

**PROCEEDINGS OF PUBLIC HEARING AND REGULAR SESSION
OF WESTLAKE CITY COUNCIL
FEBRUARY 2, 2006**

Public Hearing was called to order by President of Council Michael F. Killeen at 8:00 p.m. This Public Hearing was continued from January 19, 2006.

ORDINANCE NO. 2005-31: AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE ZONE MAP OF THE CITY OF WESTLAKE, WHICH ZONE MAP IS PART OF THE ZONING CODE OF THE CITY OF WESTLAKE, BY CHANGING THE ZONING OF CERTAIN VACANT LAND LOCATED ON THE NORTH AND SOUTH SIDE OF WESTCHESTER PARKWAY, WEST OF THE NORTHERLY EXTENSION OF THE EXISTING NORTH/SOUTH ZONING LINE OF OFFICE LABORATORY, BEING PERMANENT PARCEL NO. 212-03-003 AND PART OF PERMANENT PARCEL NO. 212-03-001 FROM R-MF-24 DISTRICT TO OFFICE LABORATORY DISTRICT.

Planning Director Robert Parry explained this amendment to the Zoning Code.

Mr. Joe Nieberding, 27687 Whitehill Circle, commented that he polled 36 of the 45 residences and of the 36 it was unanimous that they support the City's position to rezone the land to office laboratory district.

Mr. Brendan Fitzgerald, 27640 Bryandale Drive, was opposed to rezoning the property to office laboratory district, and felt residential neighbors would provide a better community verses office laboratory business that is transient with people who are not stake holders showing up in the neighborhood daily.

Ms. Angora Reschke, Westchester Parkway, and her granddaughter commented in favor of residential zoning versus office laboratory for safety reasons especially for children.

Mr. Jeff Friedman of Associated Estates Realty and owner of the property being rezoned commented in favor of the rezoning from R-MF-24 to R-MF-40 and further, stated a petition was submitted which was signed by over 100 residents supporting residential zoning for the balance of vacant land on Westchester Parkway. He then stated that he also submitted expert testimony regarding the impact of traffic associated with office laboratory and what the impact would be to the school system associated with residential. He then stated if Ordinance 2005-31 were defeated he would submit deed restrictions that would run with the proper which would limit its development.

Mr. Jim Feldner, 27667 Whitehill Circle, voiced concern about a stub of roadway in the area and asked if the developer was in a position to guarantee that it would not be opened up to traffic or for safety issues.

Mr. Kevin Kelly, 27631 Whitehill Circle, suggested that a restriction be placed on the land requiring a certain portion of the townhouses to be owner occupied versus rental property so residents living in them have a commitment to stay and put down roots rather than leasing.

Mr. Jeff Friedman commented this was a for-sale development.

There being no further comments from the audience, Council President Killeen declared the Public Hearing on Ordinance No. 2005-31 closed.

Public Hearing was called to order by President of Council Michael F. Killeen at 8:23 p.m. in accordance with Article III, Section 13, of the Westlake City Charter and legal notice published in the Westlife on January 25, 2006, and February 1, 2006.

ORDINANCE NO. 2005-139: AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE ZONE MAP OF THE CITY OF WESTLAKE, WHICH ZONE MAP IS PART OF THE ZONING CODE OF THE CITY OF WESTLAKE, BY CHANGING THE ZONING OF CERTAIN LAND LOCATED ON THE NORTHEAST CORNER OF BRADLEY AND CLEMENS ROADS, BEING PERMANENT PARCEL NOS. 211-15-009 AND 211-15-016 FROM RECREATIONAL BUSINESS DISTRICT TO INDUSTRIAL DISTRICT.

Planning Director Robert Parry explained this amendment to the Zoning Code.

Mr. Norman Kotoch, 355 Bishop Road, Highland Heights, commented that it was his understanding that Rocky River Baptist Church has taken title to the parcel to the north of his property and does not want the industrial rezoning; therefore, he requested that the legislation be amended to delete that parcel to the north and continue on with his request.

There being no further comments from the audience, Council President Killeen declared the Public Hearing on Ordinance No. 2005-139 closed.

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The Regular Session of Council was called to order at 8:25 p.m. by President of Council Michael F. Killeen.

Present: President of Council Michael F. Killeen; Councilmembers Nan A. Baker, Kenneth R. Brady, James P. Connole, Edward G. Hack, Michael F.

O'Donnell, Dennis J. Sullivan.

Also present: Mayor Dennis Clough, Law Director John Wheeler, Service Director Donald Glauner, Director of Engineering Robert Kelly, Finance Director Anne Fritz, Recreation Director Michael Rump, Planning Director Robert Parry, Director of Purchasing Mary Calabrese, Director of Inspections Robert Patton, Director of Community Services Joyce Schroth, Police Chief Richard Walling, Fire Chief Richard Pietrick, Clerk of Council Susan J. Prehoda.

APPROVAL OF MINUTES:

Councilmember Brady moved, seconded by Councilmember Hack, that the reading of the Minutes of the Regular Session of January 19, 2006, be waived and that they be approved as received.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

SELECTED CORRESPONDENCE:

Communication from Mayor Clough dated January 24, 2006, requesting approval of the purchase of ten Panasonic toughbook 29s through state purchasing from GTSI Corporation in an amount not to exceed \$42,000.00 to be used in police vehicles.

Communication from Mayor Clough dated January 24, 2006, requesting authorization to go out to bid for the Porter Road Turn Lane and Resurfacing Project.

Councilmember Baker moved, seconded by Councilmember Brady, to authorize the administration to go out to bid for the Porter Road Turn Lane and Resurfacing Project.

Yeas: All.

Nays: None; motion carried.

Communication from Recreation Director Michael Rump received January 27, 2006, stating that the Recreation Commission at its January 17, 2006, meeting recommended new rates for Meadowwod Golf Course and Peterson Pool. There were no objections to the new rates.

Communication from Mayor Clough dated January 27, 2006, requesting approval for the purchase of one KIP America digital print system under GSA contract from Northcoast Plotting Systems, Inc., in the amount of \$11,672.00 for use in the Engineering Department.

PETITIONS FROM THE PUBLIC:

Ms. Carolyn Husted, 2912 Canterbury Road, commented on sewer, drainage and potential sidewalk problems on her property.

Ms. Mary Levtzow, 2454 Dover Center Road, commented on Ordinance Nos. 2005-8, 9, 10, 13, 15 and 16. She further commented on the lighting of the flagpoles at City Hall, Aluminum Cans for Burned Children, how many people live in the City who are 99 years old or over, and a recent article in the Westlaker Times regarding the passing of a noteworthy 99 year old.

Mr. Brendan Delay, 23144 Kingsbrook Lane, commented on a new type of stop sign and energy saving practices the City could follow regarding parking lot lighting at City Hall.

REPORT OF THE MAYOR:

Mayor Clough read his third report of the year.

REPORTS OF STANDING COMMITTEES - COMMITTEE OF THE WHOLE:

President of Council Killeen reported on the Committee of the Whole meeting held this date at 7:30 p.m. Present were Councilmembers Killeen, Baker, Brady, Connole, Hack, O'Donnell, Sullivan. Also present were Mayor Clough; Directors Wheeler, Glauner, Kelly, Fritz, Rump, Parry, Calabrese, Patton, Schroth, Walling, Pietrick. Agenda items were discussed. Selected correspondence and the planning commission report were each briefly discussed. Meetings were scheduled.

REPORTS OF OTHER BOARDS AND COMMISSIONS - PLANNING COMMISSION:

Councilmember Connole reported on the January 23, 2006, planning commission meeting advising that the commission regarding the **Emerald Square Retail Building Campus Development Plan and Assembly Plat**, northeast corner of Crocker and Center Ridge Roads, recommended approval of the **Emerald Square Retail Building Campus Development Plan** with the following conditions and modification: 1) condition that the grading plan be changed from the parking lot north so the trees are not removed from the current Phase I plan; 2) condition that the freestanding sign should comply with Section 1223.07(g) which requires that at least 75% of the sign face be opaque or nontransparent; 3) condition that the assembly plat be recorded as a plat of record; and 4) modification for the second side of Building A (the 51' of frontage facing Crocker) to count toward sign area; approved the Emerald Square Retail Building Campus Assembly Plat dated January 13, 2006; recommended approval of **Ordinance No. 2005-139**, amending the zone map by changing zoning of certain land at the northeast corner of Bradley and Clemens Roads, from Recreational Business District to Industrial District; recommended approval of **Ordinance No. 2005-34**, amending the zone map by changing the zoning of certain vacant land at the northwest side of Center Ridge Road from

General Business District to Health Campus District; recommended approval of **Ordinance No. 2005-32**, amending the zone map by changing the zoning of certain land within King James North, from Office Laboratory District to R-MF-15 and from Office Laboratory District to R-MF-24 District and submitting the proposal to the electors at a regular municipal or general election for approval; withdrew the **Keller Williams Realty Sign Plan**, 1100 Crocker Road, pursuant to request of applicant; tabled the **Oakridge Home Development Plan**, 26520 Center Ridge Road; approved the **Audio Vision Sign Plan**, 30215 Detroit Road, with a modification from the Promenade sign criteria to allow a capsule sign; tabled the next three SBC Cabinet Development Plans to the next meeting: **SBC Telephone Cabinet Development Plan**, 26055 Detroit Road; **SBC Telephone Cabinet Development Plan**, 1565 Hunter's Chase; **SBC Telephone Cabinet Development Plan**, 29242 Detroit Road; **SBC Telephone Cabinet Development Plan**, 27991 Center Ridge (west of); discussed zoning amendments suggested by Assistant Law Director Bill Huffman – recommended a code amendment to §1219.07 to include “§1219.07A – A lot or parcel not meeting the minimum lot within Health Campus District may be developed if: 1) It is a lot of record at the effective date of Ordinance 2005-34; 2) No adjacent land is commonly owned; and 3) All other standards of this section can be met.”; recommended a code amendment to §1231.01 COMPLIANCE REQUIRED – “Hereafter, in the City, no land shall be used or occupied and no structure shall be built, reconstructed, altered, used or occupied, except as permitted by this Zoning Code *or approved development plans* and in conformity with the regulations herein established for the district in which such land or structure is hereby located.”; recommended a code amendment to §1231.04 BUILDING PERMIT APPLICATION AND CERTIFICATION – “All applications for building permits shall be made in triplicate and on forms furnished by the Director of Inspections and shall be accompanied by a plat in triplicate, drawn to scale and showing the actual dimensions of each lot upon which the building of a structure is proposed to be done, the size and location of each such structure upon each such lot and such plans drawn to scale, specifications and other information as may be necessary to enable the Director to determine that the proposed structure and use of land will conform to the provisions of this Zoning Code *and approved development plans* or as approved and modified by Council. No building permit shall be issued without certification thereon by the Director that the building proposed to be done hereunder will conform to the provisions of this Zoning Code. Such certification shall be made or refused within fifteen days after receipt by the Director of a copy of such application and plat. (Ordinance No. 1988-87. Passed 6-16-88.)” Meeting adjourned at 9:30 p.m. The next regular meeting is scheduled for Monday, February 6, 2006, at the Westlake City Hall Council Chambers.

Councilmember Connole moved, seconded by Councilmember Hack, to approve the **Emerald Square Retail Building Campus Development Plan**, with the conditions and modification listed in the report of the January 23, 2006, planning commission.

Yeas: Hack, Connole, Sullivan, O'Donnell, Brady, Baker, Killeen.

Nays: None; motion carried.

Councilmember Connole asked that the Law Director review the suggested recommended zoning amendments as indicated in the miscellaneous section of the report of the January 23, 2006, planning commission.

LEGISLATION:

ORDINANCE NO. 2005-31: AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE ZONE MAP OF THE CITY OF WESTLAKE, WHICH ZONE MAP IS PART OF THE ZONING CODE OF THE CITY OF WESTLAKE, BY CHANGING THE ZONING OF CERTAIN VACANT LAND LOCATED ON THE NORTH AND SOUTH SIDE OF WESTCHESTER PARKWAY, WEST OF THE NORTHERLY EXTENSION OF THE EXISTING NORTH/SOUTH ZONING LINE OF OFFICE LABORATORY, BEING PERMANENT PARCEL NO. 212-03-003 AND PART OF PERMANENT PARCEL NO. 212-03-001 FROM R-MF-24 DISTRICT TO OFFICE LABORATORY DISTRICT.

Councilmember Hack moved, seconded by Councilmember O'Donnell, that Ordinance No. 2005-31 be adopted. Discussion ensued. Councilmember Hack was not in favor of placing deed restrictions on the property as mentioned earlier by Mr. Friedman during the public hearing. He was in favor of changing the zoning to R-MF-40 to preserve a residential area for Westchester Parkway and would, therefore, propose an amendment.

Councilmember Hack moved, seconded by Councilmember Connole, to amend Ordinance No. 2005-31 to rezone the property not office laboratory but to rezone it R-MF-40 .

ROLL CALL ON THE AMENDMENT:

Yeas: Connole, Sullivan, O'Donnell, Brady, Baker, Killeen, Hack.

Nays: None, Ordinance No. 2005-31 amended.

ROLL CALL ON THE MAIN MOTION TO ADOPT AS AMENDED:

Yeas: Connole, Sullivan, O'Donnell, Brady, Baker, Killeen, Hack.

Nays: None; Ordinance No. 2005-31 amended, adopted.

ORDINANCE NO. 2005-139: AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE ZONE MAP OF THE CITY OF WESTLAKE, WHICH ZONE MAP IS PART OF THE ZONING CODE OF THE CITY OF WESTLAKE, BY CHANGING THE ZONING OF CERTAIN LAND LOCATED ON THE NORTHEAST CORNER OF BRADLEY AND CLEMENS ROADS, BEING PERMANENT PARCEL NOS. 211-15-009 AND 211-15-016 FROM RECREATIONAL BUSINESS

DISTRICT TO INDUSTRIAL DISTRICT.

Council President Killeen stated there was a question regarding the parcel that was purchased by owners who may want to use it for a church and until things are sorted out the ordinance could be tabled.

Councilmember Sullivan moved, seconded by Councilmember Brady, that Ordinance No. 2005-139 be tabled.

ROLL CALL ON TABLING:

Yeas: Sullivan, O'Donnell, Brady, Baker, Killeen, Hack, Connole.

Nays: None; Ordinance No. 2005-139 tabled.

ORDINANCE NO. 2005-144: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PERSONAL SERVICES CONTRACT FOR ENGINEERING SERVICES WITH URS CORPORATION FOR SEWER INVESTIGATION WORK, AND DECLARING AN EMERGENCY.

Councilmember Hack moved, seconded by Councilmember O'Donnell, that Ordinance No. 2005-144 be adopted. Discussion: Council President Killeen stated Ordinance No. 2005-144 is being replaced by Ordinance No. 2006-16.

ROLL CALL ON ADOPTION:

Yeas: None.

Nays: O'Donnell, Brady, Baker, Killeen, Hack, Connole, Sullivan. Ordinance No. 2005-144 defeated.

ORDINANCE NO. 2005-32: AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE ZONING MAP OF THE CITY BY CHANGING THE ZONING OF CERTAIN LAND LOCATED WITHIN KING JAMES NORTH, BEING ALL OF PERMANENT PARCEL NOS. 214-18-003 AND 214-18-010 FROM OFFICE LABORATORY DISTRICT TO R-MF-15 AND ALL OF PERMANENET PARCEL NOS. 214-18-005, 214-18-006, 214-18-009, 214-18-011, 214-18-012 AND 214-18-004 FROM OFFICE LABORATORY DISTRICT TO R-MF-24 DISTRICT AND AUTHORIZING AND DIRECTING THE PROPOSAL TO BE SUBMITTED TO THE ELECTORS AT A REGULAR MUNICIPAL OR GENERAL ELECTION FOR APPROVAL BY THE ELECTORATE, AND DECLARING AN EMERGENCY.

Council President Killeen set a public hearing on Ordinance No. 2005-32 for February 16, 2006.

ORDINANCE NO. 2005-34: AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE ZONE MAP OF THE CITY OF WESTLAKE, WHICH ZONE MAP IS PART OF THE ZONING CODE OF THE CITY OF WESTLAKE, BY CHANGING THE ZONING OF CERTAIN VACANT LAND LOCATED ON THE NORTHWEST SIDE OF CENTER RIDGE ROAD, BEING PERMANENT PARCEL NO. 216-11-008 FROM GENERAL BUSINESS DISTRICT TO HEALTH CAMPUS DISTRICT.

Council President Killeen set a public hearing on Ordinance No. 2005-34 for February 16, 2006.

ORDINANCE NO. 2006-7: AN ORDINANCE ACCEPTING AN EASEMENT FROM JAGER ASSOCIATES, LLC FOR THE INSTALLATION AND MAINTENANCE OF A WATER MAIN FOR THE PURPOSE OF SUPPLYING WATER SERVICE FOR BURR OAK SUBDIVISION.

Councilmember Hack moved, seconded by Councilmember Brady, that the rule requiring the ordinance to be read in full on three separate dates be suspended and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember Hack moved, seconded by Councilmember Connole, that Ordinance No. 2006-7 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Brady, Baker, Killeen, Hack, Connole, Sullivan, O'Donnell.

Nays: None; Ordinance No. 2006-7 adopted.

RESOLUTION NO. 2006-8: A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO DONATE USED EQUIPMENT TO CERTAIN OTHER MUNICIPALITIES.

Councilmember Hack moved, seconded by Councilmember Brady, that the rule requiring the resolution to be read in full on three separate dates be suspended and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember Hack moved, seconded by Councilmember O'Donnell, that Resolution No. 2006-8 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Baker, Killeen, Hack, Connole, Sullivan, O'Donnell, Brady.

Nays: None; Resolution No. 2006-8 adopted.

ORDINANCE NO. 2006-9: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT TO RETAIN IMAGINiT TECHNOLOGIES TO DESIGN, IMPLEMENT AND SUPPORT THE NEW CITY GIS SYSTEM, AND DELARING AN EMERGENCY.

Council President Killeen referred Ordinance No. 2006-9 to the Ad Hoc Information Technology Committee.

RESOLUTION NO. 2006-10: A RESOLUTION PROVIDING APPROVAL FOR A TRANSFER OF CONTROL OF THE FRANCHISE AND THE CABLE SYSTEM TO RACECAR ACQUISITION, LLC.

Councilmember Hack moved, seconded by Councilmember Connole, that the rule requiring the resolution to be read in full on three separate dates be suspended and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember Brady moved, seconded by Councilmember Baker, that Resolution No. 2006-10 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Killeen, Hack, Connole, Sullivan, O'Donnell, Brady, Baker.

Nays: None; Resolution No. 2006-10 adopted.

ORDINANCE NO. 2006-11: AN ORDINANCE AUTHORIZING THE MAYOR TO PURCHASE LAPTOP COMPUTERS FOR USE IN THE CITY POLICE CRUISERS THROUGH THE OHIO'S COOPERATIVE PURCHASE ACT.

Councilmember Hack moved, seconded by Councilmember O'Donnell, that the rule requiring the ordinance to be read in full on three separate dates be suspended and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember O'Donnell moved, seconded by Councilmember Brady, that Ordinance No. 2006-11 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Hack, Connole, Sullivan, O'Donnell, Brady, Baker, Killeen.

Nays: None; Ordinance No. 2006-11 adopted.

RESOLUTION NO. 2006-12: A RESOLUTION APPROVING THE PRELIMINARY PLAN OF THE PRESTWICK GLEN SUBDIVISION NO. 2 IN THE CITY OF WESTLAKE.

ORDINANCE NO. 2006-13: AN ORDINANCE AUTHORIZING THE MAYOR TO PURCHASE ONE (1) KIP AMERICA, MODEL 3002 STF DIGITAL PRINT SYSTEM LESS TRADE-IN OF ONE (1) RICOH ANALOG PLOTTER THROUGH THE OHIO'S COOPERATIVE PURCHASE ACT.

Councilmember Connole moved, seconded by Councilmember Sullivan, that the rule requiring the ordinance to be read in full on three separate dates be suspended and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember O'Donnell moved, seconded by Councilmember Baker, that Ordinance No. 2006-13 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Connole, Sullivan, O'Donnell, Brady, Baker, Killeen, Hack.

Nays: None; Ordinance No. 2006-13 adopted.

ORDINANCE NO. 2006-14: AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE TO PAY TO THE CITY OF CLEVELAND, DIVISION OF WATER, THE CITY OF WESTLAKE'S ANNUAL CHARGE FOR FIRE HYDRANT USAGE, AND DECLARING AN EMERGENCY.

Councilmember Hack moved, seconded by Councilmember Brady, that the rule requiring the ordinance to be read in full on three separate dates be suspended and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember Hack moved, seconded by Councilmember Brady, that Ordinance No. 2006-14 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Sullivan, O'Donnell, Brady, Baker, Killeen, Hack, Connole.

Nays: None; Ordinance No. 2006-14 adopted.

ORDINANCE NO. 2006-15: AN ORDINANCE AMENDING SECTIONS 141.01 AND 141.03 OF THE ADMINISTRATIVE CODE, AND DECLARING AN EMERGENCY.

Council President Killeen referred Ordinance No. 2006-15 to the Finance Committee.

ORDINANCE NO. 2006-16: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PERSONAL SERVICES CONTRACT TO RETAIN URS CORPORATION FOR SANITARY SEWER DYE TESTING WITHIN THE CITY, AND DECLARING AN EMERGENCY.

Councilmember Connole moved, seconded by Councilmember Sullivan, that the rule requiring the ordinance to be read in full on three separate dates be suspended and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember O'Donnell moved, seconded by Councilmember Brady, that Ordinance No. 2006-16 be adopted.

ROLL CALL ON ADOPTION:

Yeas: O'Donnell, Brady, Baker, Killeen, Hack, Connole, Sullivan.

Nays: None; Ordinance No. 2006-16 adopted.

ADJOURNMENT:

President of Council Killeen declared the meeting adjourned at 9:38 p.m.

Susan J. Prehoda, CMC
Clerk of Council

Michael F. Killeen,
President of Council