

MINUTES
REGULAR SESSION
WESTERVILLE CITY COUNCIL
Council Chambers, June 5, 2007, 7:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session June 5, 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**

The invocation was given by Rev. Mark Gauen of First Presbyterian Church.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the May 15, 2007 Regular Meeting and May 16, 2007 Executive Session were presented for approval.

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

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

Nays: None

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave an update on Capital Improvement Projects:

- College Avenue Improvements – The replacement of water services along E. College Avenue between Otterbein and Juniper is underway. The road is closed until the completion of the work by mid-June.
- 2007 Street Rehab – Pavement repairs began this week throughout the city. Resurfacing will follow. The water main replacement is underway on Illinois and Ottawa Avenues which are closed during reconstruction. All work to be completed by the end of August.
- Street Lighting Replacement – All street light foundations are in place and the installation of the conduit is ongoing in Hanby Heights and Westerville Highlands Subdivisions. This project is scheduled for completion by the end of summer.
- Circuit 13 Underground Cable Replacement – The replacement of underground cable is ongoing in the vicinity of Heritage Commons, Westerville Commons and Annehurst East. This project is scheduled for completion in August.

Mr. Lindimore clarified the proposed improvements to the ramps at Interstate 270 and Route 3 being planned by the Ohio Department of Transportation. Mr. Lindimore stated there have been some concerns about the removal of the ramps. Mr. Lindimore stated the ramps will not be removed but merely reconfigured for better access by motorists. Mr. Lindimore stated residents may visit the city's 64 E. Walnut Avenue location for additional information and maps.

Mr. Lindimore invited Parks and Recreation Director Jody Stowers to the podium for a special presentation. Ms. Stowers introduced Westerville Civitan President Brenda Lantz who presented a plaque to Parks and Recreation employee Eric Dicke in appreciation of his support and dedication to the Central Ohio special needs community.

7. MAYOR'S REPORT

Mayor Fosselman issued a Proclamation for Flag Day on June 14, 2007 to the Westerville Veterans of Foreign Wars representatives. Dave Cooper invited the community to the first annual Flag Day Retirement Ceremony on June 14, 2007 at the Westerville Sports Complex.

Mayor Fosselman recognized the Leadership Today students from the past school year. Mayor Fosselman and Mrs. Gonzales presented each participant with a Certificate of Recognition.

8. REPORT FROM THE PLANNING COMMISSION REPRESENTATIVE

Mr. Treneff stated the Planning Commission held a meeting on May 23, 2007.

Public Hearings:

- PC 2007-08: Conditional Use Permit/Final Development Plan to allow a 2,693 square foot fast food restaurant with drive-thru (White Castle) on 0.799 acres in the PCC, Planned Community Commercial District; located at 648 North State Street; Applicant: White Castle, LLC. (Approved 4-3)
- PC 2007-014: Conditional Use/Site Plan Modification to modify signage (including the incorporation of an electronic gas price panel) for a gas station/retail store on .94 acres in the CC, Community Commercial District within the Central College SOD, Special Overlay District; located at 900 S. Sunbury Road; Applicant: Kessler Sign Company for BBC Co./Englefield Oil Company. (Approved 7-0)
- PC 2007-013: Final Development Plan for a 10,000 square foot office/warehouse facility in Brookside on a 1.137 acre parcel in the PID, Planned Industrial District; located at 654 Brookside Blvd.; Applicant: Architectural Alliance for Fast Signs. (Approved 6-0)

Subdivision Reviews:

- PC 2007-11: Development Plan Modification to modify signage for a restaurant (Barnum & Tibbetts) in the PD, Planned Development District; located at 496 Polaris Parkway (Shoppes at Westar II); Applicant: Barnum & Tibbetts. (Approved 7-0)
- PC 2007-012: Final Development Plan for a 12,500 square foot multi-tenant retail outlet (Shoppes at Westar III) on 2.4 acres in the PD, Planned Development District; located in the 400 block of Polaris Parkway; Applicant: Daimler Group for Kaye Henderson. (Approved 7-0)

Miscellaneous:

- Discussion of a proposed Master Plan for St. Paul the Apostle Church campus at the southwest corner of North State Street and County Line Road West including development of a new sanctuary and expansion of the existing parochial school on 18.5± acres in the R-1 Single-Family Residential District; Applicant: Meleca Architecture for St. Paul the Apostle Church.
- Discussion of a private school (Conditional Use in the PID District) in the former Westerville Athletic Club building at 939 South State Street.

The Planning Commission will hold their next regular meeting on Wednesday, June 27, 2007.

9. CITIZENS COMMENTS

Tom Augustus, 100 W. Plum Street, expressed his concerns with the deplorable conditions of the Tea House property on South State Street. Mr. Augustus stated the property is becoming an eyesore and should be torn down. Mr. Augustus also expressed concerns with the vacate property at 68 Grove Street.

Frank Warchal, 94 Daleview Drive, stated during the many years he has lived on Daleview Drive he has been fighting traffic. Mr. Warchell stated the traffic in his neighborhood is unbearable. Mr. Warchell stated City

Council has a chance to rectify the traffic situation and he hopes the city makes cul-de-sacs on Daleview and Fairdale Drives.

George Savoy, 102 Daleview Drive, stated his comment is he wants what is best for the neighborhood. Mr. Savoy stated many residents in the neighborhood have concerns with the closing of Daleview and Fairdale Drives. Mr. Savoy stated when Hillsdowne Street access is complete traffic in the neighborhood should greatly improve.

Joyce Duesenberry, 145 S. Otterbein Avenue, stated she has concerns with the closing of Daleview and Fairdale Drives. Mrs. Duesenberry stated she works at the retirement village on Huber Village and felt residents, spouses and workers had better access to the retirement village when the streets were open. Ms. Duesenberry stated she would like City Council to consider her comments. Ms. Duesenberry stated motorists would not have to drive on South State Street to visit the retirement village.

10. **LEGISLATION**

a) ***RESOLUTION NO. 07-09, "A Resolution Opposing Ohio Senate Bill 117 and Any Other State Legislation that would Preempt or Usurp the Ability of Local Government to Regulate Video Service Providers and Cable Service Providers that use the Public Ways"*** was read.

Mr. Bailey stated this Resolution will voice opposition to Ohio Senate Bill 117 that will provide for a statewide franchising authority. Mr. Bailey stated SB 117 has been passed by the Senate and is now before the House for consideration. Mr. Bailey stated staff has considerable concern about the bill. This bill could impair the current franchise agreements and the use of public right-of ways.

Mrs. Gonzales moved, Mr. Treneff seconded for the adoption of Resolution No. 07-09.

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

Nays: None

Abstained: Mr. Heyeck due to a possible conflict of interest.

The motion carried.

c) ***RESOLUTION NO. 07-10, "To Oppose Proposed House Bill 154 and the Elimination of Westerville's Mayor's Court"*** was read.

Mr. Bailey stated this Resolution will voice opposition to House Bill 154 that will eliminate Westerville Mayor's Court and institute a new state-mandated community judicial system for the alleged purpose of solving problems of Mayor's Court abuse, which have never existed in Westerville and, according to all the available evidence, do not exist in most Mayors' Courts in Ohio. Mr. Bailey stated this proposed legislation is a threat to home rule authority in Westerville.

Mr. Heyeck expressed his concerns with House Bill 154 by stating the Mayor's Court not properly run should be dealt with and that this Bill would eliminate local control.

Mayor Fosselman also expressed her concerns with the appointment process for the Magistrate. Mayor Fosselman stated this could also add partisan politics in the appointment of the Magistrate along with the further deterioration of home rule authority.

Mr. Highfield stated he wholeheartedly agrees with both comments so far. Mr. Highfield stated these Bills are a serious decay of home rule authority. Mr. Highfield stated Westerville Mayor's Court is run efficiently and is close to a court system that actually functions correctly.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Resolution No. 07-10.

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

Nays: None

The motion carried.

c) ***ORDINANCE NO. 07-08, "To Authorize the Execution of a New Power Schedule with American Municipal Power-Ohio, Inc. Based upon the Prepayment of the J. Aron Contract, and to Declare an Emergency"*** was read for the third time. This Ordinance was previously postponed. Mr. Heyeck abstained from discussion and consideration of this Ordinance due to a conflict of interest.

Andy Boatright, Electric Utility Manager, stated in June 2006 City Council approved Ordinance No. 06-10 which authorized the execution of one or more long term power supply agreements with AMP-Ohio, Inc. for an amount of base load energy totaling no more than 50 megawatts at a price not to exceed \$50 per megawatt-hour through December 31, 2012. Pursuant to this legislation, the City Manager executed a power supply schedule for 25 megawatts at \$44.55 per megawatt-hour for the period January 1, 2007 through December 31, 2012 from J. Aron, a subsidiary of Goldman Sachs. AMP-Ohio has made arrangements to allow members who currently participate in the J. Aron long term power supply purchase to prepay their portion of this obligation through AMP-Ohio's sale of revenue bonds. The purpose of the prepayment would be to reduce the cost to Westerville for this portion of energy by approximately \$1.07 per megawatt-hour or approximately \$1.2 million in present value savings over the term of the J. Aron agreement.

Mayor Fosselman moved, Mr. Treneff seconded for the adoption of Ordinance No. 07-08.

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

Nays: None

Abstention: Mr. Heyeck due to a conflict of interest.

The motion carried.

d) ***ORDINANCE NO. 07-10, "To Amend Part Eleven of the Codified Ordinances and the Zoning Map of the City of Westerville, Rezoning of a 1.26 acre tract from RR. Rural Residential District to O/I, Office Institutional District, located at 415 West Schrock Road"*** was read for the third time.

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

Lisa LaMantia, Planner, stated this site is located immediately to the west of Alum Creek on the south side of West Schrock Road and is currently zoned RR, Rural Residential. A residential structure currently occupies the western portion of the site while the east remains wooded and untouched. All adjacent sites are zoned O/I, and PID so staff has no objection to the proposed zoning change. Each property has its own curb cut. When the adjacent office was in for approval in the 90's, an agreement and plan was put in place to develop a service drive to accommodate these properties, provide access on to Cooper Road and eventually lead to the closing of the Schrock Road curb cuts. The insurance company agreed to this at the time of Planning Commission approval and the applicant of the current proposal is also in agreement. Planning Commission recommended approval and approved the site plan with the following conditions: 1) that signage be subject to staff review and approval; 2) that a joint use and maintenance agreement be reached for the access drive; 3)

City of Westerville Council Minutes

June 5, 2007

Page 5

that a dumpster be provided or a joint refuse/dumpster agreement be reached; 4) that an easement be provided to accommodate a future extension of the access drive; 5) that the applicant agrees to participate in the future installation of the access road expansion consistent with an agreement approved by the City Attorney; 6) that a tree preservation area be established subject to staff approval; and 7) that the applicant modify the south elevation subject to staff approval.

Speak In Favor:

None

Speak In Opposition:

None

There being no further testimony, Chairman Wetterauer declared the Public Hearing closed.

Mr. Highfield stated this is the way property should be taken care of when property is re-built or when residential property is converted into commercial property.

Mr. Heyeck suggested the apron be done to a commercial standard and to make sure refuse trucks do not have to back out onto Schrock Road.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 07-10.

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

Nays: None

The motion carried.

e) ***ORDINANCE NO. 07-12, "To Provide for the Supplemental Appropriation of Funds for the Fiscal Year 2007 Street Rehabilitation Program"*** was read for the second time.

Mr. Craven stated this Ordinance will appropriate \$150,000 from the Permissive License Fund; \$150,000 from the Perimeter Road Fund; and an additional \$95,000 from the General Capital Improvement Fund to expand the scope of this year's Street Rehab Program. Since the bids received were significantly below original cost estimates, staff recommends adding the following sections of streets to this year's program: Hillsdowne – reconstruct street and water line; Schrock Road – State to Ivydale – plane and overlay; College Avenue – Pleasant to Spring – Plane and overlay, with edge repairs; County Line – Spring to Sunbury – Plane and overlay; Sunbury – County Line, south to median – plane and overlay; Sunbury – County Line to Sea Shell – edge repairs; Smoke Burr – Sunbury to Tallowood – Reconstruct street. Staff is requesting suspension of the rules so these projects can begin.

Mr. Highfield moved, Mrs. Cocuzzi seconded for the suspension of the rules for the required three readings.

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

Nays: None

The motion carried to suspend the rules.

Mr. Highfield moved, Mrs. Gonzales seconded for the adoption of Ordinance No. 07-12.

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

Nays: None

The motion carried. Ordinance No. 07-12 was adopted.

f) ***ORDINANCE NO. 07-14, "To Amend Section 961.10 of the Westerville Codified Ordinances, to Provide an Exception to Time Limitation on the Collection of Non-Residential Waste"*** was read for the second time.

g) ***ORDINANCE NO. 07-15, "An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$17,225,000 for the Purpose of Paying the Costs of Improving the City's Municipal Electric System by (A) Replacing and Installing Street Lighting, Conduit, and Underground Voltage Cables, Together with all Necessary Appurtenances Thereto and (B) Replacing Regulators, Existing Underground Cable, An Existing Overhead Pole Line with New Poles, Crossarms, and Conductors, Installing a New Substation, Installing Street Lights, New Underground Conduit and a Manhole System, Together with all Necessary Appurtenances Thereto, and Declaring an Emergency"*** was read for the first time.

Jack Winkel, Finance Director, stated Ordinance No. 06-33 and No. 06-34 passed by City Council authorized the issuance of short-term notes in anticipation of long term bonds in the aggregate amount of \$7.925 million for the purposes of paying the costs of improving the City's Electric System. The notes were dated September 21, 2006 and are scheduled to mature on September 20, 2007. The notes have a term of nine months with an interest rate of 4.5%. Note interest payment due on September 20, 2007 is anticipated to be approximately \$267,468. The 2007 budget has earmarked \$9.300 million of Electric System Improvements for which the issuance of long term bonds was and is being requested to finance them. In grand total, this Ordinance proposes the issuance of \$17,225 million in general obligation bonds for the purposes of renewing/converting the current outstanding notes in the amount of \$7.925 million and to provide \$9.300 million to fund the fiscal year 2007 Electric System Improvements.

Mr. Heyeck requested the principal payments with respect to revenues and to compare this information with two or three large municipalities.

h) ***ORDINANCE NO. 07-16, "An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$1,165,000 for the Purpose of Improving and Enlarging the City's Water System by Improving, Repairing, Reconstructing and Replacing Water Lines, Installing New Water Well, and Acquiring Real Estate for Wellfield Development, Use and Protection, Together with all Necessary Appurtenances Thereto, and Declaring an Emergency"*** was read for the first time.

Mr. Winkel stated the 2007 budget earmarked \$1.300 million of Water System Improvements for which the issuance of long term bonds was requested to finance them. The 2007 original amount of \$1.300 million projected for Water System Improvements to be funded with bonds has been revised downward to \$1.165 due to changes in the improvement projects. The City's Water Enterprise Fund currently has \$1.905 million of general obligations bonds outstanding. The outstanding bonds are limited to one issue having a final maturity of December 2011. The proposed bond issue of \$1.165 million would have a twenty-year maturity with principal payments being due each December 1 in each of the years from and including 2007 to and including 2026. This Ordinance provides that the net interest rate cost per year for the proposed bonds shall not exceed 6.00% per year.

i) ***ORDINANCE NO. 07-17, "An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$24,500,000 for the Purpose of Refunding Bonds Previously Issued by the City for the Purposes of Paying the Costs of (A) Constructing, Equipping and Furnishing Park and***

Recreational Facilities and Acquiring Real Estate for Such Facilities, (B) Improving and Extending Cleveland Avenue, Between Certain Termini, by Grading, Draining, Curbing and Paving, Constructing a Bridge and Storm and Sanitary Sewers, Installing Water Mains and Lighting Facilities, Acquiring Necessary Real Estate, and Providing all Necessary Work and Appurtenances, and (C) Providing Facility Improvements for the City's Electric Division by the Construction of an Administration Operations Facility, Constructing a Loading Dock and Truck Bay Addition to the Existing Warehouse, Providing Landscaping, Parking, Lighting and all Necessary Work and Appurtenances, and Declaring an Emergency” was read for the first time.

Mr. Winkel stated the purpose of this Ordinance is to advance refund at a lower rate of interest all or a portion of outstanding bond issued from 1998 and 1999. The proposed refunding bond Ordinance reflects a “not to exceed” amount, which represents the largest possible refunding. The reason for this “not to exceed” amount is for timing and flexibility. New Ordinances would not have to be introduced if market conditions change which potentially make a larger refunding economically beneficial. Approximately \$3,225,000 of outstanding bond principal currently qualifies to be refunded under current market conditions. This potential refunding amount will probably continue to fluctuate with changing interest rates until pricing day when a final recommendation is determined. Throughout the three reading process, staff will provide input as to the current market conditions and the economic benefit of refunding existing bonded debt. The recommended benchmark with respect to the proposed refund is that there must be at least a 3.00% net present value savings. With respect to current market conditions and based on the market rate qualifying bonds, the following factors exist: refunding size is \$3,225,000; refunding savings is 3.06%; refunding PV savings is \$94,996.

j) ***ORDINANCE NO. 07-18, “An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$425,000 for the Purpose of Paying the Costs of Constructing Westar Boulevard, by Grading, Paving, and Otherwise Constructing the Same, and Constructing or Installing Curbs, Gutters, Storm Sewer, Water, Lighting, Erosion Control, Conduit and Signage Improvements, Together with all Other Necessary Appurtenances Thereto, and Declaring an Emergency***” was read for the first time.

Mr. Lindimore stated this Ordinance will reimburse Solove and Figge for Tax Increment Financing public improvement projects. Solove and Figge had agreed to take a steeply discounted dollar amount in return for being paid on the front end of the completion of the building. The discounted rate is \$750,000 per 100,000 square feet. The first building completed by Opus is approximately 93,000 square feet and after taking credit for developers work performed by the city, the city will owe Solove and Figge approximately \$385,000. The bond Ordinance calls for up to \$423,000 to allow for issuance, legal and miscellaneous expenses.

k) ***ORDINANCE NO. 07-19, “An Ordinance to Revise the Codified Ordinances by Adopting Current Replacement Pages and Declaring an Emergency***” was read for the first time.

Mr. Bailey stated this Ordinance approves the semi annual update and revision of the Westerville Codified Ordinances. Staff is requesting suspension of the rules and the required three readings since this Ordinance is a housekeeping matter.

Mr. Heyeck moved, Mrs. Gonzales for the suspension of the rules requiring three readings.

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

Nays: None

The motion carried to suspend the rules.

Mr. Highfield moved, Mrs. Cocuzzi seconded for the adoption of Ordinance No. 07-19.

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

Nays: None

The motion carried. Ordinance No. 07-19 was adopted.

l) ***ORDINANCE NO. 07-20, "To Provide for the Re-Appropriation of Funds and the Transfer of Funds for the Completion of Municipal Building Improvements and to Authorize and Direct the City Manager to Enter into Purchase Agreements Without Formal Bidding and Advertising, and to Declare an Emergency"***

was read for the first time.

Adam Maxwell, Risk and Procurement Administrator, stated City Council approved funding for a brick wall to screen and secure the new generator unit at City Hall. The design and materials were approved by the Uptown Review Board last fall. A contract was not awarded for this specific work prior to year end and thus the appropriation lapsed. With the City Hall generator installed and soon to be tied into the facility's electrical system, staff would like to solicit quotes and negotiate a contract to complete the work over Council's recess. MSA, the design firm for the recent municipal improvement projects, including the generator project, has developed an architectural estimate of \$68,876 for this work. Construction of the courtyard occurred nearly 20 years ago and staff has identified several maintenance items that should be addressed. Items include work on the courtyard planter and tuck-pointing of the lower courses, reworking bricks around the exterior of the courtyard and around the tree boxes and planters, replacement of the window muntin systems in the City Hall windows, and replacement of several exterior doors at City Hall. Meacham & Apel, designed the original improvements to City Hall and the courtyard, and has developed an architectural estimate of \$41,124 for this work. Staff is also requesting to re-direct approximately \$56,000 from other areas within the City Manager's budget to accomplish these improvements to City Hall facilities.

m) ***ORDINANCE NO. 07-21, "To Authorize the City Manager to Provide for Adjustments of Annual Fee Amounts and Payments in Lieu of Taxes Arising under Community Reinvestment Area Agreements"*** was read for the first time.

Julie Colley, Economic Development Coordinator, stated the city has encountered several situations recently where the recipient of an economic incentive, especially on a remodeling project, may actually pay an annual fee to the City in an amount that exceeds the real property taxes that are exempted. Ohio law permits the annual fee to be waived or reduced by the legislative authority in such circumstances if such adjustments are authorized by Ordinance. This Ordinance authorizes such adjustments by the City Manager but also provides that the City Manager will notify City Council in advance and provide members of City Council the opportunity to provide input.

11. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A FIRST ADDENDUM TO A DEVELOPMENT AND INCENTIVE AGREEMENT WITH METSS CORPORATION FOR THE PROPERTY AT 300 WESTDALE AVENUE.

Mrs. Colley stated the City entered into a Development and Incentive Agreement with the METSS Corporation in 2000. The First Addendum simply seeks to modify the original agreement to reflect the actual onset of the exemption period as January 1, 2002 instead of the January 1, 2001 stated in the agreement in Section 1 (b). As the exemption period began in January 2002, year 1 of the exemption period and year 5 of the exemption period as specified in Section 1(c) will be modified to read 2002 and 2006 respectively. All other components of the agreement remain unchanged.

Mr. Heyeck moved, Mayor Fosselman seconded to authorize and direct the City Manager to enter into a First Addendum to a Development and Incentive Agreement with METSS Corporation for the property at 300 Westdale Avenue.

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

Nays: None

The motion carried.

12. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AND INCENTIVE AGREEMENT WITH JSG OF WESTERVILLE, LTD. FOR THE PROPERTY AT 86 AND 98 COMMERCE PARK DRIVE.

Mrs. Colley stated JSG of Westerville, LTD, constructed and its company, Standard Process of Ohio, Inc., currently occupies the 5,124 square foot building at 585 Office Parkway. This site has a 50% net abatement for 12 years and was certified in January 2005. Since their move to the North Westerville Office Park, the company has grown from two employees to five full-time and 2 part-time employees. The company recently purchased the lots at 86 and 98 Commerce Park Dive with the intent to construct an 8,000 square foot building with conference space large enough to hold 150 people. When the building is completed, the company will sell or lease the property at 585 Office Parkway. Standard Process expects to add another four full-time employees, three part-time employees and two sales positions. The increase in employees is expected to generate additional payroll in the range of \$160,000 to \$360,000 within five years. Staff is recommending a 12 year 100% property tax abatement on the improvements to the property, with a 50% payment in lieu of taxes be provided to the company. In the initial year of the exemption period, the 50% payment in lieu of taxes is estimated to be \$10,738, of which approximately \$7,087 will be distributed to the Westerville City School District; the remainder will be retained by the city to offset construction costs associated with Office Parkway. In tax year 2006, the property yielded \$6,623.08 in property taxes for both parcels – these taxes on the underlying property will not be abated.

Mrs. Gonzales moved, Mrs. Cocuzzi seconded to authorize and direct the City Manager to enter into a Development and Incentive Agreement with JSG of Westerville, LTD., for the property at 86 and 98 Commerce Park Drive.

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

Nays: None

The motion carried.

13. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AND INCENTIVE AGREEMENT WITH DEVRIES & ASSOCIATES (d/b/a FAST SIGNS) AND EMENTEE PROPERTIES, INC. FOR THE PROPERTY AT 654 BROOKSEdge BOULEVARD.

Mrs. Colley stated FastSigns has an opportunity to construct a new 9,875 square foot building at 654 BrookseEdge Boulevard in the East Broadway Community Reinvestment Area. FastSigns currently employs seven full-time employees at their Westerville location. Upon relocation to the BrookseEdge Office Park, they intend to expand at a rate of one full-time employee per year, generating an additional \$2,500 in income taxes by the end of the fifth year. Staff is recommending a 12 year, 100% property tax abatement on the improvements to the property, with a 35% payment in lieu of taxes be provided to the company. In the initial year of the exemption period, the 35% payment in lieu of taxes is estimated to be \$9,806, of which approximately \$9,245 will be distributed to the Westerville City School District. As FastSigns is relocating within the city, the agreement requires the company to generate new income tax to the city and bases the

amount of the payment in lieu of taxes in years 3 through 12 on the percentage increase in income tax. The property generated \$2,562.22 in property taxes in tax year 2006; these will not be abated.

Mrs. Gonzales moved, Mr. Heyeck seconded to authorize and direct the City Manager to enter into a Development and Incentive Agreement with DeVries & Associates (d/b/a FastSigns) and Ementee Properties, Inc. for the property at 654 Brookside Boulevard.

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

Nays: None

Abstained: Chairman Wetterauer due to a possible conflict of interest

The motion carried.

14. TO AWARD THE BID FOR THE BACKHOE LOADER (INCLUDING TRADE-IN) PLUS ALTERNATE ITEMS 1 – 4 TO FRANKLIN TRACTOR SALES, INC. AS RECOMMENDED BY STAFF.

Frank Wiseman, Public Service Director, stated six bids were ultimately received at the official bid opening held on May 15, 2007. The \$68,000 amount budgeted is adequate to purchase the new backhoe loader, including the trade-in of the Public Service Department's 1992 Case 580 Super K Loader, plus the optional heavy duty bucket items 1 – 4 in sizes 12", 18", 24" and 36". Total contract amount is \$45,580.00.

Mrs. Gonzales moved, Mr. Heyeck seconded to award the bid for the backhoe loader (including trade-in) plus alternate items 1 – 4 to Franklin Tractor Sales, Inc. as recommended by staff.

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

Nays: None

The motion carried.

15. TO AWARD BID ITEMS #5 THROUGH #9 TO RUMPKE OF OHIO, INC. FOR THE WEEKLY COLLECTION OF SOLID WASTE FROM DUMPSTERS AT MUNICIPAL FACILITIES AND IN THE UPTOWN DISTRICT INCLUDING RECYCLABLE MATERIAL, AND TO REJECT ALL BIDS FOR 2008-2010 RESIDENTIAL SOLID WASTE COLLECTION, ITEMS #1 THROUGH #4 UPON RECOMMENDATION OF CITY STAFF AND IN ACCORDANCE WITH CITY ORDINANCE 132.06.

Mr. Wiseman stated one bid and three letters expressing No Bid were ultimately received at the official bid opening held on May 9, 2007. Staff recommends the award to Rumpke of Ohio, Inc. for the collection of Solid Waste and recyclable material from the municipal facilities and Uptown District dumpsters, items #5 through #9 in the bid request. The bid of \$2,200.76 per week represents a 2.8% increase over the \$2,140.50 weekly costs of the previous contract. Staff recommends the rejection of all bids for the weekly collection of residential solid waste and recyclable materials, items #1 through #4. Contract Award Amount is \$2,200.76 per week.

Mrs. Cocuzzi expressed concerns for the lack of bids from other vendors.

Mr. Heyeck also expressed concerns for the lack of bids received and was confused on the one bid received.

Mr. Wiseman explained the bid that was received by the city from Rumpke of Ohio.

Mayor Fosselman stated she didn't understand Item #15 in the bid documents and didn't understand why other providers didn't bid for the smaller projects. Mr. Bailey discussed the refuse hauler business in Central Ohio.

Mrs. Gonzales moved, Mr. Heyeck seconded to award bid items #5 through #9 to Rumpke of Ohio, Inc. for the weekly collection of solid waste from dumpsters at municipal facilities and in the Uptown District including recyclable material, and to reject all bids for 2008 – 2010 residential solid waste collection, items #1 through #4 upon recommendation of city staff and in accordance with City Ordinance 132.06.

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

Nays: None

The motion carried.

16. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A RENEWAL AGREEMENT WITH RUMPKE OF OHIO, INC. FOR 2008 COLLECTION, TRANSPORTATION AND DELIVERY FOR DISPOSAL OR PROCESSING OF RESIDENTIAL SOLID WASTE.

Mr. Wiseman stated the current Rumpke of Ohio, Inc. contract provides for the negotiated extension of the residential solid waste collection for two one-year terms. The city has continued working with the seven member consortium in negotiating the contract extension while soliciting bids as a single entity to ensure the best cost for the residents. The city's bid opening was held on May 9, 2007. The current 2007 base cost per unit for residential collection is \$12.51 including Ohio EPA increases. The proposed 2008 contract extension base cost per unit for residential collection is \$14.11 including Ohio EPA increases. A potential \$1.00 per ton increase in the pass-through account for 2008 is being considered by the Ohio EPA, which could increase the residential rate by an additional \$.10 per unit. There are no other cost escalators proposed in the contract extension, and the 10% Senior discount on the base unit is still available. The 2008 contract extension results in a 12.8% increase over 2007. The city will have the option later this year to consider a 2009 extension at \$15.51 for the base cost per unit, which totals an additional 11% increase. The base price the city received as part of the single entity bid was \$16.03 including Ohio EPA increases or a 28.1% increase for 2008. The consortium's \$13.98 base cost per unit for residential collection for 2008 is between \$1.00 and \$1.50 per unit less than recent contracts awarded by other local cities not participating in the consortium.

Contract Award Amount: \$13.98 per residential unit base plus \$.13 Ohio EPA cost totaling \$14.11.

Mr. Treneff expressed his concerns with the rate increase being proposed.

Mr. Highfield expressed his concerns with the lack of bidders and the rate increase.

Mrs. Gonzales moved, Mayor Fosselman seconded to authorize and direct the City Manager to enter into a renewal agreement with Rumpke of Ohio, Inc. for the 2008 collection, transportation and delivery for disposal or processing of residential solid waste.

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

Nays: None

The motion carried.

17. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A CONTRACT MODIFICATION WITH G. MARCHI & SONS, LLC. FOR THE 2007 STREET REHABILITATION CONTRACT A TO PERMIT THE CONSTRUCTION OF AN ADDITIONAL PARKING LOT AT TOWERS PARK.

Mr. Lindimore stated the 2007 capital budget for Parks and Recreation appropriated \$269,460 for various bike path and parking lot maintenance. After awarding the contract for this work, the Parks and Recreation Department has requested approval of a capital variance to allow the excess funds be used to construct an additional parking lot on County Line Road in Towers Park and the crack/fill sealing of the Towers Park Spring Road lot. The Spring Road work was originally shown as a 2008 project and will be removed from the budget. Repairs to the sidewalk fronting Metzger Park will be included as part of the annual sidewalk program. The amount of unused appropriations is \$71,248. Cost of expansion of the parking lot is \$55,041, cost to crack/fill/repair existing parking lot is \$7,360 and sidewalk repairs/replacement of Metzger Park is \$6,534 leaving \$2,313 in unused appropriations.

Mr. Highfield asked for enforcement of parking on the asphalt and not driving on the grass in Towers Park.

Mrs. Gonzales moved, Mrs. Cocuzzi seconded to authorize and direct the City Manager to enter into a contract modification with G. Marchi & Sons, LLC. for the 2007 Street Rehabilitation Contract A to permit the construction of an additional parking lot at Towers Park.

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

Nays: None

The motion carried.

18. TO MOVE THE REGULARLY SCHEDULED JULY 3, 2007 CITY COUNCIL MEETING TO MONDAY, JULY 2, 2007.

Mr. Highfield moved, Mrs. Gonzales seconded to move the regularly scheduled July 3, 2007 City Council meeting to Monday, July 2, 2007 due to the Fourth of July holiday.

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

Nays: None

The motion carried.

19. TO CONSIDER THE APPEAL FILED ON PLANNING COMMISSION'S DECISION IN CASE NO. PC 2007-08 (FOR THE PROPERTY AT 648 NORTH STATE STREET – WHITE CASTLE).

Mr. Heyeck moved, Mr. Highfield seconded to consider the appeal filed on Planning Commission's Decision in Case No. 2007-08 (for the property at 648 North State Street – White Castle).

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

Nays: Mr. Heyeck, Chairman Wetterauer

The motion carried.

20. **ADDITIONAL BUSINESS**

None

21. **COUNCIL COMMENTS**

Mr. Treneff informed City Council of a public forum held recently by the CR Club on the Cool Cities Initiative and suggested the city exploring joining that effort. Mr. Treneff stated his yes vote for the 2007 Street Rehabilitation additional funding was a justifiable vote and an opportunity to complete necessary improvements at a reduced rate.

Mrs. Gonzales congratulated Park and Recreation Department employee Eric Dicke for his recognition by the Westerville Civitan Club. Mrs. Gonzales congratulated all high school seniors graduating this week. Mrs. Gonzales stated Westerville is celebrating 150 years of Excellence with the Sesquicentennial Celebration and the committee is soliciting sponsors and volunteers for the event.

Mr. Highfield stated he has an interest in organized sports use of city facilities and not paying for the use. Mr. Highfield requested staff to look into this issue and address. Mr. Highfield stated he appreciates the Veterans of Foreign War's Flag Retirement event on June 14, 2007. Mr. Highfield advised motorists to be aware of children now that school is out.

Mrs. Cocuzzi stated she agreed with Mr. Treneff's comments and is glad to see the city is spending some well deserved funds on infrastructure improvements. Mrs. Cocuzzi stated she is anxious to see the traffic counts on Daleview Drive and Hillsdowne Street and wants to see if diverting the traffic is causing more problems. Mrs. Cocuzzi asked staff to post the Hillsdowne Street Access Study for residents to view.

Mr. Heyeck discussed the Daleview Drive and the history of traffic issues for this area. Mr. Heyeck stated he will make his decision based on data received. Mr. Heyeck stated he doesn't think the situation is getting better and is not sympathetic to those motorists who cut through this neighborhood. Mr. Heyeck stated he is sympathetic to impacts in other neighborhoods and school zones. Mr. Heyeck stated his daughter is graduating Westerville South High School this weekend and thanked Germain Amphitheater for the use of the facility for graduation ceremonies. Mr. Heyeck congratulated all high school graduates.

Mayor Fosselman thanked Westerville Civitan Club President Brenda Lantz and members for recognizing Eric Dicke and for providing services to the special needs community. Mayor Fosselman thanked the American Legion for another outstanding Memorial Day program and thanked the community for supporting the service people. Mayor Fosselman asked Mr. Wiseman to follow up on the flagholders at the podium. Mayor Fosselman stated she attended the Open House of the Children's Sport Medicine's new facility and welcomed them to the City of Westerville as well as the Central Ohio Neurological Surgeons. Mayor Fosselman reminded residents of the Farmer's Market held each Wednesday at the corner of North State Street and Home Street. Mayor Fosselman asked everyone to attend the Flag Retirement Ceremony on June 14, 2007 at the Westerville Sports Complex beginning at 7:00 p.m.

Chairman Wetterauer requested an update from staff on code enforcement. Chairman Wetterauer thanked City Council for their help in selecting a new City Manager.

17. **ADJOURNMENT.**

Mr. Highfield moved, Mr. Heyeck seconded to adjourn.

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

Nays: None

City of Westerville Council Minutes
June 5, 2007
Page 14

The motion carried.

The meeting adjourned at 8:57 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council