

**PROCEEDINGS OF A REGULAR SESSION
OF WESTLAKE CITY COUNCIL
JULY 20, 2006**

The Regular Session of Council was called to order at 8:05 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 Center Manager Robert Deminico, Planning Director Robert Parry, Director of Purchasing Mary Calabrese, Director of Inspections Robert Patton, Director of Community Services Joyce Schroth, Police Captain Guy Turner, Fire Chief Richard Pietrick, Clerk of Council Susan J. Prehoda.

APPROVAL OF MINUTES:

Councilmember Brady moved, seconded by Councilmember Baker, that the reading of the Minutes of the Regular Session of July 6, 2006, be waived and that they be approved as received.

ROLL CALL:

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

Nays: None; motion carried.

SELECTED CORRESPONDENCE:

Notice from Ohio Division of Liquor Control received July 10, 2006, for transfer of a D5, D6 permit from Spanish Steps, LLC., DBA Barcelona & Patio, 24600 Detroit Road, Suite 125, Westlake, Ohio 44145 to Running Bulls, LLC., DBA Viva Barcelona & Patio, 24600 Detroit Road, Suite 125, Westlake, Ohio 44145.

Councilmember Connole moved, seconded by Councilmember Brady, not to object to the transfer of a D5, D6 permit from Spanish Steps, LLC., DBA Barcelona & Patio, 24600 Detroit Road, Suite 125, Westlake, Ohio 44145 to Running Bulls, LLC., DBA Viva Barcelona & Patio, 24600 Detroit Road, Suite 125, Westlake, Ohio 44145.

Yeas: All.

Nays: None; motion carried.

Notice from Ohio Division of Liquor Control received July 18, 2006, for a new C1, C2 permit for Riser Foods Co., DBA Westlake Getgo 3006, 27210 Center Ridge Road, Westlake, Ohio 44145.

Councilmember Connole moved, seconded by Councilmember Sullivan, not to object to the request for a new C1, C2 permit for Riser Foods Co., DBA Westlake Getgo 3006, 27210 Center Ridge Road, Westlake, Ohio 44145.

Yeas: All.

Nays: None, motion carried.

Notice from Ohio Division of Liquor Control received July 20, 2006, for stock transfer of a D5J, D6 permit to Bravo Development, Inc., DBA Brio Tuscan Grille, 200 Crocker Park Boulevard, 1st Floor & Patio, Westlake, Ohio 44145.

Councilmember Connole moved, seconded by Councilmember Sullivan, not to object to the request for stock transfer of a D5J, D6 permit to Bravo Development, Inc., DBA Brio Tuscan Grille, 200 Crocker Park Boulevard, 1st Floor & Patio, Westlake, Ohio 44145.

Yeas: All.

Nays: None; motion carried.

Communication from Mayor Clough dated July 18, 2006, requesting authorization to pay DeGioia Suburban Excavating up to \$30,000.00 for emergency repair work on the Detroit Road Sanitary Sewer.

Communication from Mayor Clough dated July 12, 2006, requesting authorization to go out to bid for the 2006 Sidewalk Improvement Program.

Councilmember Brady moved, seconded by Councilmember Hack, to authorize the Administration to go out to bid for the 2006 Sidewalk Improvement Program.

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

Nays: None; motion carried.

PETITIONS FROM THE PUBLIC:

Ms. Mary Levtzow, 2454 Dover Center Road, asked why two items previously announced to be on the July 13, Planning/Zoning/Legislative Committee agenda were not on the agenda. She further commented on Westlake Village, legislation numbers 2006-101 through 105, and the width of the bike lane.

Ms. Cecelia Baker, 2076 Arthur Avenue, thanked Mr. Glauner for the corner road patching from Howard Avenue to Columbia Road. She then asked if the fire chief provided input regarding equipment or safety on Hilliard Boulevard regarding the bike trail. She further commented that she was unable to obtain some information via telephone or email since the last council meeting and stated that is why it would be better to request information during Council meetings if there was an additional public comment portion toward the end of the meeting. She stated she felt the bike trail was approved too quickly without enough study regarding safety.

REPORT OF THE MAYOR:

Mayor Clough read his fourteenth report of the year.

REPORTS OF STANDING COMMITTEES - PLANNING/ZONING/LEGISLATIVE COMMITTEE:

Councilmember Hack reported on the July 13, 2006, Planning/Zoning/Legislative Committee meeting.

Councilmember Hack moved, seconded by Councilmember Connole, that the report of the July 13, 2006, Planning/Zoning/Legislative Committee be received and filed.

Yeas: All.

Nays: None; motion carried.

Council President Killeen mentioned no committee meetings were scheduled and Council will be in recess during the month of August.

COMMITTEE OF THE WHOLE:

President of Council Killeen reported on the Committee of the Whole meeting held this date at 7:32 p.m. Present were Councilmembers Killeen, Baker, Brady, Connole, Hack, O'Donnell, Sullivan. Also present were Mayor Clough; Directors Wheeler, Glauner, Kelly, Fritz, Deminico (Recreation Center Manager), Parry, Calabrese, Patton, Schroth, Turner (Police Captain), Pietrick. Agenda items were discussed. Selected correspondence, the planning commission report, and proposed legislation to be added to the agenda were each briefly discussed.

Councilmember O'Donnell moved, seconded by Councilmember Sullivan, to adjourn to executive session to discuss potential litigation and any issues pertaining to those matters listed in Ohio Revised Code, Section 121.22 (G)(1) at 7:46 p.m.

ROLL CALL:

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

Nays: None; motion carried.

Also present were Mayor Clough and Law Director Wheeler.

Councilmember Brady moved, seconded by Councilmember Hack, to adjourn executive session at 8:00 p.m.

ROLL CALL:

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

Nays: None; motion carried.

Meeting immediately adjourned at 8:00 p.m.

REPORTS OF OTHER BOARDS AND COMMISSIONS - PLANNING COMMISSION:

Councilmember Connole reported on the July 10, 2006, planning commission meeting advising that the commission recommended approval of **Ordinance No. 2006-29, Conditional Use Permit**, self storage facility at 1159 Bradley Road, with the following conditions: 1) Condition that no truck rental or rental trucks be stored outside of the building; 2) Condition that there is

no outdoor storage; 3) Condition that there is no loading or unloading in the Bradley Road front yard or the Clemens Road side yard; 4) Condition that there is no driveway or service area between the south façade of the building to Clemens Road other than driveways as approved east and west of the building; 5) Condition that the east façade of the building is to match materials and design of the west façade; 6) Condition that any building or buildings conform to the entire design guidelines and specifically §1237.04(a)(4) – “*Buildings, structures and landscaping should be designed and located on the site and be of a scale to complement adjacent buildings and enhance the character of the surrounding area by having features that are appropriate and compatible with existing buildings and structures. In making this determination, the planning commission shall consider: §A. Building height, width and general proportions*”; 7) condition that the conditional use permit is valid only after the approval of a development plan; 8) Condition that the brick walls on the Clemens Road façade be extended above the roof line to provide greater articulation and variation to reduce the impact of the 490’ long wall close to Clemens Road; 9) Condition that if the use of the building changes from the self storage then additional parking shall be provided on site as required for the use by parking in the loading area, or parking in the building or removal of a portion of the building in order to meet the parking requirements for the use of the building; tabled the **Security Self Storage Development Plan**, 1159 Bradley Road, until Council acts on the conditional use permit regarding Ordinance No. 2006-29; recommended approval of **Ordinance No. 2006-42**, conditional use permit for animal boarding and dog day care at 851 Bradley Road; with the following conditions: 1) Condition that all boarding of animals shall be within an enclosed building; 2) Condition that any outdoor exercise area shall be fenced and located outside any building setback for the District and not be located in the front yard; 3) Condition that the proposed lot split and assembly is approved and recorded; 4) Condition that all noise and odors shall be confined to within the enclosed building such that no disturbance is made to any adjoining property owner or resident; 5) Condition that the proposed dumpster enclosure to the north of the proposed building shall be emptied frequently enough to avoid problems with odor from animal waste; 6) Condition that dogs are supervised when they are outside to minimize barking outside; 7) Condition that the type of fence around the northerly play area should be 6’ high and should be solid –the material can be approved by the planning director; 8) Condition that domestic animal boarding is limited to common household pets –wild, dangerous and/or undomesticated animals as defined in §505.20 shall not be permitted; 9) Condition that if any classes are offered no more than 15 or 18 dogs are permitted in classes at one time; 10) Condition that there is an approved development plan; 11) Condition that all of permanent parcel number 211-13-009 and part of parcel number 211-13-003 should be included in this conditional use permit in place of the 851 Bradley Road address; 12) condition that the plans will comply with fire regulations; recommended approval of the **John Cavano Kennel Building Development Plan**, permanent parcel number 211-13-009 and part of permanent parcel number 211-13-003, Bradley Road, with the following conditions: 1) Condition that the front parking lot be moved 2’ west and add 2’ width to sidewalk; 2) Condition that the radii at the front parking is to be 25’ inside/50’ outside; 3) Condition that the cross-easement on the remaining portion of permanent parcel number 211-13-003, parcel for access drive to kennel, be received by the City and approved by the law department; 4) Condition that a lot split and assembly plat be recorded; 5) Condition that split face block be used on the rear wall instead of painted block; 6) Condition that the plans will comply with fire regulations; approved the **Cavano/Seagraves Lot Split and Assembly**, 851 Bradley Road, with

the condition that permanent parcel number 211-13-003 (southern parcel) be changed to permanent parcel number 211-13-009; recommended approval of the **McDonald's Development Plan**, 30100 Detroit Road, with the following conditions and modifications: 1) Condition to accept the existing condition of .93 acre lot area; 2) Modification of 32' for the front setback; 3) Condition to accept the existing parking setbacks; 4) Condition to accept the existing setbacks for the loading area; 5) Condition that the lighting is reduced from 1000 watt metal halide to 400 watt metal halide, adding four to five poles to be administratively approved by the planning director; 6) Condition that the HVAC be below the parapet and out of sight lines; 7) Condition that the railing at the southeast side of the sidewalk ramp be extended per the police chief's recommendation; 8) Condition that there is no drive-in service between the hours of 12:00 a.m. and 6:00 a.m.; 9) Modification to count the second side of the building for calculation of sign area; 10) Condition that the pole sign be replaced with a monument sign and that the monument sign does not include an electronic messaging and that package should be submitted later for review and approval by the planning commission; 11) Condition that the drive-thru signage package has not been submitted for approval and needs to be submitted at a later date for review and approval by the planning commission; tabled the **Emerald Square Retail Building Campus - Kolick's Jewelers, minor revision storefront display signs**, northeast corner of Crocker and Center Ridge Roads; tabled the letter received from Randy Smith, Davison, Smith & Certo Architects, requesting that JSS Holdings Development Plan be placed on an agenda before August; tabled the letter dated received June 30, 2006, from Westlake Westshore Art Council regarding **Lighting of the Westlake Art Sculpture**; tabled the **Bur Oak Estates** – minor revision to approved landscape plans (change asphalt walking path to natural stone/gravel material). Meeting adjourned at 10:17 p.m. The next regular meeting is scheduled for Monday, July 17, 2006, at the Westlake City Hall Council Chambers.

Council President Killeen set a Public Hearing for September 7, 2006, on Ordinance No. 2006-29.

Council President Killeen set a Public Hearing for September 7, 2006, on Ordinance No. 2006-42.

Councilmember Connole moved, seconded by Councilmember Hack, to approve the **McDonald's Development Plan**, 30100 Detroit Road, with the conditions and modifications listed in the report of the July 10, 2006, planning commission.

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

Nays: None; motion carried.

PLANNING COMMISSION:

Councilmember Connole reported on the July 17, 2006, planning commission meeting advising that the commission did not recommend approval of the **Emerald Square Retail Building Campus - Kolick's Jewelers, minor revision storefront display signs**, northeast corner of Crocker and Center Ridge Roads; withdrew pursuant to applicant, the **JSS Holding, Development Plan**, 830 Bassett Road, - Letter received from Randy Smith, Davison, Smith & Certo Architects, requesting that **JSS Holdings Development Plan** be placed on an agenda

before August; recommended approval of the letter dated received June 30, 2006, from Westlake Westshore Art Council regarding **Lighting of the Westlake Art Sculpture** with the condition that there are only two lights at the front of the sculpture; recommended approval of the **Bur Oak Estates** – minor revision to approved landscape plans, change asphalt walking path to natural stone/gravel material; **Bretton Woods Subdivision Phase 3 and 4 Preliminary Plans**, s. Center Ridge Road, extension Bretton Woods - recommended approval of the Bretton Woods Subdivision Phase 3 and 4 Preliminary Plans with the following conditions: 1) Condition that the Preliminary Plan include the 50' yard setback on all lots where the rear yards abut Crocker Road; 2) Condition that no frontage or vehicle access be permitted onto Crocker Road from any of the lots rear yards abutting on Crocker Road; 3) Condition that no accessory structures shall be permitted in the 50' rear setback on lots where they abut Crocker Road; 4) Condition that no rear or side yard fences be permitted within the 20' landscape easement abutting Crocker Road; 5) Condition that the 20' landscape easement abutting Crocker Road include mounding similar to the Estates subdivision; 6) Condition that Planning Director Robert Parry administratively review the plans submitted July 17, 2006, to see that they match the plans that he reviewed July 12, 2006; 7) Subject to approval of the final plans by the building and engineering departments in compliance with the code and the ordinances of the City of Westlake; and, in the development process, should there be any changes necessitated by engineering requirements that visually alter the appearance of the development approved by the planning commission, the plan shall be re-submitted to the planning commission; recommended approval of the **Bretton Woods Subdivision Phase 3 & 4 Final Plat**, s. Center Ridge Road, extension Bretton Woods, with the following conditions: 1) Condition Final Plat include the 50' yard setback on all lots where the rear yards abut Crocker Road; 2) Condition that Planning Director Robert Parry administratively review the plans submitted July 17, 2006 to see that they match the plans that he reviewed July 12, 2006; 3) Condition that the preliminary plan and final plat are identical; tabled the **Crocker Park Building ENW Development Plan**, Crocker Park Boulevard, to the next meeting; tabled the **Crocker Park Building BW Development Plan**, Crocker Park Boulevard, to the next meeting. Meeting adjourned at 10:07 p.m. The next regular meeting is scheduled for Monday, August 28, 2006, at the Westlake City Hall Council Chambers.

Councilmember Connole moved, seconded by Councilmember Hack, to approve the **lighting of the Westlake Art Sculpture** with the condition that there are only two lights at the front of the sculpture. Yeas: Baker, Killeen, Hack, Connole, Sullivan, O'Donnell, Brady.
Nays: None; motion carried.

Councilmember Connole moved, seconded by Councilmember Brady, to approve the **Bur Oak Estates'** minor revision to approved landscape plans, change asphalt walking path to natural stone/gravel material. Yeas: Killeen, Hack, Connole, Sullivan, O'Donnell, Brady, Baker.
Nays: None; motion carried.

LEGISLATION:

ORDINANCE NO. 2006-100: AN ORDINANCE SUPPLEMENTING SUBSECTION (h) OF SECTION 1218.03 AS TO PERMITTED USES

**WITHIN AN INDUSTRIAL DISTRICT OF THE CITY
OF WESTLAKE.**

Council President Killeen referred Ordinance No. 2006-100 to the planning commission.

**ORDINANCE NO. 2006-101: AN ORDINANCE AMENDING SECTION 2 OF
ORDINANCE NO. 2006-75 AS TO AN AMENDED
CONTRACT WITH SMITH PAVING FOR THE 2006
CONCRETE REHABILITATION PROGRAM WITH
ASPHALT OVERLAY FOR THE CITY OF WESTLAKE,
AND DECLARING AN EMERGENCY.**

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 O'Donnell moved, seconded by Councilmember Brady, that Ordinance No. 2006-101 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-101 adopted.

**ORDINANCE NO. 2006-102: AN ORDINANCE AMENDING CHAPTER 141 OF THE
ADMINISTRATIVE CODE BY CREATING THE
HUMAN RESOURCE MANAGER POSITION AND
DECLARING AN EMERGENCY.**

Council President Killeen referred Ordinance No. 2006-102 to the Finance Committee.

**RESOLUTION NO. 2006-103: A RESOLUTION AMENDING EXHIBIT "A" OF
RESOLUTION NO. 1996-238 AS TO THE
ESTABLISHMENT OF AN INVESTMENT
POLICY GOVERNING THE INVESTMENT OF THE
FUNDS OF THE CITY OF WESTLAKE, AND
DECLARING AN EMERGENCY.**

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 Brady moved, seconded by Councilmember Sullivan, that Resolution No. 2006-103 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Resolution No. 2006-103 adopted.

ORDINANCE NO. 2006-104: AN ORDINANCE AUTHORIZING THE MAYOR TO EXPEND FUNDS FOR THE EMERGENCY REPAIR ON DETROIT ROAD SANITARY SEWER TO DiGIOIA SUBURBAN EXCAVATING, AND DECLARING AN EMERGENCY.

Councilmember Brady 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 Brady moved, seconded by Councilmember Baker, that Ordinance No. 2006-104 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-104 adopted.

ORDINANCE NO. 2006-105: AN ORDINANCE AMENDING APPROPRIATIONS FOR THE CITY OF WESTLAKE, OHIO.

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 Brady moved, seconded by Councilmember Baker, that Ordinance No. 2006-105 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-105 adopted.

ORDINANCE NO. 2006-106: AN ORDINANCE AMENDING APPROPRIATIONS FOR THE CITY OF WESTLAKE, OHIO.

Councilmember Brady 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 Brady moved, seconded by Councilmember Baker, that Ordinance No. 2006-106 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-106 adopted.

ORDINANCE NO. 2006-107: AN ORDINANCE ACCEPTING THE EMS TRAINING
AND EQUIPMENT GRANT FOR THE CITY OF
WESTLAKE.

Councilmember Brady 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. 2006-107 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-107 adopted.

ORDINANCE NO. 2006-108: AN ORDINANCE CONSIDERING AN APPLICATION
FOR A CONDITIONAL USE PERMIT FOR A TENNIS
FACILITY.

Council President Killeen referred Ordinance No. 2006-108 to the planning commission.

Councilmember Brady moved, seconded by Councilmember Connole, that Ordinance Nos. 2006-109 and 110 and Resolution No. 2006-111 be added to the agenda.

ROLL CALL ON ADDING TO AGENDA:

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

Nays: None; Ordinance Nos. 2006-109 and 110 and Resolution No. 2006-111 added to agenda.

ORDINANCE NO. 2006-109: AN ORDINANCE CONSIDERING AN APPLICATION
FOR A CONDITIONAL USE PERMIT FOR A SKILLED
NURSING FACILITY.

Council President Killeen referred Ordinance No. 2006-109 to the planning commission.

ORDINANCE NO. 2006-110: AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH DIRECT ENERGY FOR THE SUPPLY OF NATURAL GAS FOR VARIOUS CITY FACILITIES, 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 Brady moved, seconded by Councilmember Sullivan, that Ordinance No. 2006-110 be adopted.

ROLL CALL ON ADOPTION:

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

Nays: None; Ordinance No. 2006-110 adopted.

RESOLUTION NO. 2006-111: A RESOLUTION APPROVING THE PRELIMINARY PLAN OF THE BRETTON WOODS MAJOR SUBDIVISION, PHASES 3 & 4 IN THE CITY OF WESTLAKE.

ADJOURNMENT:

President of Council Killeen declared the meeting adjourned at 8:57 p.m.

Susan J. Prehoda, CMC
Clerk of Council

Michael F. Killeen,
President of Council