

MINUTES
REGULAR SESSION
WESTERVILLE CITY COUNCIL
Council Chambers, November 28, 2006, 7:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session November 28, 2006 with Council Members, Damon Wetterauer, Jr., Craig Treneff, Kathy Cocuzzi, Anne Gonzales, Michael Heyeck, William Highfield, Diane Fosselman, City Manager G. David Lindimore and Staff and Law Director Bruce E. Bailey present.

3. **INVOCATION**

The invocation was given by Rev. Harold Steindam of Westerville Community United Church of Christ.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the November 7, 2006 Regular Meeting and November 7, 2006 Executive Session was presented for approval.

Mrs. Gonzales moved, Mr. Heyeck seconded to approve the Minutes as provided.

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

Nays: None

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave a Capital Improvement Update:

- Africa Road Improvements – The construction of the pavement is ongoing. The installation of the street lights and temporary restoration will follow. This project will be substantially complete by mid- December.

Mr. Lindimore introduced Dean Kauffman, Senior Vice President of Planning, ADAMH, and Linda Jakes of Concord Counseling who gave an update on the activities of ADAMH. Mr. Kauffman and Ms. Jakes thanked the City of Westerville for their continued support of the programs sponsored by ADAMH.

7. **MAYOR'S REPORT**

Mayor Fosselman introduced Patty Stewart of Westerville Caring and Sharing. Ms. Stewart discussed the needs of Caring and Sharing for the holiday season and asked all residents to give to Caring and Sharing and help out those in need.

8. **REPORT FROM THE CENTRAL OHIO MUNICIPAL ALLIANCE REPRESENTATIVE**

Mr. Treneff gave an update on Central Ohio Municipal Alliance issues. Mr. Treneff stated the Ohio General Assembly is currently in lame duck sessions. Mr. Treneff stated the Municipal Alliance is watching House Bill 347 (amendment to Ohio's concealed law), House Bill 9 (Public Records Law), Local Government Fund Task Force Report which will be released on Friday and Eminent Domain legislation. Mr. Treneff briefly discussed the Task Force Report. Mr. Treneff stated COMA will meet again in January.

9. CITIZENS COMMENTS

Albert Bell, 916 E. Walnut Street, expressed his concerns with the availability of telecommunications in Westerville. Mr. Bell requested City Council to form a task force called 2020. This task force should be made up of people of vision, leadership and the best talent recruited to formulate a plan for the needs of Westerville for now and in the future. With this task force, Westerville can be a modern city with old an old town look.

10. LEGISLATION

a) ***RESOLUTION NO. 06-15, "To Amend the Westerville City Council By-Laws to Delete the Term Limitation Restriction on the Appointment of Non-Council Members to Boards and Commissions"*** was read for the second time.

Mr. Bailey stated this Resolution would eliminate Section 11 of the Westerville City Council By-Laws pertaining to the appointment of non-Council members to boards and commissions and the restriction of service on these boards and commissions.

Mr. Heyeck moved, Mrs. Gonzales seconded for the adoption of Resolution No. 06-15.

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

Nays: Mr. Highfield

The motion carried.

b) ***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 third time.

Adam Maxwell, Risk and Procurement Administrator, stated as indicated at the October 3rd meeting, staff's intent was to re-bid the emergency generator units specifically to electrical contractors and separately from the general trades work due to the long lead time for the equipment. The recommended bid received for the generator units and the associated electrical work to install are \$230,000 plus a 7% contingency for a total recommended value of \$246,100. The bid recommendation is also on Council's agenda to coincide with this transfer request.

Mr. Heyeck moved, Mrs. Gonzales seconded for the adoption of Ordinance No. 06-38.

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

Nays: None

The motion carried.

c) ***ORDINANCE NO. 06-42, "An Ordinance to Make Appropriations for Current Expenses and Other Expenditures of the City of Westerville, Ohio, during the Fiscal Year ending December 31, 2007"*** was read for the second time.

d) ***ORDINANCE NO. 06-43, "To Amend Chapter 154 of the Codified Ordinances to Provide a Code of Personnel Practices and Procedures for all Employees other than those covered by a Bargaining Unit, and to Declare an Emergency"*** was read for the second time.

e) **ORDINANCE NO. 06-44, "To Establish Employment Classifications, Pay Grades and Pay Ranges for Municipal Employees, and to Declare an Emergency"** was read for the second time.

f) **ORDINANCE NO. 06-45, "To Provide for the Dis-Appropriation, Appropriation and Transfer of Appropriations for the Fiscal Year ending December 31, 2006"** was read for the second time.

g) **ORDINANCE NO. 06-47, "An Ordinance Authorizing the City Manager to Execute a Hydro Developmental Cost Sharing Agreement with American Municipal Power-Ohio, Inc. and Repealing Ordinance No. 06-30"** was read for the second time.

h) **ORDINANCE NO. 06-49, "To Amend Section 935.04 of the Codified Ordinances of the City of Westerville, To Modify Charges for Sewer Service, and to Declare an Emergency"** was read for the second time.

i) **ORDINANCE NO. 06-50, "An Ordinance to Revise the Codified Ordinances by Adopting Current Replacement Pages and Declaring an Emergency"** was read for the first time.

Mr. Bailey stated this Ordinance adopts the current replacement pages for the Westerville Codified Ordinances. Mr. Bailey stated the Codified Ordinances are now updated every six months.

Mr. Heyeck moved, Mr. Highfield seconded to suspend the rules for the required three readings.

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

Nays: None

The motion to suspend the rules carried.

Mr. Heyeck moved, Mrs. Gonzales seconded for the adoption of Ordinance No. 06-50.

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

Nays: None

The motion carried. Ordinance No. 06-50 was adopted.

11. TO AWARD THE BID FOR MUNICIPAL BUILDING IMPROVEMENTS EMERGENCY GENERATOR PROJECT RE-BID TO SETTLE MUTER ELECTRIC .

Mr. Maxwell stated five bids were ultimately received at the official bid opening on Thursday, November 16, 2006. As indicated at the October 3rd meeting, staff's intent was to re-bid the emergency generator units specifically to electrical contractors and separately due to the long lead time for the equipment. Staff will attempt to address a contract yet this year for the general trades work necessary to construct a brick wall at the southwest corner of City Hall to screen and secure the new unit. If a contract cannot be administered in 2006 for the brick wall, staff will be back on Council's agenda in 2007 to address this specific work. Contract Award Amount is \$230,000 plus a 7% contingency for a total contract amount of \$246,100.

Mrs. Gonzales moved, Mr. Treneff seconded to award the bid for municipal building improvements emergency generator project re-bid to Settle Muter Electric.

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

Nays: None

The motion carried.

12. TO REJECT THE LOW BID FROM TURN-KEY NETWORK SOLUTIONS, INC. AS NON-RESPONSIVE AND TO AWARD THE BID TO SETTLE MUTER ELECTRIC AS THE LOWEST AND BEST BID FOR THE LOOP A-10, A-11, A-12, H-2, H-3, AND G-6 CABLE REPLACEMENT PROJECT.

Andy Boatright, Electric Utility Manager, stated six bids were ultimately received at the official bid opening on November 14, 2006. Staff does not feel that Turn-Key Network Solutions, Inc. is the best bidder. Turn-Key Network Solutions, Inc. confirmed that they do not have any experience with underground electrical cable replacement projects. Staff also has concerns regarding the safety sensitivity issues required in working near the existing underground electrical infrastructure. Staff recommends that the bid of Turn-Key Network Solutions, Inc. be rejected and that the bid of Settle Muter Electric be accepted and awarded as the lowest and best bid. Contract Award Amount is \$246,272.34 for the Base Bid plus Alternate Bid plus a construction contingency amount of \$18,500.00 for a total contract amount of \$264,772.34.

Mr. Heyeck moved, Mrs. Gonzales seconded to award the reject the low bid from Turn-Key Network Solutions, Inc. as non-responsive and to award the bid to Settle Muter Electric as the lowest and best bid for the Loop A-10, A-11, A-12, H-2, H-3, and G-6 Cable Replacement Project.

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

Nays: None

The motion carried.

13. TO AWARD THE BID FOR THE KNOX STREET IMPROVEMENTS PROJECT TO THE SHELLEY COMPANY.

Karl Craven, Planning and Development Director, stated seven bids were ultimately received at the official bid opening held on November 17, 2006. Staff recommends the bid be awarded to the Shelly Company as the low bidder. Contract Award Amount is \$379,054.90 plus a construction contingency amount of \$25,945.10 for a total contract amount of \$405,000.00.

Mr. Treneff moved, Mrs. Cocuzzi seconded to award the bid for the Knox Street Improvement Project to the Shelly Company.

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

Nays: None

The motion carried.

14. TO AWARD BASE BID PLUS ALTERNATE NO. 1 AND ALTERNATE NO. 3 TO BOBCAT ENTERPRISES FOR THE PARK MAINTENANCE REPLACEMENT LOADER AS RECOMMENDED BY STAFF.

Jody Stowers, Parks and Recreation Director, stated four bids were ultimately received at the official bid opening on November 14, 2006. Staff is recommending Council accept the base bid plus alternate #1 (fully enclosed cab) and alternate #3 (general purpose bucket) from the low bidder Bobcat Enterprises for a total of \$43,783.00.

Mrs. Gonzales moved, Mrs. Cocuzzi seconded to award base bid plus Alternate No. 1 and Alternate No. 3 to Bobcat Enterprises for the Park Maintenance Replacement Loader as recommended by staff.

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

Nays: None

The motion carried.

15. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO PURCHASE RESPONDER TROUBLE CALL ANALYSIS SOFTWARE AND TO WAIVE COMPETITIVE BIDDING AND NOTICE REQUIREMENTS.

Andy Boatright, Electric Utility Manager, stated the Electric Division has fully deployed computerized mapping and database functionality and now desires to enhance this valuable tool for use in managing outages and tracking outage data. Staff recommends purchasing the Responder Trouble Call Analysis Software from Miner & Miner, a Telvent Company in the total amount of \$34,875.00. This amount remains within the budget appropriation established for this purchase.

Mayor Fosselman moved, Mrs. Gonzales seconded to authorize and direct the City Manager to purchase Responder Trouble Call Analysis Software and to waive competitive bidding and notice requirements.

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

Nays: None

The motion carried.

16. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AND INCENTIVE AGREEMENT WITH NWP, LTD. AND OHIO HEALTH CORPORATION FOR THE PROPERTY AT 300 POLARIS PARKWAY.

Staff is requesting this motion be postponed to the December 12, 2006 regular Council meeting so the Westerville City School Board can consider this Development and Incentive Agreement at their December 11, 2006 Board meeting. There being no objection from City Council, this motion was postponed to the December 12, 2006 Council meeting.

17. ADDITIONAL BUSINESS

Mr. Bailey stated City Council received copies of four liquor permits that had been applied for in an uncertain location west of Cleveland Avenue and south of Polaris Parkway. Mr. Bailey stated City Council should give direction to the Clerk of Council requesting a hearing until the city finds out what the businesses are and the nature of them. The hearing can be waived once that is known.

Mr. Heyeck moved, Mr. Treneff seconded to direct the Clerk of Council to request liquor hearings as stated by the Law Director.

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

Nays: None

The motion carried.

18. COUNCIL COMMENTS

Mr. Heyeck gave an update on the COTA levy issue and stated he sales tax issue has passed. Mr. Heyeck stated many residents are dependent on COTA transportation services. Mr. Heyeck stated there is no affect to taxpayers on the sales tax increase but positively affects persons dependent on COTA transportation. Mr. Heyeck requested that staff make sure the sewer rates in Ordinance No. 06-49 are correct for the third reading given the City of Columbus has been changing the amount charged to Westerville.

Mayor Fosselman discussed the elimination of term limits for board and commission members. Mayor Fosselman stated her preference is to get as many people involved in the community and would like to see new people serving. Mayor Fosselman reminded everyone of the holiday activities planned in Westerville this weekend.

Mrs. Cocuzzi asked staff to clarify the issue of disposal of pumpkins and if they are considered trash or yard waste. Mrs. Cocuzzi suggested this item be placed on the city's website so residents know what is considered yard waste. Mrs. Cocuzzi asked for an update from Mr. Bailey on the cell tower issue. Mr. Bailey stated there is a meeting scheduled with T-Mobile to review alternate sites specifically including the water treatment plant site and different locations on it. Mr. Bailey stated the city is told by T-Mobile that negotiations are close on terms but siting of the cell tower remains the last issue to be resolved. Mrs. Cocuzzi asked residents to remember those who need assistance and to donate items or money. Mrs. Cocuzzi stated Parks and Recreation Winter Registration starts Saturday.

Mrs. Gonzales asked Mr. Bailey to keep City Council updated on the Westerville Pub and Pool business liquor license application. Mrs. Gonzales echoed Mayor Fosselman's comments on upcoming activities in Westerville and urged residents to attend. Mrs. Gonzales stated she was surprised by the liquor permit results from the November election.

Mr. Highfield had no comments.

Mr. Treneff questioned the Hillsdowne Secondary Access Study and asked staff for the comments made by residents on Hillsdowne. Mr. Treneff asked if there was an "no change" option available for residents to consider.

Chairman Wetterauer stated it is amazing to participate in Caring and Sharing's distribution of donations. Chairman Wetterauer asked Information Systems Manager Todd Jackson to provide telecommunication information to Mr. Bell. Chairman Wetterauer stated every house in his neighborhood took the time to decorate for the holidays and urged everyone to view the decoration on Walnut Ridge Lane.

19. ADJOURNMENT

Mr. Highfield moved, Mrs. Cocuzzi seconded to adjourn into Executive Session for the purpose of discussing Personnel Matters.

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

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Nays: None

The motion carried.

The meeting adjourned into Executive Session at 8:00 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council