to consider alternative power sources such as wind turbine power.

10. **LEGISLATION**

a) ***RESOLUTION NO. 07-12, "A Resolution in Support of the Central Ohio Green Pact and Authorizing the Mayor and City Manager to Sign the Pact"***.

Julie Colley, Economic Development Coordinator, stated at the June Central Ohio Mayors and City Manager's meeting, the group expressed a desire to pursue a regional "green" effort that all communities could support. To coincide with the National conversation on Climate Action, the group will hold a signing ceremony at Jeffrey Place on October 4, 2007. In addition, to the Central Ohio mayors and city managers signing the pact on behalf of their communities, the ceremony will offer a keynote speaker and other opportunities for discussion regarding sustainable activities.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Resolution No. 07-11.

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

Nays: None

The motion carried.

b) ***ORDINANCE NO. 07-31, "To Amend Part Eleven of the Codified Ordinances and the Zoning Map of the City of Westerville, Rezoning Two Parcels Totaling 1.147 acres of Land Zoned RR, Rural Residential to R-1, Single Family Residential located at 40 and 50 Moss Road"*** was read for the third time.

Chairman Wetterauer declared the Public Hearing open. Mrs. Johnston administered the oath for those who wished to testify during the Public Hearing.

Bassem Bitar, Planner, stated the subject site is owned by St. Paul the Apostle Catholic Church whose main campus is located across Moss Road to the south. The existing campus is zoned R-1, Single-Family Residential in which churches are permitted. In order to maintain consistent zoning for this use, the city has initiated this request for rezoning of the two RR parcels to R-1. It is expected that all parcels north of Moss Road will eventually be combined into one, and split zoning would not be desirable. For those reasons, the Planning Commission voted unanimously to recommend approval of the rezoning during its August 22, 2007 meeting. Staff will recommend to City Council that the parcels owned by the church and currently located in Genoa Township be zoned R-1 at the time of acceptance of the annexation.

Speaking in Favor: None

Speaking in Opposition: None

Chairman Wetterauer declared the Public Hearing closed.

Mr. Heyeck moved, Mrs. Cocuzzi seconded for the adoption of Ordinance No. 07-31.

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

Nays: None

Abstention: Mr. Highfield due to a conflict of interest

The motion carried.

c) ***ORDINANCE NO. 07-32, "To Amend Part Eleven of the Codified Ordinances and the Zoning Map of the City of Westerville, Rezoning a 7.9 acre Tract of Land Located at 547 Executive Campus Drive from***

RR, Rural Residential to PO, Planned Office, and to Approve the Development Standards Text and Development Plan for Such Tract” was read for the third time.

Staff is requesting postponement of this Ordinance to date certain of November 27, 2007.

Mr. Highfield moved, Mayor Fosselman seconded to postpone this Ordinance to date certain of November 27, 2007.

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

Nays: None

The motion carried.

d) ***ORDINANCE NO. 07-34, “To Provide for the Dis-Appropriation of Appropriations for the Fiscal Year Ending December 31, 2007 (Cost of Fuel)”*** was read for the second time.

e) ***ORDINANCE NO. 07-35, “To Provide for the Transfer of Appropriation of Funds from the Electric Fund to Cover Expenses for Electric System Power Supply”*** was read for the second time. Mr. Heyeck abstained from discussion due to a conflict of interest.

f) ***ORDINANCE NO. 07-36, “To Authorize the Execution of a Power Sales Contract with American Municipal Power – Ohio, Inc., Providing for Share Participation in the American Municipal Power Generating Station (AMPGS)”*** was read for the second time. Mr. Heyeck abstained from discussion due to a conflict of interest.

g) ***ORDINANCE NO. 07-37, “To Vacate a Sanitary Sewer Easement and a Portion of a Waterline Easement Located south of Moss Road on the Grounds of St. Paul’s Catholic Church, Granted by the Catholic Diocese of Columbus”*** was read for the second time.

h) ***ORDINANCE NO. 07-38, “To Authorize the City Manager to Execute an Electric Easement to Columbus Southern Power Company”*** was read for the first time. Mr. Heyeck abstained from discussion due to a conflict of interest.

Andy Boatright, Electric Utility Manager, stated Columbus Southern Power Company (AEP) requires an easement for the co-location of their transmission, distribution and substation facilities at the City’s new electric substation site located at 547 Executive Campus Drive (behind the ABB building). The AEP facilities at this site will enable connection of the substation to AEP’s transmission grid.

i) ***ORDINANCE NO. 07-39, “To Authorize the Execution of a Power Sales Contract with American Municipal Power –Ohio, Inc., Providing for Share Participation in the Prairie State Energy Campus Generation Project”*** was read for the first time. Mr. Heyeck abstained from discussion due to a conflict of interest.

Mr. Boatright stated the Prairie State Energy Campus project is a proposed coal-fired plant located in southern Illinois with a nameplate capacity of 1,600 megawatts. Westerville initially expressed an interest in 40 megawatts from this project. However, due to limited available capacity, Westerville’s share has been reduced to 35 megawatts. The Prairie State Energy Campus project has cleared the critical air permitting state. In addition, major equipment for the project has already been secured. The official groundbreaking for the project will be held on October 1, 2007. A high percentage if the project will be funded by public power. AMP-Ohio will hold the largest percentage among all the owner participants. AMP-Ohio has already begun spending money to secure its ownership participation in the project. This project, however, does not offer an out provision. Thus, the City will not have any future opportunity to repudiate the Power Sales Contract for

this project. This project involves take or pay terms which means that Westerville must pay for its share whether or not energy is produced.

k) ***ORDINANCE NO. 07-40, "To Authorize the Execution of a Power Sales Contract with American Municipal Power – Ohio, Inc., Providing for Share Participation in the Hydroelectric Generation System Projects"*** was read for the first time. Mr. Heyeck abstained from discussion due to a conflict of interest.

Mr. Boatright stated the AMP Hydro project involves retrofitting three existing Ohio River locks and dams – Willow Island, Smithland and Cannelton – with hydroelectric turbines to provide a combined output capacity of approximately 190 megawatts. There is a higher demand for this capacity from the AMP-Ohio membership than there is capacity available. Therefore, participants will receive a proportion of the output based on their respective level of participation in the cost share development study. Westerville City Council previously approved participation in the AMP Hydro cost-share development study at 10 megawatts. The amount available to Westerville is approximately 7.5 megawatts. Nevertheless, the amount contemplated in this legislation is 5 megawatts. This project, however, does not offer an out provision. Its terms are the same as stated in Ordinance No. 07-39.

l) ***ORDINANCE NO. 07-41, "To Provide for the Advance of Funds, and the Additional Appropriation of Funds for the Purpose of Paying the Costs of Construction and Related Services for the Cleveland Avenue and Westar Boulevard Intersection Improvements, and To Declare an Emergency"*** was read for the first time.

Mr. Lindimore stated this Ordinance authorizes reimbursement for the intersection improvements at Cleveland Avenue and Westar Boulevard. The final costs of the project to the developer were in excess of the debt issue. This Ordinance provides additional funds to reimburse them while still preserving the city's ability to be reimbursed from future TIF funds.

11. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO AN AMENDED AGREEMENT WITH THE CENTRAL OHIO TRANSIT AUTHORITY.

Mr. Lindimore stated this proposed amended Agreement with COTA would add the Dublin community to the COTA Board representation. The Board rotation is currently three years on with six years off. The proposed change would affect Westerville's representation on the COTA Board.

Mr. Treneff moved, Mr. Heyeck seconded to authorize and direct the City Manager to enter into an amended agreement with the Central Ohio Transit Authority.

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

Nays: None

The motion carried.

12. ADDITIONAL BUSINESS

Mayor Fosselman moved, Mrs. Gonzales seconded to move the October 16, 2007 regular Council meeting to October 23, 2007.

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

Nays: None

The motion carried.

13. **COUNCIL COMMENTS**

Chairman Wetterauer commented on the power generating projects and stated the city has favorable pricing for electric power for the next couple of years. Chairman Wetterauer explained the process the city has used for considering the proposed power generating projects.

Mayor Fosselman commented on the Resolution authorizing the City to sign the Green Pact and stated this Resolution highlights what the city has been doing and will continue to do in the future. Mayor Fosselman recognized Boy Scout Troop #966 and appreciated their attendance at the meeting. Mayor Fosselman congratulated Trevor, Andrew and Matthew who received their Eagle Scout. Mayor Fosselman reminded residents of the Fire Department Open House on October 7, 2007 from 1 p.m. to 4 p.m. at all three fire stations. Mayor Fosselman acknowledged Lin Rice, reporter for the This Week Newspaper, who completed the Citizens Fire Academy.

Mr. Heyeck explained his position on the power generating stations and stated he has a conflict of interest with the projects and therefore cannot discuss or vote on the issue. Mr. Heyeck stated the Parks and Recreation Department is outstanding and a valuable asset to the community.

Mrs. Gonzales stated the Hanby House is having an Open House on Sunday, October 7, 2007 and encouraged everyone to visit. Mrs. Gonzales encouraged residents to apply for vacancies on the boards and commissions. Mrs. Gonzales congratulated the Parks and Recreation Department for the award and that Jody Stowers is a great leader.

Mrs. Cocuzzi stated the Fire Department is holding their annual Open House on October 7, 2007 in conjunction with Fire Prevention Week. Mrs. Cocuzzi thanked the Fire Department with their assistance during the recently held Duck Race fundraising event. Mrs. Cocuzzi discussed the National Gold Medal Award received by the Parks and Recreation Department and thanked Ms. Stowers for an outstanding job.

Mr. Treneff gave his accolades to the Parks and Recreation Department for the National Gold Medal Award. Mr. Treneff also recognized and thanked the city's planning staff for the outstanding job they do. Mr. Treneff requested Westerville Green Policy be placed on the city's website for the public to view.

Mr. Highfield stated it is staff and volunteers who help make the city what it is. Mr. Highfield stated the city has tried to stay progressive for the residents of the city. Mr. Highfield discussed the power generating projects and stated it is City Council's job to give the residents the best and affordable electrical service. Mr. Highfield stated this is an important decision and City Council will consider all options. Mr. Highfield stated the Citizens Fire Academy participants would graduate tomorrow night.

Chairman Wetterauer gave an update on the City Manager selection process. Chairman Wetterauer stated City Council has narrowed the candidates to three and the candidates had the opportunity to visit each department. Chairman Wetterauer thanked staff for the professionalism shown and for assisting with the selection process.

14. **ADJOURNMENT.**

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

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

Nays: None

The motion carried.

The meeting adjourned at 8:37 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council