

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

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session November 7, 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. William Hartfelder, Jr. of Grace Evangelical Lutheran Church.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the October 17, 2006 Regular Meeting, October 17, 2006 Work Session and October 24, 2006 Work Session was presented for approval.

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

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

Nays: None

Abstained: Mr. Highfield abstained due to excused absences.

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave a Capital Improvement Update:

- Sioux Drive and Oneida Avenue – The installation of pavement on Oneida has begun. Curb reconstruction continues on Sioux with pavement work to follow. This project is scheduled for completion by November.
- Otterbein/County Line Intersection – Curb and gutter installation complete with pavement work this week. This work is scheduled for completion by mid-November.
- Africa Road Improvements – Underground utility work is complete. Embankment and curb and gutter work is ongoing. Due to the recent rainy weather, the contractor is now working on Sundays. This project is scheduled for completion in December.
- Annehurst Village Underground Cable Replacement – The replacement of underground cable is ongoing north of Main Street. This project is scheduled for completion in December.
- Circuit 13 Pole Replacement – Pole replacement is also ongoing in Spring Hollow. This project is scheduled for completion in spring 2007.

Ken Salin and Bob Crane of Westerville Youth Baseball and Softball League presented a check in the amount of \$20,000 to Westerville City Council. This \$20,000 payment is part of their \$100,000 pledge for Towers Park improvements.

7. **MAYOR'S REPORT**

Mayor Fosselman issued a Proclamation to Roger Bock of the Marine Corp Support Community Organization for Veteran's Day on November 11, 2006.

Mayor Fosselman issued a Proclamation to Concord Counseling Representation Elaine Reed for National Family Caregivers Month in November.

8. REPORT FROM THE PLANNING COMMISSION REPRESENTATIVE

Mr. Treneff stated the Planning Commission held a meeting Wednesday, October 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 November)
- PC 2006-011A: Conditional Use Permit and Site Plan Review for a mixed use development including 100 residential units, approximately 36,000square feet of office space and 2,480 square feet of café space on 20.3 acres in the O/I, Office Institutional District; located as the southwest corner of Sunbury Road and North Street; Applicant: Tabco Development, LLC. (Postponed to November)
- PC 2006-023: Rezoning of a 0.185 acre tract from R-2, Single Family Residential to CC, Community Commercial; a existing car wash on 0.985 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 N. State Street; Applicant: Jim Monsul. (Postponed Indefinitely)
- PC 2006-027: Final Development Plan for a 230,000 square foot medical center on 20.6 acres in the PO, Planned Office District; located at the northeast corner of Africa Road and Polaris Parkway; Applicant: Advanced Civil Design, Inc. (Postponed to November)
- PC 2006-028: Final Development Plan for a 178,000 square foot retail use on 17.605 acres and an 18,800 square foot retail outlet center on 2.655 acres in the PD, Planned Development District; located north of Polaris Parkway between Africa Road and Cleveland Avenue extended; Applicant: CRI Polaris Village LP (Charlie Fraas – Casto). (Postponed to November)

Subdivision Reviews:

- PC 2006-029: Final Development Plan for a 9,823 square foot day care on 2.766 acres in the PO, Planned Office District; located at 600 North State Street; Applicant: Gene Milhoan Architects. (Approved 6-0)

The Planning Commission's next regular meeting is scheduled for Monday, November 20, 2006 at 6:30 p.m.

Mayor Fosselman highly encouraged Planning Commission to make whatever improvements they can to the property located at Cleveland Avenue and Main Street.

9. CITIZENS COMMENTS

None

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 first 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 commission. Mr. Bailey stated this Resolution will be read for a second time at the November 28, 2006 regular Council meeting and for consideration.

b) ***ORDINANCE NO. 06-36(B), "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"*** was read for the third time.

Staff is requesting this Ordinance be postponed to date certain of December 12, 2006. There being no objection from City Council, this Ordinance was postponed to date certain of December 12, 2006.

c) ***ORDINANCE NO. 06-41, "To Amend Section 961.10 of the Westerville Codified Ordinances to Set Hours of Operation of Commercial Refuse Haulers"*** was read for the second time.

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

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

Nays: None

The motion to suspend the rules carried.

Mr. Highfield moved, Mrs. Cocuzzi seconded for the adoption of Ordinance No. 06-41.

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

Nays: None

The motion carried. Ordinance No. 06-41 was adopted.

d) ***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 first time.

Jack Winkel, Finance Director, stated this is the annual appropriation Ordinance for fiscal year ending December 31, 2007. Grand total of appropriations for all funds is \$128,241,474. A copy of the Five Year Financial Plan is on file in the Clerk of Council's office and may be viewed during regular business hours.

e) ***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 first time.

Mike Wasylik, Assistant City Manager, stated this Ordinance is for all employees not covered under a union contract which amounts to approximately 300 employees. The changes are consistent with the policies that have been discussed.

f) ***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 first time.

Mr. Wasylik stated this Ordinance adjusts the pay ranges 3%. These changes are consistent with the budget plans presented to Council.

g) ***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 first time.

Mr. Winkel stated this proposed Ordinance would provide for the transfer of appropriation authority from one budgetary category to another within the General Fund to meet anticipated year-end expenditures. The adoption of the Ordinance would not reduce the budgetary fund balance of the General Fund.

Mr. Heyeck asked staff if the city bids out quantities of fuel. Mr. Winkel stated the city does not formally bid that out; staff receives quotes for fuel purchases. Mr. Heyeck stated he will provide a contact from COTA to staff on a possible consortium for fuel.

h) ***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 first time.

Andy Boatright, Electric Utility Manager, stated this legislation repeals Ordinance No. 06-30 that was enacted in June 2006 solely for development of Hydro Matrix technology and broadens the scope to include the development of all forms of hydro technology. Furthermore, additional Ohio River locks and dams are being "screened" for development, thus, the maximum potential hydro capacity has increased from 115,000 kW to 250,000kW. The study cost, however, remains capped at \$1 million. AMP-Ohio anticipates hydroelectric generation costs to range from \$50 to \$60 per megawatt-hour. It is further anticipated that the first year of commercial operation would occur in approximately 2010. Westerville's participation level is 150,000 kW and the maximum cash outlay is \$88,500 – this amount has been included in the Electric Division 2007 appropriation request. Should the project proceed to construction, Westerville will have the option to participate or decline.

i) ***ORDINANCE NO. 06-48, "To Provide for the Supplemental Appropriation of Funds for the Cost of Acquiring and Planting Trees from the Tree Replacement Fund"*** was read for the first time.

Mr. Lindimore stated a builder/developer left town and did not plant the required street trees. These street trees are those that are associated with home this developer built in the Spring Grove North area. This would provide approximately 40 trees mainly Crabapple for planting. Staff is requesting Council to consider suspending the rules and allow staff to proceed with planting as soon as possible.

Mrs. Gonzales moved, Mr. Heyeck moved for the suspension of the rules and the required three readings.

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

Nays: None

The motion to suspend the rules carried.

Mayor Fosselman moved, Mrs. Gonzales seconded for the adoption of Ordinance No. 06-48.

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

Nays: None

The motion carried. Ordinance No. 06-48 was adopted.

j) ***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 first time.

Mr. Winkel stated this Ordinance proposes a 14.94% increase to the residents based on 2007 rate increase information from the City of Columbus. The City of Westerville bills its resident consumers on a monthly basis for sanitary sewer services based upon the metered consumption of water. The current monthly sewer charge for the average resident using 1,000 cubic feet is \$37.74. If this proposed rate Ordinance is adopted,

the average monthly sewer charge would increase by \$5.64 and total \$43.38. The proposed rates reflect an across the board increase.

Mayor Fosselman requested a chart showing the increase Westerville has incurred from Columbus and some type of comparison to what the residents will be paying compared to other central Ohio communities and urban areas in the state.

11. TO AWARD PAVING MATERIALS FOR 2007 AS RECOMMENDED BY STAFF; AWARD "DELIVERED" BID FOR #703 AGGREGATE #9 GRIT TO THE OLEN CORPORATION AS LOWEST AND BEST BIDDER, AND REJECT ALL "PICKED-UP" BIDS FOR #304 AGGREGATE BASE, #601 ROCK CHANNEL PROTECTION TYPES A, B, AND D AND #703 AGGREGATE #304 CRUSHED LIMESTONE .

Frank Wiseman, Public Service Director, stated nine bids were ultimately received on a variety of paving materials at the official bid opening held on Tuesday, October 24, 2006. The "delivered" prices received from the Olen Corporation and Shelly Materials, Inc. for #703 Aggregate #9 Grit are tied @ \$12.85 per ton. It is being recommended that the award for this "delivered" item be awarded to The Olen Corporation as lowest and best bidder in that it makes sense out of a matter of feasibility and efficiency that the bid be awarded to the same bidder who will be providing the same "picked-up" product. The "picked-up" prices received from National Lime and Stone Company and Shelly Materials, Inc. for #304 Aggregate Base and #703 Aggregate #304 Crushed Limestone are tied @\$7.00 per ton. Their "picked-up" prices for #601 Rock Channel Protection Types A, B, and D are tied @ \$14.00 per ton. It is being recommended that all bids for these "picked-up" items be rejected due to the fact that City departments to not pick these items up from the supplier's yard, and, therefore, they are not applicable. It is recommended that bids be awarded to the Anderson Concrete Corporation, the Apple-Smith Corporation, the Greensboro Corporation, Kevin Justice Trucking, Kurtz Brothers, Inc., National Lime and Stone Company, the Olen Corporation, and Scioto Materials, Inc. as indicated for delivered and/or picked-up items.

Mr. Heyeck moved, Mrs. Gonzales seconded to award paving materials for 2007 as recommended by staff; Award "delivered" bid for #703 Aggregate #9 Grit to the Olen Corporation as lowest and best bidder, and reject all "picked-up" bids for #304 Aggregate Base, #601 Rock Channel Protection Types A, B, and D, and #703 Aggregate #304 Crushed Limestone.

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

Nays: None

The motion carried.

12. TO AWARD BIDS FOR WATER TREATMENT CHEMICALS FOR 2007 AS RECOMMENDED BY STAFF AND REJECT ALL BIDS FROM UNIVAR USA AS BEING NON-RESPONSIVE.

Bob Gardner, Chief Plant Operator, stated twelve suppliers submitted bids on one or more chemicals that were officially opened on October 25, 2006. The total estimated amount of this bid package, based on estimated quantities specified in the bid, is \$184,235.00. Staff and legal counsel are recommending that all bids from UNIVAR USA be rejected as non-responsive, due to the lack of a required signature on the bid submittal, and that the 2007 water treatment chemical bids be awarded to the lowest and best bidders: Huron Lime, Inc., Bonded Chemicals, Inc. JCI Jones Chemicals, Inc., and CalciQuest, Inc.

Mr. Heyeck moved, Mr. Treneff seconded to award the bids for Water Treatment Chemicals for 2007 as recommended by staff and reject all bids from UNIVAR USA as being non-responsive.

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

Nays: None

The motion carried.

13. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A LABOR CONTRACT BETWEEN THE CITY OF WESTERVILLE AND THE UNITED STEEL, PAPER & FORESTRY, RUBBER MANUFACTURING, ENERGY, ALLIED INDUSTRIAL & SERVICE WORKERS INTERNATIONAL UNION AFL-CIO-CLC, DISTRICT 1.

Mr. Wasylik stated this contract is for all full-time maintenance employees, including street maintenance, water/sanitary sewer maintenance, storm sewer maintenance, cemetery maintenance, garage maintenance, and park maintenance. This agreement is from October 1, 2006 through September 30, 2009.

Mr. Heyeck moved, Mrs. Gonzales seconded to authorize and direct the City Manager to enter into a labor contract between the City of Westerville and the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial & Service Workers International Union AFL-CIO-CLC, District 1.

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

Nays: None

The motion carried.

14. TO AUTHORIZE AND DIRECT THE ASSISTANT CITY MANAGER TO ENTER INTO CONTRACTS FOR HEALTH INSURANCE AND MEDICAL BENEFITS.

Mr. Wasylik stated the city pays approximately \$3 million in total for medical/health insurance, dental insurance, vision insurance and life insurance for employees. This health insurance contract will be with United Health Care. Mr. Wasylik stated, in 2007, the savings seen by the city since moving to the Health Savings Account medical insurance program will be \$2,100/year on each family policy as the city reduces its contribution to each employee's own Health Savings Account.

Mrs. Gonzales moved, Mayor Fosselman seconded to authorize and direct the Assistant City Manager to enter into contracts for health insurance and medical benefits.

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

Nays: None

The motion carried.

15. ADDITIONAL BUSINESS

Mr. Bailey updated City Council on T-Mobile's intent to place a cell tower in the Hanawalt Road area. Mr. Bailey stated the city is continuing to negotiate an alternative location from the Bingman tract to the Water Treatment Plant site. Mr. Bailey stated offers have been going back and forth with no response from T-Mobile since late October. Mr. Bailey stated he learned, through notices received from residents in the area, that there is a siting proposed on the Bingman tract, south side and further west from the original site. Mr. Bailey stated there is a hearing set on November 20, 2006 before Franklin County Board of Zoning Appeals

regarding the cell tower location. Mr. Bailey stated they are waiting for a response from T-Mobile regarding the siting of the cell tower on Water Treatment Plant site. Mr. Bailey stated staff will attend the hearing on November 20th.

16. COUNCIL COMMENTS

Mrs. Gonzales asked Mr. Lindimore for a follow-up on the feral cat situation. Mrs. Gonzales asked Planning Development staff to check visibility caused by the location of the Carpet Cove building for motorists on Central Avenue exiting onto State Street. Mrs. Gonzales thanked the Parks and Recreation Department for a great 5th Anniversary event at the Community Center. Mrs. Gonzales thanked the WYBSL for the Towers Park Improvements donation.

Mrs. Cocuzzi echoed her congratulations for the 5th Anniversary event at the Community Center. Mrs. Cocuzzi thanked the WYBSL for the \$20,000 donation. Mrs. Cocuzzi thanked everyone who has served in the armed services. Mrs. Cocuzzi thanked the Electric Division for their hard work during the power outages that occurred on the east side. Mrs. Cocuzzi thanked voters for going to the polls today.

Mr. Treneff also requested additional information on the animal control issue. Mr. Treneff asked for clarification on Issue 4 and Issue 5 that were on the November 7th ballot and how it will affect Westerville's current smoking ban. Mr. Bailey stated Issue 5 trumps the current Ordinance. Mr. Treneff discussed the misinformation that has been in the local newspapers on tax abatements and briefly addressed the issue.

Mr. Highfield thanked everyone who has participated in sport activities in Westerville. Mr. Highfield stated the veterans gave citizens the right to vote. Mr. Highfield appreciated voters who participated in today's election.

Mayor Fosselman asked staff to distribute the new refuse collection information to businesses and residents. Mayor Fosselman congratulated the WYBSL for their 55th anniversary and thanked them for the many contributions they have made over the years. Mayor Fosselman thanked the Visitors and Convention Bureau, Westerville Public Library and Parks and Recreation Department for the History Exhumed event. Mayor Fosselman thanked veterans for giving citizens the freedom of speech and the right to vote.

Mr. Heyeck stated thank goodness today is Election Day. Mr. Heyeck stated he is discouraged with the election process and improvements to the process be considered. Mr. Heyeck asked residents to acknowledge family caregivers and to give them a well deserved break. Mr. Heyeck acknowledged Marine Roger Bock and Marine Mr. Highfield for their service to the country and asked residents to display their flags on Veterans Day.

Chairman Wetterauer reminded everyone the next Council meetings are scheduled for November 28, 2006 and December 12, 2006. Chairman Wetterauer congratulated Mr. Heyeck on his recent promotion. Chairman Wetterauer thanked everyone who voted in today's election.

17. ADJOURNMENT

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

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

Nays: None

The motion carried.

The meeting adjourned into Work Session at 8:11 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council