

**MINUTES**  
**REGULAR SESSION**  
**WESTERVILLE CITY COUNCIL**  
*Council Chambers, July 2, 2007, 7:00 p.m.*

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session July 2, 2007 with Council Members, Craig Treneff, Kathy Cocuzzi, William Highfield, Anne Gonzales, Damon E. Wetterauer, Jr., Michael Heyeck, Diane Fosselman, City Manager G. David Lindimore and Staff, Law Director Bruce E. Bailey and Clerk of Council Mary Johnston present.

3. **INVOCATION**

The invocation was given by Scott Marier of Westerville Area Resource Ministry.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the June 19, 2007 Regular Meeting and June 19, 2007 Executive Session were presented for approval.

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

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

Nays: None

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave an update of Construction Projects:

- 2007 Street Rehabilitation – Water service transfers and pavement reconstruction is ongoing on Ottawa and Illinois which are closed to thru traffic. Water services transfers on Walnut, between Summit and Otterbein, will begin next week. Traffic will be maintained. Belle Meade Court reconstruction will begin next week. Surface treatments are ongoing city-wide. All work to be completed by October.
- 2007 Sidewalk Program – Tree removal and sidewalk replacement is underway in the Village at Westray. Work will follow in the Chatham Ridge and Woodglen subdivisions. All work is scheduled for completion by September.
- Substation No. 3 – Site grading work is underway. This project is scheduled for completion in mid-2008.

Mr. Lindimore stated staff had requested an additional appropriation for construction of Hillsdowne Street with possible blocking of Fairdale and Daleview Avenues. Mr. Lindimore stated staff is requesting permission from City Council to move ahead with the rebuilding of Hillsdowne Street and gather additional information on Fairdale and Daleview Avenues on permanent closing. Mr. Lindimore stated they would like to consider other options and will provide that information to City Council in September. City Council gave their permission for staff to proceed.

Mr. Lindimore stated City Engineer Susan Banbury provided a memo to City Council regarding options for bike crossings on County Line Road. Mr. Lindimore stated it is staff's intention to move ahead with the

option that includes mast arms at both crossings and includes a center median for pedestrians/bikers to stop in case of traffic. Mr. Lindimore stated adequate funds are available to construct the crossing at Towers Park but the bike crossing (old railroad tracks) to the west would require additional engineering in order to provide for the center median and completed next year due to lack of funds this year.

Mayor Fosselman stated she is comfortable with proceeding with the Towers Park crossing but still has concerns about it being an adequate crossing for the crossing to the west which, hopefully, will become the Ohio Erie Trail. Mayor Fosselman stated Parks and Recreation Department should have input on the crossing.

Mrs. Cocuzzi asked when the Towers Park crossing would be completed. Karl Craven, Planning and Development Director, stated the project should be completed in 60 days. Mrs. Cocuzzi stated she is glad to see the Towers Park crossing being constructed.

Mr. Highfield stated he is worried about the safety at the crossing. Chairman Wetterauer stated County Line Road is a major east west arterial street in the city. Mr. Highfield expressed his concerns with liability against the city. Mr. Lindimore stated he didn't think the city had any other viable alternatives for bikes crossing on County Line Road.

Mr. Heyeck stated he doesn't have a problem with proposal and suggested a sign be posted warning motorists of the lighted crossing. Mr. Heyeck agreed with Mr. Highfield's comments.

City Council gave staff permission to proceed with the upgrades to the bike crossing on County Line Road at Towers Park.

#### **7. MAYOR'S REPORT**

Mayor Fosselman presented Certificates of Recognition to the Westerville Crew Rowing Club who participated in the U.S. Rowing Junior National Championships June 8 through 10, 2007. The club sent three boats to the championships with the Women's Lightweight 8 finishing 5<sup>th</sup> in the nation, Men's Varsity 8 finishing 6<sup>th</sup> in the nation and the Men's Lightweight 8 finishing 14<sup>th</sup> in the nation.

The Westerville Parks Foundation members Eric Busch, Jim McCann, Lauren Hoffman, and Ron Shankman unveiled the 2<sup>nd</sup> Soccer Sculpture "Billy" that will be installed at the Westerville Sports Complex and dedicated on October 21, 2007 as part of the Westerville Walk and Roll Fest. The sculpture was created by local artist and teacher Mike Tizzano who was in attendance.

Westerville Area Resource Ministry Executive Director Scott Marier announced WARM's Freedom from Hunger campaign being held during the Westerville Rotary Club's 4<sup>th</sup> of July Parade. WARM will be collecting non perishable food items from parade observers and encouraged everyone to support the food drive to help out the needy. Mr. Marier stated WARM also has a 24 hour food drop at their 175 E. Broadway location.

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

Mr. Treneff stated the Planning Commission held their regular monthly meeting on June 27, 2007.

Public Hearings:

- PC 2006-12: 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. (Approved 6-0)

- PC 2007-10: Subdivision Review of a lot split to create 4 lots totaling 1.05 acres in the R-2, Single-Family District; located at the west end of Hiawatha and Central Avenues; Applicant: Andrew D. Chatterton. (Approved 6-0)
- PC 2007-16: Subdivision Review for a lot split to create 2 lots totaling .34 acres in the R-2 Single-Family Residential District; located at 242 Eastwood Avenue; Applicant: Rick Gale. (Failed 3-3)
- PC 2007-17: Conditional Use Permit for Elementary and Secondary School, Preschool and Daycare (Oakstone Academy) in an existing structure on 3.64 acres in the PID, Planned Industrial District; located at 939 South State Street; Applicant: The Children's Center for Developmental Enrichment. (Approved 6-0)

The next regular meeting of the Planning Commission is scheduled for July 25, 2007 in City Council Chambers.

9. **CITIZENS COMMENTS**

None.

10. **LEGISLATION**

***"PUBLIC HEARING AND ADOPTION OF 2008 TAX BUDGET."***

Chairman Wetterauer declared the Public Hearing open. Mrs. Johnston administered the oath to those who wished to testify.

Jack Winkel, Finance Director, stated as described by state law, the 2008 tax budget must be filed with the County Budget Commissions by July 20, 2007. The tax budget should be enacted through a motion of Council after the required public hearing has been conducted. Citizens were notified by legal advertisement of the public hearing and that the tax budget was available for public inspection. The expressed purpose of the tax budget is to reflect the need for existing (or increased) tax rates. This proposed tax budget does not propose an increase to the existing property tax rates. This tax budget contains estimates of revenues and expenditures. All figures contained in this tax budget will be updated during budget review later this year and prior to the FY 2008 annual appropriation ordinance. The adoption of the tax budget does not grant any legal spending authority of public funds, nor commit to any capital improvement projects for the 2008 fiscal year.

Speaking in Favor:

None

Speaking in Opposition:

None

Since there were no further comments, Chairman Wetterauer declared the Public Hearing closed.

Mr. Highfield moved, Mrs. Gonzales seconded for the adoption of the 2008 Tax Budget.

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

Nays: None

The motion carried.

a) ***ORDINANCE NO. 07-15, "An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$17,225,000 for the Purpose of Paying the Costs of Improving the City's Municipal Electric System by (A) Replacing and Installing Street Lighting, Conduit, and Underground Voltage Cables, Together with all Necessary Appurtenances Thereto and (B) 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 third time.

Jack Winkel, Finance Director, stated Ordinance No. 06-33 and No. 06-34 passed by City Council authorized the issuance of short-term notes in anticipation of long term bonds in the aggregate amount of \$7.925 million for the purposes of paying the costs of improving the City’s Electric System. The notes were dated September 21, 2006 and are scheduled to mature on September 20, 2007. The notes have a term of nine months with an interest rate of 4.5%. Note interest payment due on September 20, 2007 is anticipated to be approximately \$267,468. The 2007 budget has earmarked \$9.300 million of Electric System Improvements for which the issuance of long term bonds was and is being requested to finance them. In grand total, this Ordinance proposes the issuance of \$17,225 million in general obligation bonds for the purposes of renewing/converting the current outstanding notes in the amount of \$7.925 million and to provide \$9.300 million to fund the fiscal year 2007 Electric System Improvements.

Mr. Heyeck thanked Mr. Winkel for all the information provided on the Bond Ordinances.

Mrs. Gonzales moved, Mr. Heyeck seconded for the adoption of Ordinance No. 07-15.

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

Nays: None

The motion carried.

b) ***ORDINANCE NO. 07-16, “An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$1,165,000 for the Purpose of Improving and Enlarging the City’s Water System by Improving, Repairing, Reconstructing and Replacing Water Lines, Installing New Water Well, and Acquiring Real Estate for Wellfield Development, Use and Protection, Together with all Necessary Appurtenances Thereto, and Declaring an Emergency”*** was read for the third time.

Mr. Winkel stated the 2007 budget earmarked \$1.300 million of Water System Improvements for which the issuance of long term bonds was requested to finance them. The 2007 original amount of \$1.300 million projected for Water System Improvements to be funded with bonds has been revised downward to \$1.165 due to changes in the improvement projects. The City’s Water Enterprise Fund currently has \$1.905 million of general obligations bonds outstanding. The outstanding bonds are limited to one issue having a final maturity of December 2011. The proposed bond issue of \$1.165 million would have a twenty-year maturity with principal payments being due each December 1 in each of the years from and including 2007 to and including 2026. This Ordinance provides that the net interest rate cost per year for the proposed bonds shall not exceed 6.00% per year.

Mr. Heyeck moved, Mrs. Cocuzzi seconded for the adoption of Ordinance No. 07-16.

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

Nays: None

The motion carried.

c) ***ORDINANCE NO. 07-17, “An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$24,500,000 for the Purpose of Refunding Bonds Previously Issued by the***

***City for the Purposes of Paying the Costs of (A) Constructing, Equipping and Furnishing Park and Recreational Facilities and Acquiring Real Estate for Such Facilities, (B) Improving and Extending Cleveland Avenue, Between Certain Termini, by Grading, Draining, Curbing and Paving, Constructing a Bridge and Storm and Sanitary Sewers, Installing Water Mains and Lighting Facilities, Acquiring Necessary Real Estate, and Providing all Necessary Work and Appurtenances, and (C) Providing Facility Improvements for the City's Electric Division by the Construction of an Administration Operations Facility, Constructing a Loading Dock and Truck Bay Addition to the Existing Warehouse, Providing Landscaping, Parking, Lighting and all Necessary Work and Appurtenances, and Declaring an Emergency***” was read for the third time.

Mr. Winkel stated the purpose of this Ordinance is to advance refund at a lower rate of interest all or a portion of outstanding bond issued from 1998 and 1999. The proposed refunding bond Ordinance reflects a “not to exceed” amount, which represents the largest possible refunding. The reason for this “not to exceed” amount is for timing and flexibility. New Ordinances would not have to be introduced if market conditions change which potentially make a larger refunding economically beneficial. Approximately \$3,225,000 of outstanding bond principal currently qualifies to be refunded under current market conditions. This potential refunding amount will probably continue to fluctuate with changing interest rates until pricing day when a final recommendation is determined. Throughout the three reading process, staff will provide input as to the current market conditions and the economic benefit of refunding existing bonded debt. The recommended benchmark with respect to the proposed refund is that there must be at least a 3.00% net present value savings. With respect to current market conditions and based on the market rate qualifying bonds, the following factors exist: refunding size is \$3,225,000; refunding savings is 3.06%; refunding PV savings is \$94,996.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 07-17.

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

Nays: None

The motion carried.

d) ***ORDINANCE NO. 07-18, “An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$425,000 for the Purpose of Paying the Costs of Constructing Westar Boulevard, by Grading, Paving, and Otherwise Constructing the Same, and Constructing or Installing Curbs, Gutters, Storm Sewer, Water, Lighting, Erosion Control, Conduit and Signage Improvements, Together with all Other Necessary Appurtenances Thereto, and Declaring an Emergency***” was read for the third time.

Mr. Lindimore stated this Ordinance will reimburse Solove and Figge for Tax Increment Financing public improvement projects. Solove and Figge had agreed to take a steeply discounted dollar amount in return for being paid on the front end of the completion of the building. The discounted rate is \$750,000 per 100,000 square feet. The first building completed by Opus is approximately 93,000 square feet and after taking credit for developers work performed by the city, the city will owe Solove and Figge approximately \$385,000. The bond Ordinance calls for up to \$423,000 to allow for issuance, legal and miscellaneous expenses.

Mrs. Gonzales moved, Mayor Fosselman seconded for the adoption of Ordinance No. 07-18.

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

Nays: None

The motion carried.

e) ***ORDINANCE NO. 07-20, “To Provide for the Re-Appropriation of Funds and the Transfer of Funds for the Completion of Municipal Building Improvements and to Authorize and Direct the City Manager to Enter into Purchase Agreements Without Formal Bidding and Advertising, and to Declare an Emergency”*** was read for the third time.

Adam Maxwell, Risk and Procurement Administrator, stated since first reading staff has solicited competitive quotations for the miscellaneous exterior improvements to City Hall. These improvements include masonry improvements, new exterior doors, and a landscaping and tree replacement plan for the municipal building complex. Three general contractors provided full proposals for the masonry improvements. Staff would recommend award a contract to Republic Builders, LLC. in the amount of \$92,680, plus a 7.9% contingency amount of \$7,320 for a total contract amount of \$100,000. Several doors and external rails are showing signs of age. Up to five exterior doors would be replaced and the rails refinished. These items will be procured separately at an estimated cost of \$4,500. The Parks and Recreation Urban Forestry Division have developed a plan to replace the recent tree removals and to update landscaping on the heels of the generator and masonry improvements. The estimated plan for this work is \$6,200. Total cost of improvements is \$110,700. Currently a balance of \$13,619 exists from the original 2003 bond issue which has financed the four bid packages of the various municipal improvement projects, including the current Emergency Generator Project. After using those remaining funds, staff would request that Council re-appropriate the approximate \$42,554 from last fall's Ordinance no. 06-38 to apply towards the City Hall wall. Finally, staff would like to re-direct approximately \$54,527 from other areas within the City Manager's budget to accomplish this work.

Mrs. Gonzales moved, Mr. Treneff seconded for the adoption of Ordinance No. 07-20.

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

Nays: None

The motion carried.

g) ***ORDINANCE NO. 07-21, “To Authorize the City Manager to Provide for Adjustments of Annual Fee Amounts and Payments in Lieu of Taxes Arising under Community Reinvestment Area Agreements and To Authorize the City Manager to Provide Written Consent to Assignments of said Agreements”*** was read for the third time.

Julie Colley, Economic Development Coordinator, stated this Ordinance would authorize the City Manager to waive or adjust the amount of the annual fee/or to adjust the amount of a payment in lieu of tax under compelling circumstances where strict adherence to the provisions of the Community Reinvestment Area agreement may create a hardship. These adjustments would only be authorized by the City Manager following an advanced (10 day) written notice to Council allowing members of Council an opportunity to provide input. This Ordinance, at third reading, has been amended to additionally authorize the City Manager to provide the City's consent to the assignment of a Community Reinvestment Area Agreement, again, contingent upon the City Manager providing 10 day advance written notice to Council of the assignment.

Mr. Treneff moved, Mrs. Cocuzzi seconded for the adoption of Ordinance No. 07-21.

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

Nays: None

The motion carried.

g) ***ORDINANCE NO. 07-22, "To Appropriate a 0.391-acre, more or less, Public Utility Easement and Lessor Estates, Owned by Diane C. Brown, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the second time.

h) ***ORDINANCE NO. 07-23, "To Appropriate a 0.053-acre, more or less, Public Utility Easement and Lessor Estates, Owned by Diane C. Brown, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the second time.

i) ***ORDINANCE NO. 07-24, "To Appropriate a 0.052-acre, more or less, Public Utility Easement and Lessor Estates, Owned by Paul E. Robinson, Jr. and Diane B. Robinson, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the second time.

j) ***ORDINANCE NO. 07-25, "To Appropriate a 0.052-acre, more or less, Public Utility Easement and Lessor Estates, Owned by Etta K. Moor, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the second time.

k) ***ORDINANCE NO. 07-26, "To Appropriate a 0.053-acre, more or less, Public Utility Easement and Lessor Estates, Owned by Paul and Maria Anna Cirolì, located on Sunbury Road in the City of Westerville, County of Franklin, State of Ohio, and to Declare an Emergency"*** was read for the second time.

l) ***ORDINANCE NO. 07-27, "To Provide for the Supplemental Appropriation of Funds for the Cost of Professional Engineering Services in Connection with the Expansion of the City's Underground Conduit System and for the Development of a Community Broadband Digital Corridor"*** was read for the second time.

Todd Jackson, Information Systems Manager, stated the purpose of this Ordinance is to appropriate funds for engineering services to design the expansion of the City's underground communication conduit system and the further development of the community broadband digital corridor. The amount proposed for engineering services is \$145,000.00. The purposes of expanding the underground conduit system are to provide redundancy; ensure that telecommunication and data services are available throughout the community on a competitive and cost effective basis; bring the benefits of new technological services to residents, businesses educational institutions, and government agencies; provide increased access to government information and services; promote growth and economic and social development within the city; and to preserve and protect city infrastructure by minimizing disturbances and limiting inconveniences associated with work conducted in the right-of-way.

Mayor Fosselman asked how long the engineering study would take to complete.

Mr. Treneff asked when the phase would begin beyond the engineering study. Mr. Lindimore stated this project could be part of the 2008 budget. Mike Pope, Electric Engineering Manager, described the timeline of the project and described the process and materials used for the project. Mr. Treneff stated he likes the project and questioned how this project will be funded. Mr. Lindimore described the proposed funding for the project with revenues from outside vendors for use of the system.

Mr. Heyeck asked if the city was setting up a utility, why isn't the city making money off of this and why doesn't a third party do this. Mr. Heyeck stated he believes the city shouldn't be in the business. Mr. Lindimore stated staff has been unsuccessful in finding a third party to provide this service.

Mr. Highfield moved, Mrs. Cocuzzi seconded for the suspension of 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 carried to suspend the rules.

Mayor Fosselman moved, Mrs. Gonzales seconded for the adoption of Ordinance No. 07-27.

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

Nays: Mr. Heyeck

The motion carried. Ordinance No. 07-27 was adopted.

m) ***ORDINANCE NO. 07-28, "To Provide for the Supplemental Appropriation of Funds Necessary for the Payment of Utility Cost"*** was read for the second time.

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

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

**11. TO REJECT ALL BIDS FOR ALTERNATE ITEM 1, AND TO AWARD THE BASE BID FOR THE OTTERBEIN LAKE IMPROVEMENTS RE-BID PROJECT TO CONIE CONSTRUCTION COMPANY.**

Jody Stowers, Parks and Recreation Department Manager, stated three bids were ultimately received at the official bid opening held on June 21, 2007. Due to the favorable bids, the alternate deduct item for a man-made material will not be needed and is undesirable in this setting. Therefore, the acceptance of the alternate is not recommended. Staff is recommending Council accept the base bid to the low bidder Conie Construction Company for a total of \$119,351.00 with a contingency amount of \$7,161.00 be added for a total contract amount of \$126,512.00.

Mayor Fosselman moved, Mrs. Cocuzzi seconded to reject all bids for Alternate Item 1, and to award the base bid for the Otterbein Lake Improvements Re-Bid Project to Conie Construction Company.

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



Nays: None

The motion carried.

**12. TO REJECT ALL BIDS FOR ALTERNATE ITEM 1, AND AWARD THE BASE BID PLUS ALTERNATE ITEM 2 FOR THE COMMUNITY CENTER FLOOR RECOVERING PROJECT TO LEVITATE PLUS FLOORING SYSTEMS, INC.**

Ms. Stowers stated three bids were ultimately received at the official bid opening held on June 21, 2007. This project is to encompass replacement of all carpet and rubber flooring on the mezzanine level of the Community Center, exclusive of the track surface. This base bid installation will increase the area covered by rubber surfacing to include the weight machines not located on a carpeted surface. Due to the favorable bids received, Alternate #1 is not needed. Staff is recommending Council accept the base bid to the low bidder, Levitate Plus Flooring Systems, along with Alternate #2 for the removal/replacement of the furniture and equipment for the project. Contract Award Amount: \$41,997.00 plus \$1,190.00 (Alternate #2: removal/replacement of furniture and equipment) plus \$2,160.00 (5% construction contingency) totaling \$45,347.00 for the project.

Mrs. Cocuzzi moved, Mrs. Gonzales seconded to reject all bids for Alternate Item 1, and award the base bid plus Alternate Item 2 for the Community Center Floor Recovering Project to Levitate Plus Flooring Systems, Inc.

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

Nays: None

The motion carried.

**13. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO ENTER INTO A POWER SUPPLY AGREEMENT FOR 2008 AND/OR 2009 WITH AMERICAN ELECTRIC POWER ENERGY MARKETING AND/OR FOR 2008 WITH AMERICAN MUNICIPAL POWER-OHIO.**

Mr. Heyeck abstained from discussion and consideration of this motion due to a possible conflict of interest. Andy Boatright, Electric Utility Manager, stated power supply options for the City of Westerville for 2008 and beyond have been contemplated by staff, counsel and consultants over the last few months. The best options for the city, in terms of indicative total annual cost for 2008, have been provided by both American Municipal Power-Ohio and American Electric Power Energy Marketing. This AEP has offered what they refer to as a cost based product. This is a full requirement energy and capacity offering that is priced as a function of the cost of fuel, purchased power, production expenses, and other fixed and variable costs of production. Although the product is not a fixed price offering, as it will vary as a function of fuel, purchased power costs, etc., it is priced favorably compared to, and likely to be somewhat less volatile than a portfolio of market based products. This offer is for a two year period starting January 1, 2008. Since AEP's product offering is for Westerville's full power supply requirements, Westerville's allocations of J. Aron and NYPA, which must be delivered to Westerville by contract terms, will result in the sale of surplus power back into energy markets. The J.Aron/NYPA products are priced favorably relative to real time or day ahead energy markets and this, along with the proceeds of the sale of surplus power, could effectively reduce the overall cost of Westerville's power supply when blended with the AEP cost based product offering. The city's power supply consultant recommends engaging in negotiations with AEP for the cost based product offering with improved pricing by way of blending Westerville's J. Aron and NYPA allocations for the period of January 1, 2008 through December 31, 2009. Should negotiations with AEP indicate no cost benefit and/or increased risk to Westerville, staff will secure power supply through an AMP-Ohio market based portfolio as has been

done since January 2004. In any event, the power supply option selection will be shared with City Council with the reasons supporting the selection.

Mayor Fosselman moved, Mr. Treneff seconded to authorize the City Manager to enter into a Power Supply Agreement for 2008 and/or 2009 with American Electric Power Energy Marketing and/or for 2008 with American Municipal Power-Ohio.

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

Nays: None

Abstention: Mr. Heyeck due to a possible conflict of interest.

The motion carried.

14. **ADDITIONAL BUSINESS**

None.

15. **COUNCIL COMMENTS**

Mr. Heyeck asked if a date certain for the barn and house at Africa Road and County Line Road has been established due to dangerous conditions of the buildings. Mr. Craven stated the property owner is in the process of acquiring the necessary permits to allow the Fire Department to burn the building and waiting for his response for the other two buildings. Mr. Heyeck stated his concern is the barn and when the property is demolished he hopes the trees are not removed. Fire Chief Bernie Ingles stated the Fire Division has been working with the property owner and hoped to burn the building within the next two weeks. Mr. Heyeck stated the intersection of Cleveland and Main Streets is not pedestrian friendly and asked staff to take a look at the crossing signs. Mr. Heyeck stated, regarding Ordinance No. 07-27, that he is not interested in doing something because other cities do it. Mr. Heyeck stated he wanted to provide a caution flag that the city could perhaps set up a utility and figure out the business case and why third parties are not willing to build it. Mr. Heyeck wished everyone a safe summer.

Mayor Fosselman thanked Mr. Winkel and Finance staff for an outstanding audit report. Mr. Winkel stated the report will be published on the city's website and there were no findings or citations issued by the state. Mayor Fosselman requested from Mr. Bailey a summary on legislation passed recently impacting Home Rule Authority communities. Mayor Fosselman challenged staff to look for available grants to come up with alternatives for crossing County Line Road at the Ohio Erie Trail. Mayor Fosselman reminded the community of the city's watering program. Mayor Fosselman reminded residents of the Farmer's Market on Wednesdays in the Uptown District and will have special hours of 10:00 a.m. to 1:00 p.m. on July 4th. Mayor Fosselman thanked the Westerville Rotary Club for organizing the 4<sup>th</sup> of July events. Mayor Fosselman wished everyone a safe and fun summer.

Mr. Treneff stated he was glad of the discussion on the County Line Bike Path crossing issues. Mr. Treneff stated he appreciated the Hillsdowne project posted on the city's website for residents to review. Mr. Treneff stated this is a tough issue to deal with and appreciates comments from residents.

Mr. Highfield stated he agrees with Mayor Fosselman's and Mr. Treneff's comments on County Line Road. Mr. Highfield reminded everyone of the July 4<sup>th</sup> parade and encouraged participants to support WARM's food drive. Mr. Highfield stated he recently attended an Electric Conference in San Antonio and spoke about a foreign person's view of the United States that was given at the conference. Mr. Highfield asked residents to be careful this summer and to enjoy the season.

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Mrs. Cocuzzi thanked Fouse Elementary School Third Graders for the creative thank you notes sent to her. Mrs. Cocuzzi thanked Lt. David Grossman for the excellent seminar on violence held recently. Mrs. Cocuzzi congratulated the Safety City graduates. Mrs. Cocuzzi stated the Relay for Life event held recently was a moving and successful event. Mrs. Cocuzzi wished everyone a safe July 4<sup>th</sup> and summer.

Mrs. Gonzales thanked the volunteers who made the Relay for Life a successful event and recognized her good friend Earlene Wandry who is battling cancer. Mrs. Gonzales encouraged residents to enjoy the Fourth of July parade and to bring food for WARM's food drive. Mrs. Gonzales thanked the Planning and Development staff for the June 2007 Zoning Enforcement report. Mrs. Gonzales congratulated Finance Department for their outstanding audit report. Mrs. Gonzales wished everyone a enjoyable summer.

Chairman Wetterauer asked Zoning Enforcement staff to look at the signs placed in the city's right-of-way, especially during the weekend. Chairman Wetterauer gave an update on the search for the City Manager position.

16. ADJOURNMENT.

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

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

Nays: None

The motion carried.

The meeting adjourned at 8:54 p.m.

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Mary J. Johnston, MMC  
Clerk of Council

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Damon E. Wetterauer, Jr.  
Chair of Council