

MINUTES
REGULAR SESSION
WESTERVILLE CITY COUNCIL
Council Chambers, September 5, 2006, 7:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session September 5, 2006 with Council Members, Damon Wetterauer, Jr., Craig Treneff, William Highfield, Kathy Cocuzzi, Anne Gonzales, Diane Fosselman, City Manager G. David Lindimore and Staff and Law Director Bruce E. Bailey present. Michael Heyeck was excused.

3. **INVOCATION**

The invocation was given by Interim Minister Dan Mortinger of Westminster Presbyterian Church.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the July 5, 2006 Regular Meeting was presented for approval.

Mr. Highfield moved, Mayor Fosselman seconded to approve the Minutes as provided.

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

Nays: None

Abstained: Mrs. Gonzales

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave a Capital Improvement Update:

- Illinois Avenue – The installation of the water main is complete. Water services are now being installed. New curbs and resurfacing will follow. All work to be completed in November.
- Sioux Drive and Onedia Avenue – The installation of the water main has begun. A water line connector is also being installed through Walnut Ridge Park. All work to be completed in November.
- 2006 Sidewalk Replacement – Sidewalk replacement is 35% complete with work ongoing south of Huber Village Blvd. This program is scheduled for completion in October.
- Westerville Bikeway – The bikeway construction is 90% complete. The drive approach work at Cherri Park Square will be completed this week. Restoration of the project to follow. All work to be completed by the end of September.
- Maebelle Way Bridge – The replacement bridge beams and new sidewalks are in place. The asphalt overlay will be installed this week. The guardrails are scheduled to be installed next week at which time the bridge will be opened for traffic.
- Africa Road Improvements – The installation of underground utilities including electric, water line and storm sewers is ongoing. The new culvert is scheduled for delivery on September 25th. This project is scheduled for completion in December.
- Circuit 13 Pole Replacement – Pole replacement work is ongoing in Annehurst Village. This project is scheduled for completion by early 2007.

Fire Chief Bernie introduced Paris Smith-Higbie of the Westerville Professional Firefighters Local 3480 who gave an update on the MDA Fall the Boot Collections held Labor Day Weekend. Mr. Smith Higbie stated approximately \$15,700 was collected by the firefighters from Westerville citizens.

Fire Chief Bernie Ingles accepted a donation from Frank Heybig of the Northeast Shrine Club in the amount of \$9,200 for the purpose of purchasing an infusion pump and port infusion sets.

7. MAYOR'S REPORT

Mrs. Gonzales read a Proclamation for National Save a Life Month in September and presented the Proclamation to Fire Chief Bernie Ingles.

Mrs. Cocuzzi read a Proclamation for National Drug and Alcohol Recovery Month in September and presented the Proclamation to Mimi Sommer of Concord Counseling.

Mayor Fosselman read a Proclamation for Westerville Grandparents Day on September 17, 2006 and presented the Proclamation to Tim Theissen of the Westerville Senior Center and Richard and Thomasine Pruitt.

8. REPORT FROM THE PLANNING COMMISSION REPRESENTATIVE

Mr. Treneff stated the Planning Commission held a meeting on July 26, 2006.

Public Hearings:

- PC 2006-011A: 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 to August)
- PC 2006-012: Master Plan and Phase I Site Plan Review of the redevelopment of the 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 a conditional use permit for the 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. (Postponed indefinitely)
- PC 2006-018: Conditional Use Permit for the demolition of the residential building at 72 W. Main Street within the Olde Westerville Special Overlay District; located at 72 W. Main Street; Applicant: Otterbein College. (Approved 5-0)

Subdivision Reviews:

- PC 2006-016: Final Development Plan for a 115-unit mixed residential development on 27.445 acres in the PND, Planned Neighborhood District; located east of Sunbury Road and south of Central College Road; Applicant: Newbury Builders. (Postponed to August)
- PC 2006-019: Subdivision Review of a lot split within the RR, Rural Residential District creating a parcel with less than the required 3 acre area (1.9 acres); located at 752 Dempsey Road; Applicant: James and Alice Cameron. (Approved 5-0)

Miscellaneous:

- Presentation and discussion of Otterbein College's proposed use of its land on the east side of N. Spring Road, south of Maxtown Road for its equine science program.

Planning Commission held a meeting on Wednesday, August 23, 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 September)
- 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 1,600 feet south of Polaris Parkway; Applicant: North Westerville, LTD.) (Denied 0-7)
- PC 2006-011A: 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 to September)

- PC 2006-021: Rezoning of a 2.766 acre tract from RR, Rural Residential, to PO, Planned Office, and a Preliminary Development Plan and Text for an 11,000 square foot child care center and a two-story, 25,100 square foot office building at 600 North State Street; Applicant: Gene Milhoan, Milhoan Architects, LLC. (Approved 7-0)
- PC 2006-023: Rezoning of a 0.185 acre tract from R-2, Single-Family Residential, to CC, Community Commercial; a Conditional Use Permit and Site Plan Review to expand an existing car wash on .0985 acres in the CC, Community Commercial District, and a Subdivision Review of a lot split of a 0.405 acre tract within the R-2 Single-Family District creating two parcels that do not meet the required development standards of Chapter 1127 of the City of Westerville Zoning Code; located at 268 North State Street, Applicant: Jim Monsul. (Postponed to September)

Subdivision Review:

- PC 2006-016: Final Development Plan for a 115-unit mixed residential development on 27,445 acres in the PND, Planned Neighborhood District; located east of Sunbury Road and south of Central College Road; Applicant: Newbury Builders. (Postponed to September)
- PC 2006020: Subdivision Review of a lot split on a 1.086 acre parcel within the O/I, Office/Institutional District, creating two parcels that do not meet the required development standards of Chapter 1155 of the City of Westerville Zoning Code; located at 574 & 576 Charring Cross Drive, Applicant: Jeff Roby. (Approved 7-0)
- PC 2006-022: Final Development Plan Modification to accommodate an illuminated building sign in the PD, Planned Development District; located at 484 County Line Road West; Applicant: King's Management & Leasing, LLC. (Denied 0-7)

Miscellaneous: Acceptance of Planning Commission 2005 Annual Report.

The next meeting of Planning Commission will be held on Wednesday, October 27, 2006 at 6:30 p.m. in City Council Chambers, 21 South State Street.

9. CITIZENS COMMENTS

David Weaver, 66 E. Broadway Avenue, asked City Council to save the lives of the citizens of Westerville. Mr. Weaver stated there has been a lack of information presented to the citizens on a pandemic flu outbreak. Mr. Weaver felt the City is not prepared for these disasters and asked City Council what is being done. Mr. Weaver stated the public needs to be educated on the pandemic flu. Mr. Weaver suggested that information be placed on WOCC-TV Channel 3 and that the City provide essential supplies to residents prior to an epidemic.

Scott Hrabcak, 150 Barmont West, representative of River Trace Homeowners Association, expressed his concerns with the construction of a cell tower on 8271 Hanawalt Road located in Sharon Township. Mr. Hrabcak requested City Council to intervene with this construction. Mr. Hrabcak stated the visual impact of the cell tower is not consistent with the tree line scenic roadway, Alum Creek Waterway and nearby bikeways. Mr. Hrabcak stated he is concerned with the negative impact this will have on the nearby residential areas and on the community. Mr. Hrabcak stated the residents have concerns with possible health hazards with the nearby cell tower. Mr. Hrabcak is asking for support and direction because this could impact resident's property values and the health and safety of residents.

Phil Spiegel, 576 River Trace, stated he is the property owner adjacent to the cell tower and would be uncomfortable with its presence. Mr. Spiegel stated the Franklin County Zoning Code should include notification of proposed cell towers to residents affected by the construction along with zoning requirements pertaining to park and waterway areas. Mr. Spiegel stated he hopes a good resolution is made that benefits the River Trace neighborhood and all of Westerville.

Michelle Johnson, 349 Windcroft, stated the residents in the Overlook development share many of the concerns and questions that the residents in River Trace have expressed. The Overlook residents do request City Council's immediate assistance in getting the cell tower moved to a different location and appreciates the assistance provided by the city thus far.

10. LEGISLATION

a) ***RESOLUTION NO. 06-11, "A Resolution to Accept the Reports of the Westerville Tax Incentive Review Councils (TIRC) on the Status of the Tax Increment Finance and Tax Incentive Programs for Year 2005 and to Accept the Recommendations of the Tax Incentive Review Councils to Continue the Programs"..***

Julie Colley, Economic Development Coordinator, stated as required by the Ohio Department of Development, local Tax Incentive Review Councils must review all incentives within designated TIF and CRA districts by September 1st of each year. Westerville has three TIRC's who met on the following dates: Westerville/Delaware County/Olentangy Local School District on August 24, 2006; Westerville Delaware County/Westerville City School District on August 24, 2006; and Westerville/Franklin County/Westerville City School District on August 18, 2006. The TIRCS recommends the continuation of the incentives for another year. With the exception of two CRA companies, the TIRCs found the companies to be in compliance with the requirements of the agreements. With regard to the two in non-compliance, the respective TIRC found extenuating circumstances and recommends continuation at this time.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Resolution No. 06-11.

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

Nays: None

The motion carried.

b) ***RESOLUTION NO. 06-12, "A Resolution to Petition the County Commissioners of Delaware County, Ohio, for a change in Boundary Lines of Orange Township so as to make them identical with the Corporate Limits of the City of Westerville and to Authorize the City Manager to Execute an Annexation Agreement with Orange Township"***.

Mr. Bailey stated this Resolution will end a double-taxation situation faced by several residents recently annexed into the City from Orange Township. Previously the City annexed 8.876 acres located along Hanawalt Road in 2005. The annexed properties would be taxed by both the City and Orange Township by using an expedient method to annex the properties. By entering into an annexation agreement with Orange Township and petitioning the County Commissioners, the City can conform its corporate boundaries to Orange Township and bring these properties into the City which will end double taxation to the property owners. Orange Township has been very cooperative in this matter. The Law Department reviewed the annexation agreement and approved its contents.

Mrs. Gonzales moved, Mrs. Cocuzzi seconded for the adoption of Resolution No. 06-12.

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

Nays: None

The motion carried.

c) ***ORDINANCE NO. 06-31, "To Approve a Development Standards Text and Preliminary Development Plan for a 1.005 acre Tract of Land Owned by David J. Young, Trustee, in the Planned Development***

District, located at 395 North West Avenue” was read for the first time. Public Hearing was set for October 3, 2006.

Rich Kight, Planning Administration, stated this is for a preliminary development plan for an office use at the southwest corner of North West Street and County Line Road West. The parcel is roughly one acre and the applicant is proposing to construct a 10,768 square-foot, two story office building. The current use is a single family dwelling that is being rented for residential purposes. The site plan show access on both County Line Road West and North West Street, however, the development text does not reference the County Line curb cut. At the time of approval for the adjacent Romanelli development, a cross access easement was established at the southwest corner of this site in order to open up through access to the subject site. The submitted site plan shows this to be closed off and blocked by a dumpster. The applicant has conveyed his concern over the increase of through traffic on the site. Staff does not feel that this will prove to be an issue due to the low volumes associated with the adjacent use. It is currently possible for traffic to cut through the Dasco site to West Street and there is no evidence that such traffic is an issue. It is staff preference that this easement be utilized. Staff’s recommendation to the Planning Commission was to turn down the application due to a curb cut on County Line Road West and unused access easement. Planning Commission made a motion to approve the application with the condition that there would be no access on County Line Road West, but did not require the applicant to utilize the easement. Although the applicant has removed the curb cut from County Line Road West, staff would urge the applicant to utilize the cross access easement agreement with the neighboring property to the west.

Mrs. Gonzales requested additional information on the number of signs proposed on the site, the type of materials used for the sidewalks and who will maintain them, and would like the applicant to utilize the cross access easement. Mrs. Gonzales requested information on emergency vehicle access if the cross access easement is not used.

Mr. Treneff stated he agrees with the use of the cross access easement.

d) ORDINANCE NO. 06-32, “To Approve a Development Standards Text and Preliminary Development Plan for a 30.2 Acre Tract of Land Owned by Westerville North Ltd., in the Planned Development District, located on the east side of Africa Road approximately 1,600 feet south of Polaris Parkway” was read for the first time. Public Hearing was set for October 3, 2006.

Mr. Kight stated this application was first reviewed by Planning Commission in 2004 and that this site is certainly not without challenges. The site slopes from east to west with a ravine in the middle. It is also a heavily wooded site. While acknowledging these difficulties, staff is comfortable with the land use proposed which is office with a small multi-tenant commercial center at the southwest corner of the site. Staff’s concerns include tree replacement on the site, roadway access and architectural standards. Staff recommends approval of the application as proposed with the following conditions: 1. The applicant enters into an agreement to participate in the cost of construction of Westar Boulevard and the improvements necessary to the Africa Road and Westar Boulevard intersection. This agreement needs to be subject to the review and satisfaction of the City Law Department; 2. The private north/south access drive extending north from Westar Boulevard to the north property line of the site be built to public standards including all components of a public street; 3. The architectural building materials be amended to reflect masonry as the principal building material. Pitched, shingle roofs are required on any one-story structures. Vinyl or aluminum siding is not a permitted building material. Planning Commission agreed with staff’s conditions but several Commission members found issue with the density. The applicant did not agree to condition #2 and asked for the application to be voted on as presented, therefore, Planning Commission made the motion to approve the application and it failed with a 0-7 vote. Despite this vote, the applicant still wished to move forward to Council with the unchanged plan that was voted on by the Planning Commission.

Mr. Highfield moved, Mrs. Gonzales seconded to refer Ordinance No. 06-32 back to Planning Commission for further consideration and review.

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

Nays: None

The motion carried.

e) ***ORDINANCE NO. 06-33, "An Ordinance Providing for the Issuance and Sale of Notes in the Maximum Principal Amount of \$1,350,000, in Anticipation of the Issuance of Bonds for the Purpose of Paying the Costs of Improving the City's Municipal Electric System by Replacing and Installing Street Lighting, Conduit, and Underground Voltage Cables, Together with all Necessary Appurtenances Thereto, and Declaring an Emergency"*** was read for the first time.

Jack Winkel, Finance Director, stated this Ordinance proposes the re-issuance of the original \$1.35 million note issue in order to finance the aforementioned capital projects which have an estimated life or period of usefulness of at least twenty (20) years. Rather than financing these long-term assets with cash, it is recommended that current and future net revenues of the City's Electric System be allocated to meet debt service payments. The proposed bond anticipation note issue is at a "not to exceed" amount of \$1.350 million and would be issued as general obligation debt of the City of Westerville. This Ordinance provides that the will bear interest at a rate or rates not to exceed 6.00% per year and shall mature one (1) year from the date of issuance. Staff is requesting suspension of the rules requiring three readings and adoption of this Ordinance at this meeting.

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

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

Nays: None

The motion carried to suspend the rules.

Mayor Fosselman moved, Mrs. Gonzales seconded for the adoption of Ordinance No. 06-33.

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

Nays: None

The motion carried for the adoption of Ordinance No. 06-33.

f) ***ORDINANCE NO. 06-34, "An Ordinance Providing for the Issuance and Sale of Notes in the Maximum Principal Amount of \$6,575,000, in Anticipation of the Issuance of Bonds for the Purpose of Paying the Costs of Improving the City's Municipal Electric System by 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.

Mr. Winkel stated this Ordinance proposes the issuance of \$6.575 million note issue; in order to finance the attached capital projects which have an estimated life or period of usefulness of at least twenty (20) years. Rather than financing these long-term assets with cash, it is recommended that current and future net revenues of the City's Electric System be allocated to meet debt service payments. The proposed bond anticipation note issue is at a "not to exceed" amount and would be issued as general obligation debt of the City of Westerville. The Ordinance provides that the will bear interest at a rate or rates not to exceed 6.00% per year

and shall mature one year from the date of issuance. Staff is requesting suspension of the rules requiring three readings and adoption at this meeting.

Mr. Treneff moved, Mr. Highfield seconded for the suspension of the rules requiring three readings.

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

Nays: None

The motion carried for the suspension of the rules.

Mrs. Cocuzzi moved, Mr. Treneff seconded for the adoption of Ordinance No. 06-34.

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

Nays: None

The motion carried for the adoption of Ordinance No. 06-34.

g) ***ORDINANCE NO. 06-35, "To Amend Part Eleven of the Codified Ordinances and the Zoning Map of the City of Westerville, Rezoning a 2.766 acre Tract of Land Located at 600 North State Street 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 first time. Public Hearing was set for October 3, 2006.

Mr. Kight stated the applicant is requesting to rezone the properties to PO, Planned Office, which is consistent with the adjacent area. The State Street frontage would be developed with a single-story, 11,000 square foot daycare with fenced outdoor play area, while the rear of the lot would be developed with a two-story, 24,000 square foot spec office building. Access to the site could be derived from four different access points – two curb cuts on Office Parkway and two cuts on North State Street. Three are full access while the northern curb cut on North State Street is the existing right-in/right-out for Kemba Credit Union. The applicant indicates that brick will be the primary material used on the site. The applicant agreed to all of staff's conditions at the time of Planning Commission approval and has revised their site plan to reflect the changes. Staff is pleased with the changes and is in favor of the proposed uses on the site and feels that they are a good fit within North Westerville Office Park area, therefore, staff is recommending approval with the following condition: 1. That lighting, signage and architecture be complimentary to the surrounding area to the satisfaction of staff.

Mrs. Gonzales asked staff to provide the square footage of all surrounding buildings prior to Third Reading.

h) ***ORDINANCE NO. 06-36, "To Provide for the Supplemental Appropriation of Funds and the Transfer of Appropriations of Funds from the Electric Fund to Cover Expenses for the Substation #3 Project and Other Electric System Improvements"*** was read for the first time.

Andy Boatright, Electric Utility Manager, stated rising material costs and longer procurement lead-times have given rise to the need for this Ordinance. In summary, a supplemental appropriation in the amount of \$2,415,000 is required to cover the additional expenses for the Substation #3, 2006 Electrical Supplies account, 2006 Transformer account and Circuit 13 rebuild project for the remainder of 2006 is \$2,415,000.

Mr. Treneff asked staff to provide a breakdown of the costs and what the Electric Enterprise Fund Balance is going to look like projected in October if this approved and where that relates to the fiscal policy for that fund.

i) ***ORDINANCE NO. 06-37, "To Provide for the Transfer of Appropriations from the Swimming Pool for the Fiscal Year Ending December 31, 2006"*** was read for the first time.

Jody Stowers, Parks and Recreation Director, stated due to rising utility costs and this seasons aquatic personnel demands, staff is projecting the Highlands Pool year end appropriation total will be slightly under budget. Total amount being requested to transfer is \$30,384.

Chairman Wetterauer requested from staff a better breakdown as to where the shortages took place.

j) ***ORDINANCE NO. 06-38, "To Provide for the Transfer of Funds for the Purpose of Providing Additional Funding to Pay the Costs of Construction and Related Services for Municipal Building Emergency Generator Improvements"*** was read for the first time.

Adam Maxwell, Procurement Administrator, stated a \$3.25 million bond was issued in 2003 to provide for several improvements to City Hall, Police Division, Old Post Office and 64 E. Walnut Street facilities. Bids will be accepted this fall for replacement of emergency generator equipment at 64 E. Walnut Street, re-use of the Walnut Street generator at the Service Department and a replacement generator at City Hall. Currently, an approximate balance of \$230,000 exists from the bond issue. Engineer estimates for construction, contingency, equipment purchases and inspection are approximately \$255,000. Staff would like to re-direct and transfer existing, unused appropriation from the City Manager's Building and Grounds operations to make up the difference. As bids are received, staff will have precise figures for the amount of the transfer and will update for Council's third reading. Staff has applied for federal funding through the Assistance for Firefighters Grant with award announcements scheduled to occur in late September. If the city receives grant funding, this budget transfer request will be modified accordingly.

11. TO AWARD BASE BID AND ALTERNATE NO. 1 FOR THE TOWERS PARK IMPROVEMENTS RE-BID PROJECT TO GEORGE J. IGEL & CO., INC. AS THE LOWEST AND BEST BIDDER AND AUTHORIZE THE CITY MANAGER TO UTILIZE APPROPRIATED CAPITAL OVERLAY ACCOUNT BALANCES.

Ms. Stowers stated four bids were ultimately received at the bid opening on Thursday, August 24, 2006. Staff is recommending Council accept the base bid and the alternate from the lower bidder George J. Igel & Co., Inc. for a total of \$273,390.00 with a contingency amount of \$16,400.00 be added for a total contract amount of \$289,790.00. Staff is requesting the use of appropriated fund balances of \$35,000.00 in Street Rehabilitation and \$29,578.00 in the Truck capital outlay accounts.

Mrs. Gonzales moved, Mayor Fosselman seconded to award base bid and alternate no. 1 for the Towers Park Improvements Re-bid Project to George J. Igel & Co., Inc. as the lowest and best bidder and authorize the City Manager to utilize appropriated capital overlay account balances.

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

Nays: Mr. Highfield

The motion carried.

12. TO PURCHASE ROAD SALT FROM AMERICAN ROCK SALT CO., LLC. THROUGH COOPERATIVE BID NO. #06-6719-09 SOUTHWEST OHIO PURCHASERS FOR GOVERNMENT (SWOP4G).

Frank Wiseman, Public Service Director, stated on July 27, 2006, SWOP4G opened and read bids for Road Salt for the 2006-2007 Winter Season. Prices were received from five bidders, with a collective total of 251,975 tons bid and a total contract volume of over \$12 million. The City Manager's Office Purchasing Group and Service Department recommend that the contract be awarded to American Rock Salt Co. based on the SWOP4G cooperative bid in the amount of \$44.65 per ton no piler and \$47.15 per ton with piler.

Mrs. Gonzales moved, Mrs. Cocuzzi seconded to purchase road salt from American Rock Salt Co., LLC. through Cooperative Bid No. #06-6719-09 Southwest Ohio Purchasers for Government (SWOP4G).

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

Nays: None

The motion carried.

13. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AND INCENTIVE AGREEMENT WITH CENTRAL OHIO NEUROLOGICAL SURGEONS FOR THE PROPERTY AT 955 EASTWIND DRIVE.

Mrs. Colley stated the Central Ohio Neurological Surgeons (CONS), through its affiliate, Eastwind MOB LLC, purchased the property at 955 Eastwind Drive in the Eastwind Office Park in January of this year. The surgeons are affiliated with a majority of the Central Ohio hospitals and desire to join forces and resources into one facility. The surgeons will establish a separate entity, Ambulatory Surgery Center (ASC) to conduct the business of the out-patient surgical center. CONS and ASC expects to generate approximately six million dollars in new payroll within a year of its relocation. As the property is within a targeted redevelopment area, the East Broadway CRA, the administration is proposing an income tax offset incentive package for Council's consideration. Specifically, the incentive package would provide an income tax offset of 50% for the first five years and 33% for the subsequent 3 years at the current 1.25% rate. Over the eight year period, the offset would net the City \$379,148 in new income taxes and provide a return to the company of \$287,777. Should an increase in the income tax rate to 2% be approved this November, the percentage of the offset would become 33% and 27% for the subsequent 3 years. The administration recommends a minimum threshold of \$5.5 million be established in the initial year for the company to receive an incentive payments and \$6 million for the remaining seven years of the term.

Mr. Highfield expressed his concerns with the retention of businesses after the agreement expires and if there is a way to lengthen the agreements to retain businesses.

Mayor Fosselman moved, Mr. Highfield seconded to authorize and direct the City Manager to enter into a Development and Incentive Agreement with Central Ohio Neurological Surgeons for the property at 955 Eastwind Drive.

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

Nays: Chairman Wetterauer

The motion carried.

14. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO APPROVE A CONTRACT MODIFICATION FOR THE ANNEHURST VILLAGE LOOP A-6 AND A-7 UNDERGROUND CABLE REPLACEMENT PROJECT.

Mr. Boatright stated the total project cost will exceed the contract award amount plus the construction contingency. This is attributed to two factors. First, the quantity of conduit and cable needed to complete the work exceeded the quantities shown in the unit price Bid Schedule. The contractor's bid was based on these quantities which were estimated by staff. Second, the contractor encountered additional hand digging around thirteen padmount transformers. This additional hand digging was not in the contractor's original scope of work. The total cost of this additional work is \$14,555.94. This exceeds the construction contingency amount of \$8,370.00 by \$6,185.94.

Mayor Fosselman moved, Mr. Treneff seconded to authorize and direct the City Manager to approve a contract modification for the Annehurst Village Loop A-6 and A-7 Underground Cable Replacement Project.

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

Nays: None

The motion carried.

15. TO RATIFY AND AUTHORIZE THE CITY MANAGER'S SALE OF SURPLUS CABLE TO SOUTH CENTRAL POWER IN THE AMOUNT OF \$28,000.

Mr. Boatright stated in 2005 the Electric Division purchased two reels of underground primary cable on a joint purchase with AEP for approximately \$24,500. The project that was the intended use for the cable was delayed until this year and it was ultimately decided to use a different specification for the cable. This cable is now surplus as the city has no immediate need for this material on any planned project. The Electric Division has located a buyer, South Central Power, and they have agreed to purchase both reels for \$28,000. This price represents an approximate 14% markup and results in a good outcome for both parties.

Mrs. Gonzales moved, Mrs. Cocuzzi seconded to ratify and authorize the City Manager's sale of surplus cable to South Central Power in the amount of \$28,000.

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

Nays: None

The motion carried.

16. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AND INCENTIVE AGREEMENT WITH CAPITAL CITY MILLWORK FOR THE PROPERTY AT 173 HEATHERDOWN DRIVE.

Mrs. Colley stated Capital City Millwork has selected the western half of 173 Heatherdown Road with the purpose of leasing approximately 24,000 square feet of the building with the intent to purchase the entire building in the future if possible. Staff is recommending to the WICC Board of Trustees the approval of a \$20,000, five year 0% loan/grant with a slightly different calculation for forgiveness. A pattern of steady growth has been developed. Should the company meet the established payroll threshold established for the year, the loan would thus be forgiven in its entirety. Staff is requesting Council's approval to waive the building permit fees collected and retained by the City, estimated to be in the nature of \$4,665.

Mr. Treneff moved, Mrs. Gonzales seconded to authorize and direct the City Manager to enter into a Development and Incentive Agreement with Capital City Millwork for the property at 173 Heatherdown Drive.

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

Nays: None

The motion carried.

17. ADDITIONAL BUSINESS

Mr. Wiseman reminded everyone that this Saturday is the City's hazardous waste collection day. This will take place at the City's Service Department Complex on Park Meadow Drive from 9:00 a.m. to 4:00 p.m. There will also be an opportunity to dispose of computer equipment during this time.

Fire Chief Ingles and Police Chief Joe Morbitzer reminded everyone of the joint ceremony on Monday in remembrance of September 11th at Noon in the 400 W. Main Street Fire Station.

Police Chief Morbitzer recognized the Westerville Firefighters for the MDA Fill the Boot collections and thanked them for what they do. Police Chief Morbitzer also recognized Fire Chief Ingles for an outstanding campaign in the Conductor's Club.

Mr. Bailey updated City Council on the construction of the cell tower on Hanawalt Road. The Law Department has been working with Franklin County and T-Mobile on this issue. T-Mobile has been very cooperative and is working with the city on the search for alternative locations of the cell tower. Mr. Bailey stated the city's intent is to ask for a continuance at the hearing on Thursday to give additional time to search alternative sites and come to a solution that benefits all involved.

18. COUNCIL COMMENTS

Mr. Treneff asked for staff to provide additional information to Mr. Weaver on steps the city has taken or could take on the pandemic flu. Mr. Treneff discussed the importance of understanding the upcoming income tax issue on November's ballot. Mr. Treneff stated residents need to understand the escalating costs that are required to provide existing services and fix aging infrastructure. Mr. Treneff stated non-residents pay 80% of the income tax to the city and senior citizens will not be affected by the tax increase.

Mr. Highfield congratulated the Westerville Firefighters for the MDA Fill the Boot collections and the grant money received from the Shriners. Mr. Highfield stated maybe now is the time to step up annexations into the City. Mr. Highfield explained his no vote for the Towers Park Improvements and stated his concerns were with the contractor selected.

Mrs. Cocuzzi reminded residents of the city's new website. Mrs. Cocuzzi thanked staff for the demolition of the former Ponderosa Restaurant and car wash on South Stated Street. Mrs. Cocuzzi reminded everyone of the Sertoma Car Show on Saturday from 9:00 a.m. to 4:00 p.m. in Heritage Park. Mrs. Cocuzzi stated Cops N Kids Day is Sunday in Hoff Woods Park. Mrs. Cocuzzi stated Concord Counseling is conducting a "Mailbox as Art" fundraiser in conjunction with Galley 202.

Mrs. Gonzales thanked the Westerville Firefighters for their MDA Fill the Boot collections. Mrs. Gonzales thanked City Engineer Susan Banbury for clearing up Whittier Elementary School parking lot. Mrs. Gonzales thanked Community Affairs Coordinator Scott McAfee for the city's new website. Mrs. Gonzales thanked staff for responding promptly to citizen's requests.

Mayor Fosselman thanked Mr. Craven and Planning and Development staff for the Planning Commission Annual Report. Mayor Fosselman reminded everyone of the Boards and Commissions vacancies and stated information is posted on the city's website. Mayor Fosselman thanked the Westerville Firefighters for the MDA Fill the Boot collections. Mayor Fosselman invited residents to attend the Cops N Kids Day this Sunday in Hoff Woods Park. Mayor Fosselman announced the annual Doggy Paddle at Highlands Pool will be held this Sunday. Mayor Fosselman stated the Farmer's Market is still selling goods on Wednesdays from 3:00 p.m. to 7:00 p.m. at the corner of North State Street and Home Street.

Chairman Wetterauer thanked the citizens, staff and firefighters for their generosity. Chairman Wetterauer explained his no vote on the incentive agreement for the Eastwind Drive development and cautioned on where to draw the line with these agreements.

19. **ADJOURNMENT**

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

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

Nays: None

The motion carried.

The meeting adjourned at 9:28 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council