

**PROCEEDINGS OF A REGULAR SESSION
OF WESTLAKE CITY COUNCIL
MARCH 16, 2006**

The Regular Session of Council was called to order at 8:04 p.m. by President of Council Pro Tem Kenneth R. Brady.

Present: President of Council Pro Tem Kenneth R. Brady; Councilmembers Nan A. Baker, James P. Connole, Edward G. Hack, Michael F. O'Donnell, Dennis J. Sullivan.

Councilmember Hack moved, seconded by Councilmember O'Donnell, that Council President Killeen be excused for cause.

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

Nays: None; motion carried.

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 Hack moved, seconded by Councilmember Baker, that the reading of the Minutes of the Regular Session of March 2, 2006, be waived and that they be approved as received.

VOICE VOTE:

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

Abstention: Brady.

Nays: None; motion carried.

SELECTED CORRESPONDENCE:

Rezoning application from Mr. Neil R. Bower, received March 7, 2006, to change land at the northwest corner of Center Ridge Road and Hillsborough Point from General Business District to R-MF-40 District was referred by the Chair to the Planning/Zoning/Legislative Committee.

Communication from Mayor Clough dated March 7, 2006, requesting authorization to purchase two 2006 GMC Sierra 2500, 4WD, Model #TK25903 and related equipment from Norris Automall Ltd., Inc. in an amount not to exceed \$36,398.40 through the State of Ohio Cooperative Purchasing Program.

Communication from Mayor Clough dated March 7, 2006, requesting authorization to purchase five International 7400 SFA Cab and Chassis with related equipment, less trade-in allowance from International Truck and Engine Corporation in an amount not to exceed \$228,883.00 through contracts awarded by the Ohio Department of Transportation.

Communication from Mayor Clough dated March 7, 2006, requesting authorization to purchase one 2006 Ford, F350, Model #F37, 4WD, Cab and Chassis from Valley Ford Truck Sales, Inc. in an amount not to exceed \$18,439.00 through the State of Ohio Cooperative Purchasing Program.

Application from Ohio Division of Liquor Control for transfer of a C1, C2 and D6 permit from Convenient Food Mart, Inc., 344, 27112 Detroit Avenue, Westlake, Ohio 44145 to Dhillon Food Co., 27112 Detroit Avenue, Westlake, Ohio 44145.

Councilmember Hack moved, seconded by Councilmember Connole, not to object to the request for transfer of a C1, C2, D6 permit from Convenient Food Mart, Inc., 344, 27112 Detroit Avenue, Westlake, Ohio 44145 to Dhillon Food Company, 27112 Detroit Avenue, Westlake, Ohio 44145.
Yeas: Hack, Connole, Sullivan, O'Donnell, Brady, Baker.
Nays: None; motion carried.

Communication from Mayor Clough dated March 10, 2006, requesting that the bid for the Porter Road turn lane and resurfacing be awarded to Tri Mor Construction in the amount of \$478,400.00 as lowest and most responsive bid.

Communication from Mayor Clough dated March 13, 2006, requesting that the bid for requirements for concrete and related materials be awarded to Medina Supply Company as lowest, best and most responsive bid.

Communication from Mayor Clough dated March 13, 2006, requesting that the bid for asphalt concrete and bituminous cold mix requirements be awarded to bidders listed on his attached memo as lowest and best, i.e., Kokosing Materials, Inc.; Schloss Materials Co.; and Unique Paving Materials Corporation for the amounts as indicated.

Communication from Mayor Clough dated March 13, 2006, requesting that the bid for stone, sand, dirt and gravel be awarded to the bidders listed on his attached memo as the lowest and best for the products listed, i.e., C & S Limestone; Lafarge North America; Three Z, Inc.; Erie Materials, Inc.; Kurtz Bros., Inc., for the amounts as indicated.

Communication from Director of Inspections Patton dated March 13, 2006, stating Ms. Lisa Harwood and Mr. Ken Anderson, realtors, are requesting a Conditional Use Permit in an industrial park. They are asking to allow a dog daycare center at 31011 Viking Parkway. This item was referred by the Chair to the Planning/Zoning/Legislative Committee.

Communication from Mayor Clough dated March 16, 2006, requesting that a Service, Streets, Sidewalks and Road Drains Committee be scheduled to discuss the 2006 Roadway Program. This item was referred by the Chair to the Service, Streets, and Road Drains Committee.

Communications from Mayor Clough dated March 6, 2006, requesting confirmation of the appointments of the following directors retroactive to January 1, 2006: Ms. Mary Calabrese to serve in the capacity of Director of Purchasing; Mr. Robert Patton to serve in the capacity of Director of Inspections, and Mr. Michael Rump to serve in the capacity of Recreation Director.

Councilmember Hack moved, seconded by Councilmember O'Donnell, to reconfirm the appointment of Ms. Mary Calabrese as Director of Purchasing retroactive to January 1, 2006.

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

Abstentions: Connole.

Nays: None; motion carried.

Mayor Clough asked Law Director Wheeler if this was the right motion to which Mr. Wheeler replied that he thought he understood what was intended. He further stated there seemed to be a question as to whether or not the proper terminology would be to affirm the appointment or to reconfirm a previous appointment. He did not think the use of the term reconfirmed or use of the term affirm necessarily changed the legal affect of what was being done, i.e., the Mayor made a request and an appointment and Council is either reconfirming it or affirming it depending upon the point of view. He stated his point of view was that once the appointment was made by the Mayor for the beginning of his term, that appointment was being affirmed, but notwithstanding that, given the fact he did not perceive there being any real difference in the legal affect of use of the term "reconfirm," he suggested moving forward.

Councilmember Hack stated the motion is to "reconfirm" the appointment of Mr. Patton.

Law Director Wheeler stated that a "yes" vote in his judgment was suitable for reconfirmation as well as affirmation.

Councilmember Hack stated he understood Mr. Wheeler's opinion, but wanted to make it clear, should it ever be needed in the future, that he disagreed with Mr. Wheeler's opinion. He agreed that it makes these individuals directors. He also agreed that they do an outstanding job, but there is some difference of opinion as to whether or not their term ends. He stated he wanted to keep that option open and not lose that position by how he would make the motion.

The Mayor stated pursuant to the charter a director can only be appointed by the Mayor. The Mayor only has the authority and the power when the term begins. So, consequently, when a newly elected official as Mayor is elected, then it is his choice to select his directors as required by the charter.

Councilmember Hack moved, seconded by Councilmember O'Donnell, to reconfirm the appointment of Mr. Robert Patton as Director of Inspections retroactive to January 1, 2006.

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

Nays: None; motion carried.

Councilmember Hack moved, seconded by Councilmember O'Donnell, to reconfirm the appointment of Mr. Michael Rump as Director of Recreation retroactive to January 1, 2006.

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

Nays: None; motion carried.

PETITIONS FROM THE PUBLIC:

Ms. Mary Levtzow, 2454 Dover Center Road, commented on a special program between the Fire Department and Cuyahoga County Community College and the Tax Incentive Review Council meeting.

Ms. Cecelia Baker, 2076 Arthur Avenue, asked if Council could avoid setting three committee meetings on the same evening, commented on the Mayor's raise, and requested legislation that would add a section to the agenda for public comment after the miscellaneous section at the end of the meeting.

Ms. Mary Clemens, 27279 Dunford Avenue, commented on drainage problems she and her neighbors are experiencing.

REPORT OF THE MAYOR:

Mayor Clough read his sixth report of the year.

REPORTS OF STANDING COMMITTEES – PUBLIC GROUNDS & BUILDINGS COMMITTEE:

Councilmember Baker reported on the March 9, 2006, Public Grounds & Buildings Committee meeting.

Councilmember Baker moved, seconded by Councilmember O'Donnell, that the report of the March 9, 2006, Public Grounds & Buildings Committee be received and filed.

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

Nays: None; motion carried.

REPORTS OF STANDING COMMITTEES – AD HOC INFORMATION TECHNOLOGY COMMITTEE:

Councilmember O'Donnell reported on the March 9, 2006, Ad Hoc Information Technology Committee meeting.

Councilmember O'Donnell moved, seconded by Councilmember Baker, that the report of the March 9, 2006, Ad Hoc Information Technology Committee be received and filed.

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

Nays: None; motion carried.

TAX INCENTIVE REVIEW COUNCIL:

Planning Director Parry reported on the March 15, 2006, Tax Incentive Review Council meeting.

Councilmember Connole moved, seconded by Councilmember Hack, to accept the recommendations to continue the abatements as outlined in the report of the March 15, 2006, Tax Incentive Review Council as well as to make the appropriate amendments and negotiations as shown on the report.

Discussion: It was stated that the intent would be to move forward with the recommendations (Mr. Parry has to submit the report), which is for the negotiating team to negotiate with those that are not in compliance or that have a name change. The negotiation team would negotiate that and recommend to Council a new contract and a new ordinance that would effect that change.

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

Nays: None; motion carried.

COMMITTEE OF THE WHOLE:

President of Council Pro Tem Brady reported on the Committee of the Whole meeting held this date at 7:33 p.m. Present were Councilmembers 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, the planning commission report, and the Tax Incentive Review Council report were each briefly discussed. The following meetings to be held in the council chambers were announced: Westridge Estates residents (discuss trees to be planted on tree lawns), March 21, 2006, at 7:00 p.m.; Ad Hoc Sidewalk Committee, March 22, 2006, 7:00 p.m.; Service, Streets, Sidewalks & Road Drains Committee, March 22, 2006, 7:30 p.m.; Committee of the Whole, March 23, 2006, 7:00 p.m.; Planning/Zoning/Legislative Committee, March 29, 2006, at 7:00 p.m.

Councilmember Sullivan moved, seconded by Councilmember O'Donnell, to adjourn the Committee of the Whole meeting at 7:54 p.m. Motion passed unanimously. Meeting immediately adjourned at 7:54 p.m.

REPORTS OF OTHER BOARDS AND COMMISSIONS - PLANNING COMMISSION:

Councilmember Connole reported on the March 6, 2006, planning commission meeting advising that the commission withdrew, pursuant to applicant, the **Cornerstone Lot Split and Assembly, Block B**, Cornerstone and Walter Road; recommended approval of the **Key Bank Development Plan, Freestanding Fabric Awning**, 29900 Detroit Road, with the following condition and modifications: 1) Modification of 8.32 sq. ft. for total sign area; 2) Modification of 6.84 sq. ft. to allow 12.84 sq. ft. of sign area on the awning to be visible at one time; and 3) Condition that the black portion of the awning be fully opaque; tabled the **Fluidtrols Sign Plan**, 909 Canterbury Road, to the first meeting in April; recommended approval of the **Carrabba's Italian Grill Development Plan, patio addition**, 20554 Sperry Drive, as submitted; approved the **Walridge Shopping Center, canopy modifications**, 24505 Center Ridge Road, with the condition that all trash dumpsters are placed inside the trash enclosure; tabled the **Loco Leprechan Development Plan, site addition**, 24545 Center Ridge Road, to March 20, 2006; recommended approval of the **Center Point West Development Plan**, 30700 Center Ridge Road, with the following conditions and modification: 1) A 4' front setback modification to the planned right-of-way for parking spaces in the front yard; 2) Condition that all trash is kept inside the building and there is no dumpster placed outside; 3) Condition that additional landscape buffer is placed in the northwest corner; 4) Condition that the

brick veneer on the monument sign to cover all but the sign face and the sign face not to be pure white and it should be rough or unpolished to comply with the illumination performance regulation of the code; and 5) Condition that the background brick for the wall signage match the rest of the building and that the lettering not exceed 29.34 sq. ft. in area; tabled the **Crocker Park Building F Development Plan**, Market Street and Crocker Road, to March 20, 2006. Meeting adjourned at 10:05 p.m. The next regular meeting is scheduled for Monday, March 20, 2006, at the Westlake City Hall Council Chambers.

Councilmember Connole moved, seconded by Councilmember Hack, to approve the **Key Bank Development Plan, freestanding fabric awning**, 29900 Detroit Road, with the condition and modification listed in the report of the March 6, 2006, planning commission.

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

Nays: None; motion carried.

Councilmember Connole moved, seconded by Councilmember Hack, to approve the **Carrabba's Italian Grill Development Plan, patio addition**, 20554 Sperry Drive, as submitted.

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

Nays: None; motion carried.

Councilmember Connole moved, seconded by Councilmember Hack, to approve the **Walridge Shopping Center, canopy modifications**, 24505 Center Ridge Road, with the condition listed in the report of the March 6, 2006, planning commission.

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

Nays: None; motion carried.

Councilmember Connole moved, seconded by Councilmember Hack, to approve the **Center Point West Development Plan**, 30700 Center Ridge Road, with the conditions and modification listed in the report of the March 6, 2006, planning commission.

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

Nays: None; motion carried.

LEGISLATION:

ORDINANCE NO. 2005-174: AN ORDINANCE AMENDING SECTIONS 133.02 AND
(THIRD READING) 133.03 OF THE ADMINISTRATIVE CODE, AND
DECLARING AN EMERGENCY.

Councilmember Hack moved, seconded by Councilmember Connole, that Ordinance No. 2005-174 be amended by substitution of an amended ordinance. Discussion: Law Director Wheeler explained the amendments, and a request was made for the ordinance to be further amended to include the Law Director in the composition of the law department. Law Director Wheeler stated he would research the matter and determine if a further amendment would be necessary.

Councilmember Hack withdrew the motion to amend Ordinance No. 2005-174 by substitution of an amended ordinance and Councilmember Connole withdrew the second to that motion.

Councilmember Hack moved, seconded by Councilmember Sullivan, that Ordinance No. 2005-174 be tabled until the next meeting on April 6, 2006.

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

Nays: None; Ordinance No. 2005-174 tabled to April 6, 2006.

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

Councilmember Connole moved, seconded by Councilmember Sullivan, that Ordinance No. 2006-9 be adopted.

Councilmember O'Donnell moved, seconded by Councilmember Sullivan, that Ordinance No. 2006-9 be amended. Discussion: The amendment would be to add language after Section 1 to read as follows: "that no added hardware or network cost be associated with the installation of the software."

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

Nays: None; Ordinance No. 2006-9 amended.

ROLL CALL ON MAIN MOTION TO ADOPT AS AMENDED:

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

Nays: None; Ordinance No. 2006-9 amended, adopted.

ORDINANCE NO. 2006-29: AN ORDINANCE CONSIDERING AN APPLICATION FOR
(SECOND READING) A CONDITIONAL USE PERMIT FOR A SELF STORAGE
FACILITY.

ORDINANCE NO. 2006-31: AN ORDINANCE AUTHORIZING THE MAYOR TO
PURCHASE FIVE (5) INTERNATIONAL CAB & CHASSIS
AND RELATED EQUIPMENT FOR THE SERVICE
DEPARTMENT THROUGH THE OHIO'S COOPERATIVE
PURCHASE ACT.

Councilmember Connole moved, seconded by Councilmember Baker, 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 Connole moved, seconded by Councilmember Baker, that Ordinance No. 2006-31 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-31 adopted.

ORDINANCE NO. 2006-32: AN ORDINANCE AUTHORIZING THE MAYOR TO PURCHASE TWO (2) GMC SIERRA TRUCKS AND RELATED EQUIPMENT FOR THE SERVICE DEPARTMENT THROUGH THE OHIO'S COOPERATIVE PURCHASE ACT.

Councilmember Hack moved, seconded by Councilmember Connole, 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. 2006-32 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-32 adopted.

ORDINANCE NO. 2006-33: AN ORDINANCE AUTHORIZING THE MAYOR TO PURCHASE ONE (1) 2006 FORD F350 FOR THE RECREATION DEPARTMENT THROUGH THE OHIO'S COOPERATIVE PURCHASE ACT.

Councilmember Connole 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 Hack moved, seconded by Councilmember Sullivan, that Ordinance No. 2006-33 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-33 adopted.

ORDINANCE NO. 2006-34: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PERSONAL SERVICES AGREEMENT WITH EARTH CONSULTING, LTD. FOR GROUNDWATER MONITORING AT THE WESTLAKE SERVICE FACILITY, AND DECLARING AN EMERGENCY.

Councilmember Hack moved, seconded by Councilmember Connole, 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 Hack, that Ordinance No. 2006-34 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-34 adopted.

ORDINANCE NO. 2006-35: AN ORDINANCE ACCEPTING A BID AND AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH MEDINA SUPPLY COMPANY FOR THE PURCHASE OF CONCRETE AND RELATED MATERIALS FOR THE SERVICE DEPARTMENT IN THE CITY OF WESTLAKE.

Councilmember Hack moved, seconded by Councilmember Connole, 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 Sullivan, that Ordinance No. 2006-35 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-35 adopted.

ORDINANCE NO. 2006-36: AN ORDINANCE ACCEPTING VARIOUS BIDS AND AUTHORIZING THE MAYOR TO ENTER INTO VARIOUS CONTRACTS FOR THE PURCHASE OF ASPHALTIC CONCRETE AND BITUMINOUS COLD MIX FOR REPAIRS TO BE PERFORMED BY THE SERVICE DEPARTMENT ON VARIOUS STREETS IN THE CITY OF WESTLAKE.

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 Hack, that Ordinance No. 2006-36 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-36 adopted.

ORDINANCE NO. 2006-37: AN ORDINANCE ACCEPTING VARIOUS BIDS AND AUTHORIZING THE MAYOR TO ENTER INTO VARIOUS CONTRACTS FOR THE PURCHASE OF SAND, STONE, DIRT AND GRAVEL FOR VARIOUS STREET AND RECREATION PROJECTS TO BE PERFORMED BY THE SERVICE AND RECREATION DEPARTMENTS IN THE CITY OF WESTLAKE.

Councilmember Hack 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 Hack moved, seconded by Councilmember Connole, that Ordinance No. 2006-37 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-37 adopted.

ORDINANCE NO. 2006-38: AN ORDINANCE ACCEPTING A BID AND AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH TRI MOR CONSTRUCTION FOR THE PORTER ROAD TURN LANE AND RESURFACING FOR THE CITY OF WESTLAKE, AND DECLARING AN EMERGENCY.

Councilmember Hack moved, seconded by Councilmember Baker, 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 Baker moved, seconded by Councilmember Hack, that Ordinance No. 2006-38 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-38 adopted.

ADJOURNMENT:

President of Council Pro Tem Brady declared the meeting adjourned at 9:29 p.m.

Susan J. Prehoda, CMC
Clerk of Council

Kenneth R. Brady,
President of Council Pro Tem