

MINUTES
REGULAR SESSION
WESTERVILLE CITY COUNCIL
Council Chambers, May 2, 2006, 7:00 p.m.

1. **CALL TO ORDER**

2. **ROLL CALL**

Council met in regular session May 2, 2006 with Council Members, Damon Wetterauer, Jr., Michael Heyeck, Craig Treneff, William Highfield, Kathy Cocuzzi, Anne Gonzales, Diane Fosselman, City Manager G. David Lindimore and Staff and Law Director Bruce E. Bailey present.

3. **INVOCATION**

The invocation was given by Rev. Danny Lambert of First Baptist Church.

4. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

5. **MINUTES**

The Minutes of the April 4, 2006 Regular Meeting, April 18, 2006 Regular Meeting, April 18, 2006 Executive Session and April 25, 2006 Work Session were presented for approval.

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

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

Nays: None

Abstention: Mrs. Cocuzzi for the April 25, 2006 Work Session

The motion carried.

6. **CITY MANAGER'S REPORT**

Mr. Lindimore gave a Capital Improvement Update:

- 2005 Sidewalk Maintenance Program – Sidewalk reconstruction is underway east of Otterbein Avenue, south of Walnut Street. This program is scheduled for completion by May 19, 2006.
- Parkview Avenue Reconstruction – The brick reconstruction of Parkview Avenue between Knox and Russell Streets is ongoing. Parkview Avenue will be closed to through traffic for the duration of the construction. This project is scheduled for completion by October.
- Polaris/Henderson Intersection – Construction is ongoing at this intersection which requires lane restrictions on Polaris Parkway. Paving is scheduled to be completed by the end of next week. All work is scheduled to be completed by the end of May.

Mr. Lindimore asked Council to consider holding the July Council meeting on July 5, 2006 since the July meeting will fall on the 4th of July holiday.

7. **MAYOR'S REPORT**

Mr. Highfield presented a Proclamation for National Older Americans Month in May 2006 to Howard and Pat Freund and Morey Brady.

Mrs. Cocuzzi presented a Proclamation for EMS Week May 14 through 20, 2006 to Fire Chief Bernie Ingles.

Mr. Heyeck presented a Proclamation for Mental Health Month May 2006 to Mimi Sommer of Concord Counseling Services.

Mr. Treneff presented a Proclamation for National Physical Fitness and Sports Month May 2006 to Mike Herron and Lindy Gilkey of the Parks and Recreation Department.

Mr. Treneff presented a Proclamation for National Wetlands Month May 2006 to Jody Stowers of the Parks and Recreation Department.

Mrs. Gonzales presented Certificate of Recognitions to the Westerville Central High School Competition Cheerleader Team for winning at a national competition recently.

Mayor Fosselman presented a Proclamation to Westerville Area Resource Ministry for National Day of Prayer and WARM Prayer Breakfast Days to Lori Humphrey of WARM.

Mayor Fosselman announced that Stephanie Sheppard, who has been collecting money for the Pennies for Patriotism, was awarded the Jim McCann Service Award recently; Mark Dilley was awarded the Steve Wenger Service Award; Lori Thompson was awarded the Esther McDermott Spirit Award; Sertoma Club was awarded the Team Spirit Award; Bill Hanley was awarded the Westerville Winner Award.

8. REPORT FROM THE PLANNING COMMISSION REPRESENTATIVE

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

Public Hearings:

- PC 2004-038; Preliminary Development Plan and Text for a mixed used 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 indefinitely)
- PC 2006-009; Conditional Use Permit/Site Plan Review for the construction of a new 51,148 square foot car dealership facility in the CC, Community Commercial District, located at 90 W. Schrock Road; Applicant: Roush Honda. (Approved 6-0)
- PC 2006-011; Rezoning of a 22.4 acre tract from O/I, Office-Institutional to PND, Planned Neighborhood District, and a Preliminary Development Plan and Development Standards Text for a 123-unit residential/mixed use development on 24. 542 acres located at the southwest corner of Sunbury Road and North Street; Applicant: Tabco Development, LLC. (Postponed to May)

Subdivision Reviews:

- PC 2006-007; Final Development Plan for a 10,768 square foot two-story office building on 1.005 acres in the PD, Planned Development District; located at 395 West Street; Applicant: Richard Glover. (Postponed to May)
- PC 2006-010; Final Development Plan for a 58,857 square foot, six building office park on 9.971 acres in the PD, Planned Development District, located at the northwest corner of Africa Road and County Line Road West; Applicant: Smiley/Sutliff Pop, LLC. (Approved 7-0)

Miscellaneous:

- PC 2004-009; Final Development Plan for a 34,752 square foot office building (Polaris View Professional Center) on 3.02 acres in the PDD, Planned Development District; located at 8253 Olde Worthington Court; Applicant: Giuseppe Pingue. (Approved 7-0)
- Presentation and Discussion of St. Paul Church's Master Plan.

Mr. Treneff stated Planning Commission's next meeting will be held on May 24, 2006 at 6:30 p.m. in City Council Chambers.

9. CITIZENS COMMENTS

Belinda Mortenson, 15 W. Broadway Avenue, stated she has been very impressed with the quick response to her concerns by the City Engineer's office regarding the street improvements on West Broadway Avenue.

Rebekah Carlisle, 40 W. Broadway Avenue, stated she is a representative of the Longfellow PTA Landscaping Committee and would like to publicly thank the city of all of the support they have given over the years. Mrs. Carlisle thanked Electric Utility Manager Andy Boatright, the late Brad Worth, Barry Gierard, Ken Perry, Mike Heckerd and Tom Jones who provided them with wonderful support. Mrs. Carlisle invited Council to take a look at the school's new landscaping.

Chris Carlisle, 40 W. Broadway Avenue, stated he would like to thank City Engineer Susan Banbury and Mr. Treneff for responding to concerns expressed by him and residents on the West Broadway Avenue improvements.

Andy Chow, Otterbein College Student and WOCC TV-3 representative, stated Otterbein College has lost two students to drunk driving the past year and announced WOCC TV-3 is working with Mothers Against Drunk Drivers on a Shoot for a Difference campaign this week. Mr. Chow stated there are two events planned for the campaign this week and invited Council to participate.

110. **LEGISLATION**

a) ***RESOLUTION NO. 06-07, "A Resolution Declaring the Necessity of an Election on August 8, 2006 of the Question of Approving the Passage of an Ordinance to Enact Section 191.023 of the Codified Ordinances of the City to Provide for an Additional Three-Quarters of One Percent (3/4%) Levy on Income, Seventy-Five Percent (75%) of which shall be for the Purpose of General Municipal Operations and Not Less than Twenty-Five Percent (25%) of which shall be used for the Purpose of Capital Improvements and Payment of Debt Service on Debt Incurred for Capital Improvements"*** was read for the second time.

b) ***RESOLUTION NO. 06-08, "A Resolution to Accept the Report of the City of Westerville Enterprise Zone Tax Incentive Review Council (TIRC) on the Status of the Enterprise Zone Program for Program Year 2005 and to Accept the Recommendations of the TIRC Concerning Agreements within the Zone"***.

Julie Colley, Economic Development Coordinator, stated as required by the Ohio Department of Development, all incentives within Enterprise Zones must be reviewed annually by a local TIRC. The TIRC that reviews Worthington Cylinders in Delaware County Enterprise Zone #267 reviewed the company's incentive on March 14, 2006. The TIRC found the company to be in compliance with the stipulations of the Enterprise Zone agreement and is recommending to Delaware County to accept the findings for 2005. The TIRC will continue to meet to monitor the project under the terms of the abatement agreement through program year 2009, which the TIRC will thus have its final compliance review in 2010.

Mr. Highfield moved, Mr. Heyeck seconded for the adoption of the Resolution No. 06-08.

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

Nays: None

The motion carried.

c) ***ORDINANCE NO. 06-09, "To Enact Section 1105.7950 of the Westerville Codified Ordinances and to Amend Section 1005.9300, 1125.03, 1127.03 and 1175.03"*** was read for the third time.

Chairman Wetterauer declared the Public Hearing open. Mrs. Johnston swore in those in attendance who wished to testify during the Public Hearing.

Lisa Rivera, Planner, stated staff believes that porches are a valuable asset in the creation of vibrant neighborhoods. By allowing porches to encroach into the front yard eight feet, residents are able to have usable porches that would encourage them to interact with neighbors more often while being protected from the sun and rain. Not only would this reduce the need for variances, but it would help to create an attractive residential streetscape and increase the sense of community. By lifting restrictions on porches, staff believes that it would enhance the attractiveness of Westerville's friendly and inviting neighborhoods. In pursuit of these goals, staff is proposing amendments to the Planning and Zoning Code in order to allow porches to encroach up to eight feet into the front yard setback.

Speaking in Favor: None

Speaking in Opposition: None

Chairman Wetterauer declared the Public Hearing closed.

Mr. Heyeck expressed his concerns with a flat roof porch where pitched roofs are part of the house.

Mrs. Gonzales moved, Mr. Treneff seconded for the approval of Ordinance No. 06-09.

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

Nays: None

The motion carried.

d) ***ORDINANCE NO. 06-10, "To Authorize and Direct the City Manager to Execute One or More Long Term Power Purchase Schedules and Declaring an Emergency"*** was read for the third time.

Mr. Heyeck excused himself from the discussion due to a conflict of interest.

Andy Boatright, Electric Utility Manager, stated AMP-Ohio has been able to negotiate a block of "round the clock" power at a competitive fixed rate compared to the market and for a period from January 1, 2006 through December 31, 2012. This legislation proposes committing to an amount not-to-exceed 50MW for the six year period beginning January 1, 2007 through December 31, 2012 at a price not-to-exceed \$0.05 per kilowatt hour (\$50/MWh). The current cost of power being proposed in this legislation for the years 2007 through 2012 is fixed at \$0.04455 per kWh (\$44.55/MWh) and comprises approximately 26 percent of Westerville's total power supply portfolio. This proposal has been reviewed by the city's power supply counsel and the city's Law Department. The outlook for the energy market indicates that the fixed price of \$44.55/MWh is, in fact, competitive now and even more favorable in the out years. Mr. Boatright stated the City Manager may execute contracts in excess of 25,000 kilowatts only after providing written notice to each member of City Council and receiving no objections from any member within ten (10) days of the written notice. Chuck Midkiff, Power Supply Counsel, discussed the contract negotiations conducted with AMP-Ohio.

Mr. Highfield moved, Mr. Treneff seconded for the approval of Ordinance No. 06-10.

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

Nays: None

The motion carried.

e) ***ORDINANCE NO. 06-12, "To Amend Section 539.03, Notice to Cut Grass or Weeds, of the Westerville Codified Ordinances"*** was read for the third time.

Mr. Bailey stated this Ordinance proposes amending the Notice specifications of the City's Grass-Cutting Ordinance. Staff requested the Law Department to draft legislation that will give them more flexibility in providing notice when they see a violation required them to order the cutting of high grass or weeds. This new process will allow for quicker action by City enforcement staff.

Mrs. Gonzales moved, Mayor Fosselman seconded for the approval of Ordinance No. 06-12.

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

Nays: None

The motion carried.

f) ***ORDINANCE NO. 06-13, "An Ordinance to Enact Section 191.023 of the Codified Ordinances of the City of Westerville to Provide for an Additional Three-Quarters of One Percent (3/4%) Levy on Income Commencing on January 1, 2007, Seventy-Five Percent (75%) of which shall be for the Purpose of General Municipal Operations and Not Less than Twenty-five Percent (25%) of which shall be used for the Purpose of Capital Improvements and Payment of Debt Service on Debt Incurred for Capital Improvements and to Declare an Emergency"*** read for the second time.

g) ***ORDINANCE NO. 06-14, "To Amend Part Thirteen of the Westerville Codified Ordinances to Adopt the State of Ohio Building Code for One-, Two-, and Three-Family Dwellings; To Update Building Code Fees; To Adopt the 2003 Edition of the International Property Maintenance Code; To Renumber the Street Light Section; and to Declare an Emergency"*** was read for the second time.

h) ***ORDINANCE NO. 06-15, "To Provide for the Advance and the Transfer of Funds, and the Appropriation of Funds for the Purpose of Paying the Costs of Engineering and Related Services for the Worthington Road Improvements"*** was read for the second time.

i) ***ORDINANCE NO. 06-16, "To Provide for the Appropriation of Funds for Preliminary Engineering and Related Services to Provide for the Studies and Concepts for the Dempsey Road Improvements from Sunbury Road to Hempstead Road"*** was read for the second time.

j) ***ORDINANCE NO. 06-17, "To Provide for the Advance of Funds, and the Appropriation of Funds for the Purpose of Paying the Costs of Construction and Related Services for the Cleveland Avenue and Westar Boulevard Intersection Improvements, To Authorize the City Manager to Enter in Related Contracts with Opus North Corporation Without Formal Bidding and Advertising, and to Declare an Emergency"*** was read for the first time.

Karl Craven, Planning and Development Director, stated this Ordinance will advance and transfer from the General Fund the amounts of \$213,000 and \$194,000 respectively to be appropriated for improvements to the Westar Boulevard and Cleveland Avenue intersection and signal. The Ordinance also waives competitive bidding and directs the developer to construct the City's portion. All costs will ultimately be recovered through the TIF proposals.

k) ***ORDINANCE NO. 06-18, "To Abolish the 'County Line Road Capital Improvement Project Fund' and to Provide for the Transfer of Residual Fund Equity"*** was read for the first time.

Mr. Craven stated this Ordinance will transfer the residual fund balance of approximately \$77,000 left in the County Line Road Capital Improvement Project Fund to the General Fund. The Ordinance also waives the reimbursement requirements of approximately \$78,000 which were previously advanced to the County Line Road Fund. Finally, the Ordinance abolishes the County Line Road Capital Improvement Project Fund.

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

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

Nays: None

The motion to suspend the rules carried.

Mr. Highfield moved, Mrs. Gonzales seconded for the approval of Ordinance No. 06-18.

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

Nays: None

The motion carried.

l) ***ORDINANCE NO. 06-19, "An Ordinance to Amend Section 191.16 of the Codified Ordinances of the City of Westerville with Respect to the Credit for Individual Resident Taxpayers"*** was read for the first time.

Mr. Bailey stated this Ordinance was created to amend the credit to taxpayers who work outside the city. This change gives Council the flexibility to change the credit instead of allowing the voters to change the credit. This amendment is entirely consistent with the city's code and the Ohio Revised Code.

Mr. Heyeck expressed his concerns with future councils raising the taxes without voter approval.

Mr. Treneff stated he is not completely sold that this is the way to go to strip it out of the ballot language.

11. TO AWARD THE BID FOR A PNEUMATIC TIRE (LARGE) FORKLIFT (INCLUDING TRADE-IN) TO OKI SYSTEMS LIMITED AS RECOMMENDED BY STAFF.

Mr. Boatright stated five bids were received at the official bid opening on Thursday, April 20, 2006. OKI Systems Limited provided the lowest of the five bids at a net price of \$44,092.70 which includes the trade-in of a 1975 Hyster forklift. The forklift is a 2006 Daewoo, model D70S, and the expected delivery time is 60 days. Contract Award Amount: \$44,092.70.

Mr. Heyeck moved, Mrs. Cocuzzi seconded to award the bid for a Pneumatic Tire (Large) Forklift (including trade-in) to OKI Systems Limited as recommended by staff.

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

Nays: None

The motion carried.

12. TO AUTHORIZE AND DIRECT THE CITY MANAGER TO SEEK BIDS FOR THE AFRICA ROAD IMPROVEMENTS.

Mr. Craven is requesting approval to authorize the City Manager to seek bids for the Africa Road Improvement project.

Mrs. Gonzales moved, Mr. Treneff seconded to authorize and direct the City Manager to seek bids for the Africa Road Improvements.

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

Nays: None

The motion carried.

13. ADDITIONAL BUSINESS

Dick Lorenz, Water Utility Manager, stated staff will be flushing hydrants in the coming weeks.

Mr. Treneff moved, Mrs. Gonzales seconded for Council to reconsider Ordinance No. 06-10.

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

Nays: None

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

The motion carried.

Mr. Treneff moved, Mrs. Gonzales seconded that Section 2 the highlighted new language that they received in the Ordinance this evening be amended to read that "the notice to Council will be five (5) business days" as opposed to the ten (10) days listed in the Ordinance.

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

Nays: None

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

The motion carried.

Mr. Highfield moved, Mayor Fosselman seconded for the approval of Ordinance No. 06-10 as amended.

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

Nays: None

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

The motion carried.

14. **COUNCIL COMMENTS**

Mrs. Cocuzzi reminded citizens that summer pool passes for Highlands Pool are available and Parks and Recreation registration begins May 6, 2006 at 8:00 a.m. for residents and May 8, 2006 for non-residents. Mrs. Cocuzzi thanked all of the volunteers who assisted with Operation Green Sweep. Mrs. Cocuzzi congratulated the Westerville Central High School Cheerleaders. Mrs. Cocuzzi gave her personal thanks to the Westerville Fire Division EMS personnel. Mrs. Cocuzzi thanked Concord Counseling personnel for their dedication to the community.

Mrs. Gonzales reminded everyone of the WARM Prayer Breakfast on May 4, 2006. Mrs. Gonzales requested Planning and Development staff to provide Planning Commission meeting minutes with any planning ordinances. Mrs. Gonzales stated she agrees with the memo prepared by City Engineer Susan Banbury on the traffic signal on Hempstead Road and Walnut Street. Mrs. Gonzales suggested changing the traffic signal sequence in the late evening hours.

Mr. Treneff asked staff to report back on the status of the Guernsey Bank property on South State Street. Mr. Treneff commended City Engineer Susan Banbury for her work on the West Broadway Avenue improvement issues. Mr. Treneff stated he wished the children of Westerville well for the vote on the school levy.

Mr. Highfield stated he liked the work City Engineer Susan Banbury did on the Hempstead Road and Walnut Street traffic signal and that the signal serves a purpose for the citizens and schools. Mr. Highfield encouraged residents to be aware of children in the parks and schoolyards.

Mr. Heyeck asked staff to try to save the sandstone curb on West Broadway Avenue. Mr. Heyeck stated the Parks and Recreation staff does a great job and would like them to consider Astronaut Grove as a Memorial Park and a home for the Veterans Memorial. Mr. Heyeck commended Rebekah Carlisle for being active in the city and congratulated her for her work in landscaping Longfellow Elementary School grounds. Mr. Heyeck thanked City Engineer Susan Banbury for working with the residents of West Broadway Avenue. Mr. Heyeck commended Income Tax Administrator Melinda Ulry and Income Tax staff for efficiently handling all of the income tax returns.

Mayor Fosselman reminded everyone of the Westerville Rotary's Fourth of July parade. Mayor Fosselman greatly appreciated Mrs. Banbury's work on the West Broadway Avenue. Mayor Fosselman reminded everyone of the Otterbein College activities this week. Mayor Fosselman stated the American Red Cross Monthly Blood Drive will be conducted on Wednesday, May 3, 2006 at the Community Center.

Chairman Wetterauer stated there are vacancies on the Board of Zoning Appeals and Shade Tree Commission and encouraged residents to apply. Chairman Wetterauer expressed his concerns with the possibility of a new national anthem and feels no need to have another national anthem.

15. **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 8:51 p.m.

Mary J. Johnston, MMC
Clerk of Council

Damon E. Wetterauer, Jr.
Chair of Council