

MINUTES
REGULAR SESSION
WESTERVILLE CITY COUNCIL
Council Chambers, May 1, 2007, 7:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session May 1, 2007 with Council Members, Craig Treneff, Kathy Cocuzzi, William Highfield, Michael Heyeck, Diane Fosselman, City Manager G. David Lindimore and Staff, Law Director Bruce E. Bailey and Clerk of Council Mary Johnston present. Damon Wetterauer, Jr. and Anne Gonzales were excused.

3. **INVOCATION**

The invocation was given by Scott Marier of Westerville Area Resource Ministry.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the April 17, 2007 Regular Meeting, April 17, 2007 Executive Session and April 24, 2007 Executive Session were presented for approval.

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

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

Nays: None

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave an update on Capital Improvement Projects:

- Knox Street Improvements – The curb is in place and the installation of the pavement will begin this week. Drive approach and sidewalk work is ongoing. Knox Street will remain closed, with detours posted, until the completion of the project in early June.
- Africa Road Improvements – Restoration continues with final paving scheduled by the end of May.
- Street Lighting Replacement – Street light replacement will begin this week in Hanby Heights and Westerville Highlands subdivisions. This project is scheduled for completion by mid-summer.
- Towers Park Improvements – Concrete work is ongoing with restoration to follow. Site amenities including benches, trash receptacles, etc. will be installed by staff in the coming weeks. This project is scheduled for completion by summer.

Mr. Lindimore stated the following streets scheduled for street light improvements includes Illinois Avenue, Cherokee Avenue, Crescent Avenue, Electric Avenue, Delaware Court, Delaware Drive, Mingo Lane, Apache Street, Palermo Place, Naples Place, Illinois Court, Mohawk Avenue and Navaho Avenue.

7. **MAYOR'S REPORT**

Mr. Treneff presented a Proclamation for National Sports and Fitness Month and National Bike Month in May to Mike Herron of the Parks and Recreation Department.

Mayor Fosselman presented a Proclamation for National Older Americans Month in May to Sandy Volzer and Sally Mann of the Westerville Senior Center Advisory Board.

Mayor Fosselman presented a Proclamation for Days of Prayer in recognition of the WARM Prayer Breakfast and National Day of Prayer on May 3, 2007 to Westerville Area Resource Ministry Executive Director Scott Marier. Mr. Maier stated the Westerville Postal Workers will be holding a Stamp Out Hunger Food Drive on May 12, 2007 and encouraged everyone to donate non-perishable food which will be given to WARM for distribution to those in need.

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

Mr. Treneff stated the Planning Commission held a meeting on April 25, 2007.

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 indefinitely)
- PC 2006-11A: 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 indefinitely)
- 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. (Postponed to May)
- PC 2007-09: Rezoning of a 1.26-acre tract from RR, Rural Residential District, to O/I, Office Institutional District, and a site plan review for a 3,386 square foot office-photography studio; located at 415 West Schrock Road; Applicant: Darin J. Ranker, Jeanne Arkfeld Photography. (Approved 6-0)
- PC 2007-10: Subdivision Review of a lot split to create 5 lots totaling 1.05 acres in the R-2, Single Family District; located at the west end of Hiawatha and Central Avenues; Applicant: Andrew D. Chatterton. (Postponed to June)
- PC 2004-037: Renewal of a Conditional Use Permit for a college residence hall and college bulk laundry facility in an existing 62,000 square foot building in the PND, Planned Neighborhood District; located at 25 W. Home Street; Applicant: Otterbein College. (Approved 6-0)

Subdivision Reviews:

- PC 2007-07: Final Development Plan for a 12,833 square foot multi-tenant retail outparcel at the Northridge Crossing Retail Center on 2.063 acres in the PCC, Planned Community Commercial District; located at 644 North State Street; Applicant: Charles Fraas, Casto. (Approved 6-0)

The next meeting of the Planning Commission will be held on May 23, 2007.

9. **CITIZENS COMMENTS**

None

10. **LEGISLATION**

a) ***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.

Staff is requesting postponement of this Ordinance to date certain of May 15, 2007.

Mr. Highfield moved, Mayor Fosselman seconded to postpone consideration of this Ordinance to date certain of May 15, 2007.

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

Nays: None

Abstention: Vice Chairman Heyeck due to a conflict of interest.

The motion carried.

b) ***ORDINANCE NO. 07-09, "To Provide for the Re-Appropriation of Funds to Reimburse American Electric Power Company for the Cost to Relocate their Existing Utility Facilities; and for the Purpose of Paying for the Costs of Creating Record Documents for the Maxtown Road Improvements; and to Provide for the Transfer of Residual Fund Equity"*** was read for the second time.

c) ***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 first time.

Vice Chairman Heyeck set the Public Hearing for June 5, 2007.

Rich Kight, Planning Administrator, 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) 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.

Vice Chairman Heyeck expressed his concerns with the location of the dumpster and access by refuse haulers.

d) ***ORDINANCE NO. 07-11, "To Authorize and Direct the City Manager to enter into an Agreement with Otterbein College Relative to the Operation of and Management of a Government Educational Channel and to Provide for the Supplemental Appropriation of Funds; and to Declare an Emergency"*** was read for the first time.

Mr. Bailey stated the city and Otterbein College wishes to formalize the arrangements under which Otterbein College will continue to operate and manage the city's government educational channel WOCC TV Channel 3. Mr. Bailey stated the proposed agreement with Otterbein College has been revised and forwarded to Otterbein for their review and input. This Ordinance provides for the appropriation of \$155,119 which when added with funds already appropriated in the amount of \$39,950 is equal to 55% of the total cable revenues received in calendar year 2006. There is a possibility that staff will ask for the suspension of the rules requiring three readings at the May 15, 2007 meeting.

11. TO AWARD THE BID FOR THE 2007 SIDEWALK RECONSTRUCTION PROGRAM TO DECKER CONSTRUCTION COMPANY.

Mr. Craven stated eight bids were ultimately received at the official bid opening held on April 19, 2007. The low bidder, Decker Construction Company, of Columbus, Ohio, has worked extensively in the central Ohio region and for the city of Westerville on the improvements at the intersection at N. State Street/Polaris

Parkway in 2005. Contract Award Amount: \$254,853.60 plus a construction contingency of 7% totaling \$272,000.00.

Mr. Treneff questioned the difference between the budgeted amount and bid award amount.

Mr. Treneff moved, Mayor Fosselman seconded to award the bid for the 2007 Sidewalk Reconstruction Program to Decker Construction Company.

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

Nays: None

The motion carried.

12. TO AWARD THE BID FOR THE SUBSTATION SINGLE-PHASE 32-STEP VOLTAGE REGULATORS TO COOPER POWER SYSTEMS AS LOWEST AND BEST BID.

Steve Garnick, Electrical Operations Manager, stated two bids were received at the official bid opening held on April 16, 2007. The purpose of the regulator purchase is to complete a two year project to replace 24 regulators at the Electric Division Substations No. 4 and No. 5. The regulators to be replaced are over 30 years of age and nearing the end of their useful life. The apparent low bidder, WESCO, offered Howard Industries' regulators, however, staff does not consider this the best bid. The WESCO bid failed to include any of the submittal required in the specifications regarding regulator construction and operating characteristics. Staff contacted WESCO in an attempt to obtain the required submittals from Howard Industries. WESCO did reply with some documentation, however, it was incomplete and did not comply with the specification requirements. Further, the regulator control used in the Howard Industries' units does not meet the Electric Division's specifications for means by which operational setup and programming and data retrieval can be performed. Due to the highly volatile and rapidly changing metals market, staff recommends that a two percent contingency amount be added to the award to cover price increases which may arise from the time of order until shipment. Contract Award Amount: \$208,755.00 plus 2% Metals Escalation Contingency-\$4,200 for a total Contract Amount of \$212,955.00.

Mr. Treneff questioned the contracted amount being less than the appropriated amount.

Mr. Highfield moved, Mr. Treneff seconded to award the bid for the Substation Single-Phase 32-Step Voltage Regulators to Cooper Power Systems as lowest and best bid.

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

Nays: None

Abstention: Vice Chairman Heyeck due to a conflict of interest

The motion carried.

13. TO REJECT THE BID FROM WILSON-MICHAELS TRUCKING COMPANY, LLC. FOR THE OTTERBEIN LAKE IMPROVEMENTS PROJECT AND REQUEST TO RE-BID.

Mike Hooper, Parks Development Coordinator, stated one bid was ultimately received at the official bid opening held on April 20, 2007. Responses received from contractors not bidding on the project indicated that the costs of the stone retaining walls has increased significantly and an unusually high number of bigger projects were being bid on at the same time requiring their estimators to focus their attention on those larger projects. The only bidder, Wilson-Michaels Trucking Company, LLC, failed to submit a bid guarantee and

provided an unrealistic bid that substantially exceeded the engineer's estimate, therefore, staff recommends this bid be rejected. Staff will work with the city's engineers to value engineer this project. Staff requests authorization to re-bid the project immediately so project construction can be started this summer.

Mr. Highfield moved, Mayor Fosselman seconded to reject the bid from Wilson-Michaels Trucking Company, LLC. for the Otterbein Lake Improvements Project and request to re-bid.

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

Nays: None

The motion carried.

14. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO PURCHASE DIGITAL IN-CAMERA SYSTEM FROM DIGITAL PATROLLER BY INTEGRAIN OF MORRISVILLE, NORTH CAROLINA AND WAIVE COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.

Police Chief Joe Morbitzer stated staff requests Council to consider approval of purchasing a digital in-car camera system Digital Patroller by Integrain. This request is based on in-depth research, product testing and field testing of six systems produced by six different companies. Based on this research, it is the opinion of staff that the Digital Patroller system is the best purchase option based on in-field performance, features, customer satisfaction and price. The existing system in use by the Police Division is VHS technology, which is quickly becoming obsolete. Of the nineteen cruisers in use by the Patrol Division only ten currently have in-car video system. Of those in use only two are functional. The current system is no longer supported for repairs by the vendor and thus can not be repaired. Staff is finding, especially in Franklin County, OVI cases are being dismissed or plead down because of the lack of video evidence supporting the officer's report and testimony. Staff is requesting the inclusion of an 8% percent contingency to cover potential wiring issues in the cruisers and to provide additional training to patrol officers who will be utilizing the system. Contract Award Amount - \$127,000.00 plus 8% contingency - \$8,415.00 for a total contract award of \$135,415.00.

Mrs. Cocuzzi moved, Mayor Fosselman seconded to authorize and direct the City Manager to purchase digital in-car camera system from Digital Patroller by Integrain of Morrisville, North Carolina and waive competitive bidding and notice requirements.

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

Nays: None

The motion carried.

15. ADDITIONAL BUSINESS

None

16. COUNCIL COMMENTS

Mr. Highfield asked staff for the procedure of removing trees planted in the right of way and are destroying the sidewalk. Mr. Highfield asked is there was a way to plant the right kind of trees to prevent damage to sidewalks and lessen the expense to remove them. Jody Stowers, Parks and Recreation Director, stated residents can contact the Urban Forestry Division at Park Maintenance for questions regarding trees. Staff will evaluate the situation and determine if the tree should be removed. If the tree is healthy, the request will go before the Shade Tree Commission. Ms. Stowers stated staff is in the process of updating the tree master plan and will provide language to insure the city is planting the right type of trees. Mr. Highfield stated the

new development at 415 West Schrock Road is an outstanding project. Mr. Highfield stated the money used to purchase the digital in-car camera system is from forfeiture funds. Mr. Highfield congratulated Parks and Recreation Department for their awards. Mr. Highfield congratulated WARM for having a sold out Community Prayer Breakfast on May 3, 2007.

Mrs. Cocuzzi congratulated the Parks and Recreation Department and Westerville Garden Club for the Presidential Grove of Trees in Hanby Park. Mrs. Cocuzzi stated this is a wonderful project and encouraged everyone to visit the site. Mrs. Cocuzzi commended all city departments for all of the work they do especially the Police Division, Information Systems Department and Electric Division for researching all projects before they come before City Council. Mrs. Cocuzzi invited everyone to attend a benefit on May 18, 2007 in the Old Bag of Nails to honor Uptown Business Owner Earlene Wandry who is raising funds for Relay for Life.

Mr. Treneff appreciated the daily crime reports he receives from the Police Division and requested from staff a summary of the procedures used for mental health incidents in the city. Mr. Treneff expressed his concerns with the trend of income tax collections for the first four months of 2007 and budget projection for the remaining budget year.

Mayor Fosselman informed City Council of House Bill 154 which proposes to abolish Mayor's Court. Mayor Fosselman stated the city would have the option of establishing a Community Court; the difference being the Community Court would be a court of record and the magistrate judge would be appointed by an administrative judge. Mayor Fosselman stated staff has been meeting to discuss the impact to the city if it should pass. Mayor Fosselman reminded everyone of Service Day on Saturday, May 5, 2007 and of the U.S. Postal Workers Food Drive on Saturday, May 12, 2007. Mayor Fosselman thanked the Children's Hospital, in honor of Arbor Day and the fifth anniversary of the Community Center, for the donation of a tree planted in front of the Community Center.

Vice Chairman Heyeck asked staff to sunset the planting of Bradford Pear trees in the city. Vice Chairman Heyeck asked Scott Marier to inform everyone of WARM's acceptance of computers. Mr. Marier stated WARM accepts new computers and used computers with Pentium 2 or 3 and above. Vice Chairman Heyeck stated the city has a very useful service called Concord Counseling for mental health issues. Vice Chairman Heyeck commended Police Chief Joe Morbitzer for his skills and leadership by allowing employees to move on to better positions.

17. **ADJOURNMENT.**

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

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

Nays: None

The motion carried.

The meeting adjourned at 8:12 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council