

**MINUTES**  
**REGULAR SESSION**  
**WESTERVILLE CITY COUNCIL**  
*Council Chambers, February 7, 2006, 7:00 p.m.*

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session February 7, 2006 with Council Members, Craig Treneff, Damon Wetterauer, Jr., William Highfield, Michael Heyeck, Kathy Cocuzzi, Anne Gonzales, Diane Fosselman, City Manager G. David Lindimore and Staff and Law Director Bruce E. Bailey present.

3. **INVOCATION**

The invocation was given by retired Presbyterian Pastor Dan Mortinger.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes for the January 17, 2006 Regular Meeting and January 31, 2006 Work Session were presented for approval.

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

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

Nays: None

Abstained: Mr. Heyeck on January 31, 2006 Meeting Minutes

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave an update on Capital Improvements Projects:

- Broadway Avenue Improvements – The West Broadway sanitary sewer replacement is complete. Storm sewer improvements are underway. The roadway and restoration will be completed in March.
- Old Westerville Trunk Sewer Improvements – The replacement of the Old Westerville sewer line is underway and is scheduled to be completed by March. Knox Street, between Walnut and Bishop, is closed to through traffic with access maintained for local residents.

Mr. Lindimore discussed the TEL tax limitation proposal and staff is identifying the group who could present the information to City Council at a future Work Session. Discussion was held on who should present the information to Council. Mr. Lindimore also discussed the Residency Bill signed by Governor Taft recently. Mr. Bailey is in the process of putting together information with a recommendation to City Council as to any action Council might take or to wait and see future legal challenges.

Mr. Highfield asked if Knox Street was closed for storage of equipment. Mr. Craven stated Knox Street is being used for storage of drainage pipes.

7. **MAYOR'S REPORT**

Mayor Fosselman congratulated Westerville resident Jeri Price who received a belated varsity letter for field hockey and track from the Ohio State University.

Mayor Fosselman recognized the Mindstorm Troopers for winning the State Lego League State Championship Director's Award and wished them well as a representative of the State of Ohio at the World Festival competition in April.

Mayor Fosselman issued a Proclamation to Cub Pack Troop #966 for Blue and Gold Day on February 18, 2006.

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

Mr. Treneff stated the Planning Commission held a meeting on January 25, 2006.

Public Hearings:

- PC 2004-038; Preliminary Development Plan and Text for a mixed use development (Office/Retail/Residential) on 99.723 acres in the PD, Planned Development District; located east of Olde Worthington Road and north and south of Polaris Parkway; Applicant: N.P. Limited Partnership. (Postponed to March)
- PC 2004-017; Preliminary Development Plan and Text for an office park development (Altair East) on 30.2 acres in the PD, Planned Development District; located east of Africa Road approximately 1600 feet south of Polaris Parkway; Applicant: North Westerville, LTD. (Postponed to February)
- PC 2005-039; Site Plan Review and Conditional Use Permit for a new City of Westerville utility substation on 7.8± acres in the RR, Rural Residential District at 547 Executive Campus Drive; Applicant: GPD Associates (for City of Westerville). (Postponed to August)
- PC 2006-001; Conditional Use Permit and Final Development Plan for a 37-unit senior housing condominium development on 3.354 acres in the PND, Planned Neighborhood Development District; located at 715 North State Street; Applicant: Shumate Development Corporation. (Minor Modification; Approved 7-0)
- PC 2006-003; Conditional Use Permit and Site Plan Review for a commercial center on 0.28 acres in the CC, Community Commercial District; located at 465 South State Street; Applicant: Jeff McInturf. (Postponed to February)
- PC 2006-004; Modification of a previously approved Conditional Use Permit and Site Plan (PC 2005-019) to allow the conversion of an existing service/gas center to a convenience/gas center in the UD, Uptown District; located at 150 South State Street; Applicant: Scott E. Bope, Inc. (Approved 7-0)

Subdivision Reviews:

- PC 2005-041; Final Development Plan for 91,640 square foot of retail space (74,902 square feet for outlot) on 16.8± acres in the PD, Planned Development District; located on the northwest corner of Africa Road and Polaris Parkway (formerly Henderson property); Applicant: CRI Polaris Village LP (Charles Fraas). (Postponed to February)
- PC 2006-002; Modification of a previously approved site plan (PC 2004-045) for a 26,880 square foot office/warehouse building on 2.74 acres in the I, Industrial District; located at 374 Westdale Avenue; Applicant: Drew Berlin. (Approved 7-0)

Miscellaneous:

- Discussion allowing personal service establishments (e.g. beauty salons, barber shops, nail boutiques, etc.) in the PO, Planned Office District, and O/I, Office/Institutional District; Applicant: Doug Williams.

Mr. Treneff stated the next Planning Commission meeting will be held on February 22, 2006.

**9. CITIZENS COMMENTS**

David Weaver, 66 E. Broadway Street, discussed the celebration of Martin Luther King, Jr. Day in January and the passing of Coretta Scott King. Mr. Weaver stated there are churches being burned in the south and asked what City Council is going to do. Mr. Weaver discussed the civil war and the civil rights movement led by Dr. King in the 1960's. Mr. Weaver stated he wrote City Council a letter on these issues but did not

receive any response. Mr. Weaver stated he hopes Council will act on one or more of his alternatives listed in his letter dated January 24, 2006. Mr. Weaver stated he gave Council some specific things to do to clean the honor of Westerville in a positive manner in the year 2006 in the area of civil rights.

10. **LEGISLATION**

a) ***ORDINANCE NO. 97-54, "To Amend Part Eleven of the Codified Ordinances and the Zoning Map of the City of Westerville, Rezoning a 100.00 Acre Tract of Land, from Office Institutional District (OI), Planned Industrial District (PID), and Multi-Family District (R-4), to Planned Office District (PO), Owned by Kirk and Ackley Enterprises, Inc., located at Cooper Road and Cleveland Avenue"*** was read for the third time.

Mr. Bailey stated the owners of the property located at Cooper Road and Cleveland Avenue have agreed to a Development Agreement with the city. This agreement specifies the property will not be developed until it is rezoned and a development plan is approved.

Mr. Heyeck moved, Mrs. Gonzales seconded to authorize and direct the City Manager to enter into a development agreement with RSTLNE, LLC, an Ohio limited liability company.

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

Nays: None

The motion carried.

Mayor Fosselman moved, Mrs. Gonzales seconded to table Ordinance No. 97-54 indefinitely.

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

Nays: None

The motion carried.

b) ***ORDINANCE NO. 06-01, "To Grant Consent to the Assignment of a Cable Franchise Agreement from Wide Open West Ohio, LLC to Racecar Acquisition, LLC"*** was read for the first time.

Mr. Bailey stated Wide Open West is requesting the City's consent to transfer its franchise agreement with the city to another company. In 2001, the City passed Ordinance No. 01-57 consenting to a similar transfer from Americast to Wide Open West. According to the current franchise agreement, such a transfer requires the approval of the City Council.

Mrs. Gonzales asked Finance Director Jack Winkel if an audit of the franchise fees collected has been conducted. Mrs. Gonzales requested copies of the certified audit records from the Finance Department.

c) ***ORDINANCE NO. 06-02, "To Change the Street Name of a Portion of Hanawalt Road to County Line Road West"*** was read for the first time.

Karl Craven, Planning and Development Director, stated this Ordinance would change the name of Hanawalt Road between the Worthington Road on the west and Alum Creek on the east to County Line Road West. A petition from the office development at the southeast corner of Worthington and Hanawalt Roads requesting the name change has been received. A letter has been sent to all affected landowners. Staff has received numerous responses from those Orange Township property owners fronting along the north side of Hanawalt opposing the street name change.

Chairman Wetterauer set the Public Hearing for this Ordinance on March 7, 2006.

Mrs. Gonzales requested copies of the comments received from landowners.

Mr. Heyeck requested historical information on the naming of Hanawalt Road.

d) ***ORDINANCE NO. 06-03, "To Appropriate Funds Donated to the Westerville Senior Center by Alice Bendel"*** was read for the first time.

Jody Stowers, Parks and Recreation Department Director, stated the Alice Bendel estate donated \$10,000 to the Senior Center. Staff is requesting City Council appropriate the \$10,000 to the Senior Center account from the donation received. The Senior Center is looking into the purchase of a piece of artwork that can be publicly displayed and to purchase some much needed unbudgeted cabinets in the Senior Center building.

Mrs. Gonzales moved, Mr. Heyeck to suspend the rules for the required three readings of this Ordinance.

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

Nays: None

The motion carried.

Mrs. Gonzales moved, Mr. Heyeck seconded for the adoption of Ordinance No. 06-03.

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

Nays: None

The motion carried.

e) ***ORDINANCE NO. 06-04, "To Acknowledge Donations and to Provide for the Appropriation of Funds for the Costs of Construction and Related Services for the Otterbein Lake Phase I Improvements"*** was read for the first time.

Mike Hooper, Parks Development Coordinator, stated this Ordinance will acknowledge donations, and appropriate funds for the costs of construction and related services for the development of Phase I of Otterbein Lake and the authorization to bid the project. No additional city funds will be necessary. Project cost for Phase I of the project is \$136,000.

Chairman Wetterauer asked if it would be better to have a stand alone foundation instead of running the funds through the Parks Foundation. Mr. Bailey stated no because of time, money and effort to set up foundations. It's easier to segregate funds within a foundation than set up new foundations.

**11. *APPEAL OF PLANNING COMMISSION'S DECISION IN CASE NO. 2005-036 (90 NORTH STATE STREET).***

Chairman Wetterauer declared the appeal hearing open. Mrs. Johnston administered the oath to those in attendance who wished to speak during the hearing.

Bassem Bitar, Planner, reviewed the site plan modification application. This application was first presented to Planning Commission in October and reviewed again in December. The site is located near the northern

limits of the Uptown District. The site is currently developed with a single family residence and a two car garage. The applicants would like to convert the house into a small office which is a permitted use in the mixed use Uptown District. However, while the use is permitted, such conversion requires the site to meet the development standards for an office use, specifically access and parking. Given the small size of the lot and its proximity to the adjacent properties, landscaping and screening also require scrutiny. Based on the size of the building, eight parking spaces are required for an office use. Based on input from several Planning Commission members, the plan has now been revised to eliminate the garage. This would allow for seven parking spaces (including a handicap one). Another revision that has occurred is that the location of the proposed handicap ramp has changed to the rear of the building. As such, the driveway can now be widened to 20 feet as required by code. The separation between the building and pavement would still be less than the required ten feet. The applicants and staff have also made contact with the owner of the adjacent property to the north to explore the possibility of securing an easement to gain access off of Lincoln Street. That property owner has indicated that they would like to continue to use their property for rental residential purposes and that they would not like to have a commercial drive cutting across their rear yard at this time. The applicant's new site plan would allow for the possibility of extending the parking and a drive across the rear of the adjacent property in the future by eliminating the two spaces on the north end of the parking lot. Mr. Bitar stated that staff recommends that the landscape plan be finalized to the satisfaction of staff, that the fence be extended along the south side of the parking lot and the parking lot and associated storm water drainage be constructed to the satisfaction of the City Engineer. Some of the issues expressed by Planning Commission was access to and from the driveway and traffic concerns. Planning Commission voted 3-3 at the December 19, 2006 meeting and therefore, the application request was denied leading to this appeal.

Speaking in favor:

Gary Alexander, architect for the applicants, discussed a few of the technical issues. First of all, according to the city's zoning code for an office structure, there are two issues that this proposed improvement is not in compliance. And one of those is questionable if you evaluate it from the building code and that is the parking count. The parking count is based on a ratio of one space for 300 square feet of gross square feet. The proposed house gross square footage is just over 2100 square feet so it is a fractional 7.1 parking space required. However, when you look at the house from what the building code calls occupiable useable space, it's less than the 2, 100 square feet. Per the building code, they can only use less than 2,100 square feet for occupancy so they can only have slightly less than seven occupants. So the applicant is meeting the parking requirement at least per the building code requirements. The only other issue that the applicant is not in compliance with is the green space between pavement and the building. They have tried, where they can, to provide green space but particularly in the back where the handicap ramp which is an improvement to the building, it's very difficult to do that. The applicant believes the staff's goal of having shared parking is very important and they commend that. However, the France's have talked to the owner of the adjacent property and the owner is showing no interest in sharing parking. So the applicant redesigned the lot to permit future expansion of the lot onto the adjacent property with a drive to Lincoln Street. Mr. Alexander stated the applicant is really improving the building by paving the lot and including storm water management. Currently, if there is a second car in the drive, you have to back out onto State Street depending on where that car is located. The egress is wide enough so that every vehicle can come straight out onto State Street. The building will be ADA accessible. There will be improvements inside the house. The applicant believes they are improving the building, the environment and believe it will contribute positively to the Uptown District.

Jaime France, owner and applicant, stated she spoke to different residents in Westerville and they agree that the improvements they will make to the property would be a good form of use. Mrs. Frances stated she also spoke to past owners of the property and looked into the history of the property and it has been used for office use. The building behind the property is a stone building that serves as a storage building. Mrs. France stated a nearby property has been converted to an eye doctor's office and the house directly across the street and over one had been converted to an accounting firm.

Speaking in Opposition:

None

Chairman Wetterauer declared the Public Hearing closed.

Mrs. Gonzales stated she has concerns with the tightness of the site and feels it is being forced. Mrs. Gonzales stated even though the ingress and egress is being met what happens when traffic backs up in the driveway. Mrs. Gonzales stated she felt this improvement does not contribute to the residential area and would like to see Uptown remain vibrant in its residential character. Mrs. Gonzales stated she doesn't see losing green space and installing a parking lot as an improvement. Mrs. Gonzales stated she has concerns with the adjacent neighbor and their concerns with the improvements. Mrs. Gonzales stated she cannot support this at this time.

Mr. Heyeck stated he felt the city should hold folks accountable to what the northern property should or shouldn't do. Mr. Heyeck stated he liked the provision if the northern property does change over. Mr. Heyeck stated he is very familiar with the area because his eye doctor is on the corner. Mr. Heyeck stated this site is surrounded by businesses. Mr. Heyeck stated he likes the opportunity they are providing with respect to improving State Street. Mr. Heyeck stated he doesn't think the concerns are valid with respect to an Uptown District as a mixed use district and he believes this is an Uptown District residential property. Mr. Heyeck stated the concerns raised by staff are valid in his mind.

Mr. Heyeck moved, Mrs. Cocuzzi seconded to reverse the appeal of Planning Commission's decision in PC 2005-036 (90 North State Street) and if that reversal is acceptable it would be to the conditions specified by staff.

Yeas: Mrs. Cocuzzi, Mr. Heyeck

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

The motion failed. The Planning Commission decision stands.

**12. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A FIRST ADDENDUM TO THE DEVELOPMENT AND INCENTIVE AGREEMENT WITH CONTINENTAL/NRI OFFICE VENTURES, LTD FOR THE PROPERTY AT 955 COUNTY LINE ROAD WEST.**

Julie Colley, Economic Development Coordinator, stated Nationwide Mutual Insurance has selected the 955 County Line Road West building, owned by Continental/NRI Office Ventures, as the location in which to consolidate its claims operations. Initially, the company proposes to relocate 53 positions from its Gahanna operations, 71 positions from its Dublin facility, and transfer approximately 5 employees currently working from home. These employees will have an average salary of \$50,000, resulting in annual estimated payroll of nearly \$6.5 million or \$81,250 in employee withholding. Over the next five years, Nationwide Mutual Insurance will hire an additional 64 employees. In lieu of a direct incentive to the company, the administration seeks Council's approval to reduce the PILOT payment in years 1 through 5 from 35% to 15%, resulting in a net abatement of 85% for the first five years and a savings to the property owner of approximately \$84,111.

Mrs. Gonzales moved, Mayor Fosselman seconded to authorize and direct the City Manager to enter into a first addendum to the Development and Incentive Agreement with Continental/NRI Office Ventures, LTD for the property at 955 County Line Road West.

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

Nays: None

The motion carried.

**13. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A COMPENSATION AGREEMENT AMENDMENT WITH THE WESTERVILLE CITY SCHOOL DISTRICT WITH REGARD TO THE EXPANSION OF THE NORTHRIDGE TAX INCREMENT FINANCING DISTRICT.**

Mrs. Colley stated on December 6, 2005, City Council passed Ordinance No. 05-50 to amend the boundaries of the Northridge Crossing Tax Increment Financing District to include the office and retail portion of the site known as the Henderson Tract. As required, the administration is now seeking authorization to execute the Compensation Agreement Amendment between the city and Westerville City School District. The amendment simply seeks to include the map and description of the additional property and to update the list of public infrastructure improvements to include projects in the immediate vicinity of the additional property.

Mrs. Gonzales moved, Mr. Treneff seconded to authorize and direct the City Manager to enter into a compensation agreement amendment with the Westerville City School District with regard to the expansion of the Northridge Tax Increment Financing District.

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

Nays: None

The motion carried.

**14. APPOINTMENT TO THE SHADE TREE COMMISSION.**

Mr. Heyeck read the following names into nomination to fill one vacancy with a unexpired term to expire December 31, 2006: Derick Stadge, Ronald Kudich and Alan Vestal.

Mr. Heyeck moved, Mayor Fosselman seconded that all nominations be closed. The motion carried

After ballots were cast and tabulated, Mrs. Johnston announced the following received the required number of votes for appointment to the Shade Tree Commission: Ronald Kudich with an unexpired term to expire December 31, 2006.

**15. ADDITIONAL BUSINESS**

None

**16. COUNCIL COMMENTS**

Chairman Wetterauer thanked Community Affairs Coordinator Scott McAfee for his hard work with the Martin Luther King Jr. Community Breakfast held in January.

Mr. Treneff encouraged residents to contact the Finance Department for additional information in regards to proposed capital improvement projects. Mr. Treneff welcomed the Otterbein College Journalism Class.

Mrs. Gonzales asked if a webcam could be installed at the Sports Complex so residents can observe the eagles nest. Mrs. Gonzales asked if the Tradewinds Condominiums were going Section 8. Mrs. Gonzales wished the Mindstorm Troopers good luck in April at the national competition. Mrs. Gonzales reminded the

residents the South State Street Study is on the city's website. Mrs. Gonzales wished her daughter Lois a Happy Birthday.

Mayor Fosselman informed the community the Red Cross has a Blood Drive on the first Wednesday of every month at the Community Center from 1:00 p.m. to 7:00 p.m. Mayor Fosselman stated a Adopt a Dog takes places on the last Sunday of each month from 2:00 p.m. to 4:00 p.m. at the Dog Park. Mayor Fosselman stated Fit Quest was very successful in 2005 and the Parks Department has kicked off Fit Quest for 2006. Mayor Fosselman stated the first Fit Quest Challenge will be February 20, 2006 from 12:00 p.m. to 9:00 p.m. at the Community Center.

Mr. Heyeck recognized former Council Member Mary Lou Prouty who was in the audience. Mr. Heyeck requested the board and commission applications contain information regarding meeting schedules and if the applicant is a registered voter.

Mrs. Cocuzzi congratulated Ronald Kudich on his appointment to the Shade Tree Commission. Mrs. Cocuzzi stated she had an opportunity to tour the new fire rescue vehicle that is currently being outfitted. Mrs. Cocuzzi congratulated Geri Price who received her belated varsity letter from Ohio State University. Mrs. Cocuzzi sent her thoughts and prayers to the Jake Spann's family and to the Van Hoefle family and asked everyone to keep them in their thoughts and prayers. Marine Spann was killed in Iraq recently.

Mr. Highfield stated he felt Council should be careful who talks on the property tax limitation issue. Mr. Highfield apologized to the Gebert family for not attending the robotics event. Mr. Highfield stated he hesitated on his vote for Parks and Recreations use of the donated money because he would like to know how the \$10,000 is going to be spent. Mr. Highfield explained his no vote on the appeal at 90 N. State Street. Mr. Highfield wished his wife a Happy 36<sup>th</sup> Anniversary.

17. **ADJOURNMENT**

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

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

Nays: None

The motion carried.

The meeting adjourned at 8:26 p.m.

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Mary J. Johnston, MMC  
Clerk of Council

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Damon E. Wetterauer, Jr.  
Chair of Council



