

MINUTES
REGULAR SESSION
WESTERVILLE CITY COUNCIL
Council Chambers, September 18, 2007, 7:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session September 18, 2007 with Council Members, Craig Treneff, Kathy Cocuzzi, William Highfield, Anne Gonzales, Damon E. Wetterauer, Jr., Michael Heyeck, Diane Fosselman, Finance Director John P. Winkel and Staff, Law Director Bruce E. Bailey and Clerk of Council Mary Johnston present.

3. **INVOCATION**

Mayor Diane Fosselman gave the invocation.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the September 4, 2007 Regular Meeting and September 11, 2007 Work Session were presented for approval.

Mrs. Gonzales 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

Abstained: Mr. Heyeck and Chairman Wetterauer on September 11, 2007 Work Session

The motion carried.

6. **CITY MANAGER'S REPORT**

No report.

7. **MAYOR'S REPORT**

Mayor Fosselman introduced John Oliveri, Westerville Sertoma Club President. The Westerville Sertoma Club presented a check for \$15,000 to pay off the balance for the Heritage Shelter House. Mayor Fosselman invited everyone to attend the upcoming 4th Friday event in Uptown Westerville and visit the Sertoma Club Brat Wagon.

Mayor Fosselman issued a Proclamation Westerville High School Girls Softball Coach Jerry Kelbley proclaiming September 18, 2007 as Coach Jerry Kelbley Day" in honor of his outstanding coaching career.

8. **REPORT FROM THE RECREATION ADVISORY BOARD REPRESENTATIVE**

Mrs. Cocuzzi updated City Council on current activities in the Parks and Recreation Department. Mrs. Cocuzzi stated the Recreation Advisory Board recently took a bike ride on one of the city's bike paths. Mrs. Cocuzzi stated the Recreation Advisory Board held their August meeting with the Parks Foundation Board. Mrs. Cocuzzi thanked everyone for their patience when the Community Center had to close for updating and renovations. Mrs. Cocuzzi stated the Westerville Parks and Recreation Department is a finalist for the National Parks and Recreation Association Gold Medal.

9. **CITIZENS COMMENTS**

Andrew Wetzler, National Resources Defense Council, urged City Council to table Ordinance No. 07-36, AMP-Ohio AMPGS Project, and wait before voting to approve it. Mr. Wetzler stated the reason is because under the terms of the contract being proposed there is actually no reason for City Council to execute this contract with AMP-Ohio until March 1, 2008. Mr. Wetzler stated this is extraordinarily risky from a financial point of view because the cost of the AMP plant has more than doubled since October 2005 and the costs of controlling carbon emissions from the plant are unknown but he believes AMP is grossly underestimating it. Mr. Wetzler urged City Council to review the fact sheets he distributed.

Etta Moor, 1160 S. Sunbury Road, stated she and Paul Cirolini are not against the Central College sanitary sewer project but against many things concerning the sewer. Mrs. Moor requested City Council to put off any action until Mr. Cirolini returns from vacation. Mrs. Moor stated her chief objection to the project is that she did not want to see Diane Brown hurt through their property. Mrs. Moor stated she was concerned about things she had heard in the last two weeks regarding placement of the sewer line and hook up to the sewer line. Mrs. Moor stated she felt the city did not have the right to go through their land to make something at the very end that they do not like.

Roy Starkey, Central College Road, stated it is his perception that when a municipality takes and annexes an area that they legally bound to provide sewer and water within a short period. Mr. Starkey stated he thought this area was annexed into the city about 18 years ago and wondered if his perception was correct and why nothing has ever been done.

10. **LEGISLATION**

a) ***RESOLUTION NO. 07-11, "A Resolution Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to the County Auditor"***.

Jack Winkel, Finance Director, stated this Resolution was prepared and submitted by the Franklin County Budget Commission. The Resolution must be voted on and adopted before the first day of October. The full tax rates as they appear on the Resolution are exactly equal to the rates currently in effect for tax year 2006/collection in 2007. It should be noted that current tax revenue estimates most likely would increase when actual property valuations become available in December. Likewise, effective tax rates will be adjusted by the Franklin County Budget Commission in December of this year.

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

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

Nays: None

The motion carried.

b) ***ORDINANCE NO. 07-22, "To Appropriate Permanent and Temporary Sanitary Sewer Easements on Property Owned by Diane C. Brown, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the third time.

This Ordinance was previously postponed from the September 4, 2007 meeting. Staff is requesting this Ordinance be tabled indefinitely.

Karl Craven, Planning and Development Director, stated this Ordinance and Ordinance No. 07-23, 07-25 and 07-26 confirms Council's desire to acquire the five remaining permanent easements needed to construct and maintain the proposed Central College Sanitary Sewer Improvements. The Ordinances establish the fair market value of the easements to be acquired. Passages authorize the City Manager and Law Director to

commence eminent domain proceedings if the easements cannot be acquired through a negotiated contract of sale and purchase.

Mr. Heyeck stated the city needs to get the sewer work completed and the lift station should be maintained by the city.

Mr. Highfield stated he would like to see the project started and asked if these properties could be bypassed.

Discussion was held on the location of the lift station on the subject properties

Mrs. Gonzales moved, Mayor Fosselman seconded to table Ordinance No. 07-22 indefinitely.

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

Nays: Mr. Heyeck, Chairman Wetterauer

The motion carried.

c) ***ORDINANCE NO. 07-23, "To Appropriate Permanent and Temporary Sanitary Sewer Easements on Property Owned by Diane C. Brown, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the third time.

This Ordinance was previously postponed from the September 4, 2007 meeting. Staff is requesting this Ordinance be tabled indefinitely.

Mrs. Gonzales moved, Mayor Fosselman seconded to table Ordinance No. 07-23 indefinitely.

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

Nays: Mr. Heyeck, Chairman Wetterauer

The motion carried.

d) ***ORDINANCE NO. 07-25, "To Appropriate Permanent and Temporary Sanitary Sewer Easements on Property Owned by Etta K. Moor, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the third time.

Mr. Craven stated he had no additional information to share.

Mr. Heyeck stated fundamentally, there is a sewer pipe to nowhere and had a problem with what Council just did. Mr. Heyeck stated if the public needs something, the city needs to do it.

Mr. Treneff expressed his concerns with eminent domain taking.

Mrs. Gonzales stated she felt there wasn't a clear understanding of what the city is doing now developmentally on both of the pieces of property and asked Mr. Craven to take a look at extending the gravity sewer south of the Cirola property.

Chairman Wetterauer stated this sewer serves at least four or five residents who, in good faith, entered into negotiations, granted the easements with the understanding they are going to have a sewer. Chairman Wetterauer stated the city has the obligation to provide sewer service to the residents.

Mayor Fosselman moved, Mrs. Gonzales seconded to table indefinitely Ordinance No. 07-25.

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

Nays: Mr. Highfield, Mr. Heyeck, Mrs. Cocuzzi, Chairman Wetterauer

The motion failed.

Mayor Fosselman moved, Mr. Heyeck seconded for the adoption of Ordinance No. 07-25.

Yeas: Mr. Highfield, Mr. Heyeck, Mrs. Cocuzzi, Chairman Wetterauer

Nays: Mr. Treneff, Mrs. Gonzales, Mayor Fosselman

The motion carried. Ordinance No. 07-25 was adopted.

e) ***ORDINANCE NO. 07-26, "To Appropriate Permanent and Temporary Sanitary Sewer Easements on Property, Owned by Paul and Maria Anna Cioli, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the third time.

See report under Ordinance No. 07-22.

Mr. Heyeck moved, Mrs. Cocuzzi seconded for the adoption of Ordinance No. 07-26.

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

Nays: Mr. Treneff, Mrs. Gonzales

The motion carried. Ordinance No. 07-26 was adopted.

f) ***ORDINANCE NO. 07-29, "To Vacate a Portion of a Watercourse Easement, of Record in Plat Book 61, Page 4, Recorder's Office, Franklin County, Ohio, on Lot 79 (323 Mainsail Drive) in McDot Farms Section 11, Phase 2b"*** was read for the third time.

Karl Craven, Planning and Development Director, stated the owners of the property at 323 Mainsail Drive (Lot 79 in McDot Farms Section 11 Phase 2b), submitted a building permit application for an addition to their existing house. During the review of the permit, staff noted that the lot in question was encumbered by the watercourse easement for Spring Run and that the addition encroached into the easement. Staff alerted the applicants to the problem and encouraged them to revise the plans to avoid the easement, but they were steadfast in their commitment to the proposed configuration. The only real option for dealing with the conflict is to vacate a portion of the watercourse easement. Discussions among staff suggest that when the easement was created it was done conservatively to guarantee that the easement was large enough to contain the floodplain and potential flooding area. This information, coupled with the owners' observations, the construction of the detention pond on County Line Road and a preliminary review of available contour information, suggest that a portion of the easement could be vacated to accommodate the owners' project without negatively impacting drainage up or downstream. Once analysis is complete on the part of the easement that will be vacated, staff will forward that information to Council for review.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 07-29.

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

Nays: None

The motion carried.

g) ***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 second time.

Public Hearing is set for October 2, 2007.

h) ***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 second time.

Public Hearing is set for October 2, 2007.

i) ***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 first time.

Mr. Winkel stated estimates for the purchase of fuel, oil and lubricants were based on last fall's prediction of gasoline costs approaching \$3.00 per gallon for 2007. The highest charge this year has been \$2.89 for gasoline and \$2.607 for diesel fuel. We are on pace to meet the prediction of 150,000 gallons of fuel for the year but the total cost is less.

j) ***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 first time. Mr. Heyeck abstained from discussion due to a conflict of interest.

Andy Boatright, Electric Utility Manager, stated the end of year projection of power supply expense indicates a shortfall in the 2007 budget. An estimated \$700,000 will be needed to cover power supply expenses for the remainder of the year. This shortfall can be accommodated through an intra-fund transfer from unused appropriations in the capital budget. Therefore, no new money will be needed from the Electric Enterprise fund.

k) ***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 first time. Mr. Heyeck abstained from discussion due to a conflict of interest.

Mr. Boatright stated this legislation enables the City of Westerville's share participation in the American Municipal Power Generating Station (AMPGS). The AMPGS project is a proposed 1,000 MV pulverized coal generating station and grid-interconnecting transmission facilities located in Meigs County in southeastern Ohio on the Ohio River. The pros and cons of the project have been vetted through numerous studies and meetings with AMP-Ohio and the Westerville power supply team. The agreement provides an out provision in March 2008, which is subsequent to the anticipated interim feasibility study that will provide further refinement of project costs. The out provision is only available if the enabling legislation is in effect and power sales contact executed by November 1, 2007. The legislation contemplates capacity share participation for the City of Westerville up to twenty-five (25) MW. Participation in the project would involve executing a fifty (50) year take or pay agreement with AMP-Ohio committing Westerville to pay for its share of the generating station whether or not power from the project is actually produced and delivered.

Mr. Treneff addressed several questions regarding Ordinance No. 07-36.

Chairman Wetterauer expressed his concerns with the purchasing of power on the spot market for the next five years. Mr. Boatright stated this item will be addressed in the budget hearing process.

1) ***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 first time.

Mr. Craven stated this Ordinance will vacate the 20-foot wide sewer easement and partially vacate the 10-foot wide waterline easement previously granted by St. Paul's Catholic Church. The proposed improvements to St. Paul's school and church will be in conflict with the existing sanitary sewer and a portion of the existing waterline. As a result, these utilities will be altered as part of the renovations and expansions to St. Paul's. St. Paul's Church has granted new easements for the replacement utility lines. Therefore, these easements for the abandoned lines are no longer required and should be vacated.

Mr. Heyeck requested staff to investigate a previous sanitary sewer easement.

11. PURCHASE ROAD SALT FROM AMERICAN ROCK SALT CO., LLC., THROUGH COOPERATIVE BID NO. 07-6817-08 SOUTHWEST OHIO PURCHASERS FOR GOVERNMENT (SWOP4G).

Adam Maxwell, Risk and Procurement Coordinator, stated SWOP4G opened bids on August 23, 2007 for the road salt for the 2007-2008 winter season. Prices were received from four bidders based upon the City of Westerville's estimated requirement of 4,000 tons. Staff recommends that the contract be awarded to American Rock Salt Co., LLC. Based on the SWOP4G cooperative bid in the amount of \$46.26 price per ton – no piler and \$48.76 price per ton – with piler.

Mayor Fosselman moved, Mrs. Gonzales seconded to purchase road salt from American Rock Salt Co., LLC. through Cooperative Bid No. 07-6817-08 Southwest Ohio Purchasers for Government (SWOP4G).

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 PURCHASE A 2001 OSAGE AMBULANCE FROM THE HOWLAND (OHIO) FIRE DEPARTMENT AND WAIVE COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.

Bernie Ingles, Fire Chief, stated the 2008 budget plan calls for the purchase of an additional EMS vehicle (squad) to assist in responding to and transporting patients requesting EMS service. The Division of Fire is requesting the purchase of one (1) used 2001 Osage ambulance from the Howland Township Fire Department to be used in implementing a third EMS vehicle in the division. The cost to purchase this vehicle is \$35,000. This is considerably less than the \$120,000 in the 2008 budget request. This represents a variance to the Fire Division's capital outlay for 2007. However, due to a reduction in the number of computers scheduled for replacement in 2007, a balance of \$36,142.78 exists to be used to purchase the medic in 2007. Should this purchase be approved, the original 2008 budget request of \$120,000 for the purchase of a new vehicle will be postponed until 2010.

Mr. Treneff moved, Mrs. Gonzales seconded to authorize and direct the City Manager to purchase a 2001 Osage Ambulance from the Howland (Ohio) Fire Department and Waive Competitive Bidding and Notice Requirements.

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

Nays: None

The motion carried.

ADDITIONAL BUSINESS

None.

12. COUNCIL COMMENTS

Mrs. Cocuzzi complimented the Public Service Department for the Hazard Waste Collection. Mrs. Cocuzzi reminded everyone of the upcoming Boards and Commission Recognition event on September 25, 2007. Mrs. Cocuzzi stated WARM is holding a fundraising benefit at the Max and Erma's Polaris location on September 20, 2007. Mrs. Cocuzzi stated the Central College sanitary sewer project was a difficult decision and the concerns are with the property owners.

Mrs. Gonzales requested additional information on the ash tree situation in the city. Mrs. Gonzales thanked Gabrielle for sending her a DVD entitled "Terror Storm" to be shared with Council. Mrs. Gonzales invited everyone to attend an Open House at the Hanby House on October 7, 2007 at 2:00 p.m. Mrs. Gonzales thanked Police Officer Randy Bailey for the wonderful presentation on Simulated Impaired Driving Experience. Mrs. Gonzales reminded everyone of the drop off location for WARM donations located at the rear of their facility on E. Broadway St. Mrs. Gonzales thanked Westerville Sertoma Club and Park and Recreation Department for the Classic Car Show.

Mr. Highfield congratulated the Westerville Sertoma Club for the Classic Car Show. Mr. Highfield stated Coach Jerry Kelbley is a unique person and deserves the recognition.

Mr. Treneff requested the revenues and attendance information for Highlands Pool. Mr. Treneff requested information and traffic history for the speed bumps located in Autumn Woods subdivision.

Mayor Fosselman asked staff to check on the feedback in Council's microphones. Mayor Fosselman stated the Annual Doggy Paddle will be held at Highlands Pool from 2:00 p.m. to 5:00 p.m. at Highlands Pool which benefits the Bark Park. Mayor Fosselman stated the Third Annual Westerville Fall Festival is scheduled this Saturday in Alum Creek Park. Mayor Fosselman congratulated the Parks and Recreation Department for being a finalist for the NPRA Gold Medal.

Mr. Heyeck stated the Parks and Recreation Department already has Gold Medal status. Mr. Heyeck thanked the Westerville Sertoma Club for their great service to the city and enjoys the service they provide. Mr. Heyeck commented on the traffic control at the Hazard Waste Collection held recently. Mr. Heyeck stated he appreciated the memo Mr. Bailey regarding campaign contributions.

Chairman Wetterauer requested staff for an update on code enforcement. Chairman Wetterauer requested Planning Commission and staff be encouraged when a developer comes into town to see how well they maintain properties they own in other parts of the city. Chairman Wetterauer stated how happy he is to be part of this Council no matter of the disagreements on issues and felt Council did a wonderful job debating the issue and voting what they thought was right.

13. ADJOURNMENT.

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

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

Nays: None

The motion carried.

The meeting adjourned at 9:01 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council