

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, October 19, 2015, at 7:30 P.M. in the Council Chambers of the Centerville Municipal Building. The meeting was opened with an Invocation given by Pastor Jon Gibson of Living Hope Church, and the Pledge of Allegiance with Mayor C. Mark Kingseed presiding. Council Members and City Staff present were as follows:

Deputy Mayor Brooks Compton
Council Members John Beals
Paul Gresham
Belinda Kenley
John Palcher
JoAnne Rau

Clerk of Council Debra James
City Manager Gregory Horn
Finance Director Steven Hinshaw
City Planner Andrew Rodney
Economic Development Administrator Nathan Cahall
Public Works Director Douglas Spitler
City Engineer James Brinegar
Assistant to the City Manager Jennifer Wilder
Assistant to the City Manager Kristen Gopman
Community Resources Coordinator Maureen Russell Hodgson
Municipal Attorney Scott Liberman

The minutes of the following meetings had been distributed prior to this meeting:

Council Meeting - September 21, 2015.
Work Session Meetings – September 21, 2015.
October 05, 2015.
October 12, 2015.

Mr. Beals made a motion to approve the minutes, as distributed. Mr. Compton seconded the motion. The motion passed with seven ayes.

Pastor John Gibson represented Living Hope Church as Mayor Kingseed honored its members for efforts during the annual “Day of Service” to the City. Led by Pastor Gibson, members of the church performed a variety of service activities in the Centerville community. The Mayor presented a Certificate of Appreciation.

Chief Robertson was present to introduce new personnel in the Centerville Police Department, including Nicole Wells, Amanda Shotwell, Marcus Loel, Nicolle Reed, Katherine Frey, Jodie Kauflin, and Jamie Baker. Chief Robertson then honored Sean Elliott, whose observations aided in the apprehension of members of a credit card theft ring. Mayor Kingseed presented a Certificate of Recognition to Mr. Elliott.

Mayor Kingseed recognized Lisa Tucker of Bill’s Donut Shop for her efforts in the community. He said she has been helping individuals in the community who are in need. She has gone out of her way over and over again in many different fields to show charitable activities

that have benefited many people in the community. He read the Certificate of Recognition and thanked her for all her contributions.

Josh Adams has been contributing for a long time to help keep the city clean. He is often seen picking up litter along Clys Road and has made it his mission to keeping his neighborhood streets clean. Mayor Kingseed read the Certificate of Appreciation.

Michael Carter, Citizens for Sinclair, explained the need for the funding for Sinclair College and urged residents to approve Issue 13, a 1 mil levy on the ballot on November 3, 2015. The increase would cost the owner of a \$100,000 home an additional \$35 per year in property taxes.

Mrs. Jan Prettyman, Chair of the City Beautiful Commission, welcomed the following Centerville Community Pride Award Winners and the Summer Landscape Award Winners to be honored by Council:

JULY

Community Pride Award Winner:

Tifton Greens Condominiums-near the intersection of Clys and Bigger Roads.

Residential Summer Landscape Awards

<i>Jon and Stacy Jeffries</i>	<i>Vickie Miller</i>	<i>Bruce and Sue Kirkham</i>
2415 Briggs Road	62 Coachman Drive	1178 Club View Drive
<i>Mary Conroy</i>	<i>Heidi Miller</i>	
992 Marycrest Lane	59 Bradstreet Road	
<i>Rebecca Yahne</i>	<i>Jack and Charlotte McCarthy</i>	
7915 Brainard Woods Drive	9710 Pawnee Pass	

AUGUST

Community Pride Award Winner:

Steeplechase Apartments, 6790 Riverdowns Drive.

Residential Summer Landscape Awards

<i>Bill and Marly Wilson</i>	<i>Joann Spanger</i>	<i>Ron and Leslie Newcomb</i>
6500 Atterbury Court	212 Prague Court	1123 Waters Edge Drive
<i>Patricia Malas</i>	<i>David and Elizabeth Fischer</i>	
5385 Royalwood Drive	874 Deer Run Road	
<i>Mark & Anne Marie Romer</i>	<i>Robert and Stevie Hammons</i>	
1310 Harewood Court	9712 Stone Rock Court	

SEPTEMBER

Community Pride Award Winner:

Carr Insurance Agency, 255 North Main Street.

Residential Summer Landscape Awards

<i>Joseph & Natalie Staeuble</i>	<i>Ed and Anita Blair</i>	<i>Dick and Jane Conrad</i>
5067 Glenmina Drive	135 Bristol Drive	1133 Club View Drive
<i>Diane Tieman</i>	<i>Herman Funk</i>	
6411 Shirecliff Court	990 Deer Run Road	
<i>Richard & Caren Van Vleck</i>	<i>Sue Ann Haberstro</i>	
7790 Stanley Mill Drive	278 Joy Elizabeth Drive	

A **Mayor's Award** was presented to Donald and Connie Monnin, 5384 Royalwood Drive, before a meeting recess to honor the award winners with a brief reception in the Law Library.

When the meeting reconvened, Mayor Kingseed gave the Mayor's Report. He reviewed the negotiations he, Brooks Compton and JoAnne Rau had during three meetings with the Sugarcreek Township Trustees concerning the funding of the Fire/EMS Service for the Cornerstone Development. The Township Trustees requested a percentage of the increase in property tax revenues that came to \$4.4 million over the course of 30 years. The Centerville delegation thought the parties were very close to an agreement, but, at the last minute, the trustees added \$1.1 million to their demands in order to pay off roadway levies unrelated to Cornerstone. Mayor Kingseed stated Sugarcreek Township was still required by law to provide Fire/EMS service to the Cornerstone area. He said it was important to note that there will be no gap in coverage even though this issue may be headed back to litigation.

In his City Manager's report, Mr. Horn announced that Officer Tony Beran, a member of the Centerville Police Department for 12 ½ years, had retired. Mr. Horn thanked him for his service.

Ms. Gopman outlined property maintenance code violations and resolutions for the month of September, as well as the community calendar for the months of October and November.

PUBLIC HEARING: APPLICATION P-2015-0040, GRACEWORKS ASSISTED LIVING PLAT BY GREG SMITH OF OBERER RESIDENTIAL CONSTRUCTION, LTD.
LOCATION: BETHANY COMMONS WAY & STANSEL CIRCLE

Dr. Gresham made a motion to remove Application P-2015-0040 from the table for consideration. Mrs. Kenley seconded the motion. The motion passed with seven ayes.

Mr. Rodney presented the staff report with updates since the previous month's Council Meeting. He noted position statements had been received from Mr. Soltau and Mr. Curry on behalf of the clients they represented. He also pointed out Council had conducted a Work Session where the Lakewood Trustees made a presentation. Following that, Mr. Curry made some suggestions for modifications to the conditions that had been recommended by staff. In 2004, Mr. Nick Farquhar, the municipal attorney, gave an opinion on the applicability of the 1998 Common's zoning plan, which remains in effect. Mr. Rodney clarified that Council was only voting on the subdivision of the property, not on specifics for a development plan or site plan. The existing recorded easements between the private parties have already been recorded with the County and therefore were not part of this case. It was simply a record plan for the subdivision of

property. The Planning Commission's recommendation to approve this plat was denied by a 5-2 vote. The motion did include the following Conditions of Approval similar to those recommended by staff:

1. Easements shall be provided at the termini of Stansel Circle, and Bethany Commons Trail and McCullough Street to allow for the future construction of cul-de-sacs at these locations. Such easements shall be large enough to accommodate a cul-de-sac and curb of sufficient size to allow a passenger vehicle to make a complete circular movement as determined by the City Engineer.
2. Access Easements shall be provided along Bethany Commons Trail and McCullough Street to allow the potential for future roadway connection(s) and access(s) to public street(s).
3. A Waterline Easement, not currently defined, shall be provided to allow the future connection of the two private waterline stubs that end at the termini of Bethany Commons Trail and Stansel Circle should it be needed.
4. Public Drainage Easements shall be provided for the public storm water system which empties into the property as determined by the City Engineer.
5. The temporary "Construction Entrance" sign across from Silverlake Drive shall be removed. The grass area and horse-park fence within the right-of-way shall be restored. The construction haul road on private property may remain.
6. The immediate area around the stub streets shall be graded and seeded to minimize erosion and siltation of the street and storm sewer network as determined by the City Engineer.
7. Reflective markers shall be added to the terminus of each stub street as determined by the City Engineer.
8. A Maintenance Easement for the landscaping mounds along Yankee Trace Drive shall be dedicated to allow access by either the Yankee Trace Homeowners Association or the Commons Homeowners Association.

Mr. Jim Hinds, 9216 Stansel Circle, Trustee of the local board, discussed four issues—the ownership of the one acre slated for an assisted living facility, access to the north through the Clubhouse parking lot, the stubbed water lines and ingress/egress for the fourteen acres from the traffic circle on Yankee Trace Drive, but not through the Commons. He felt that the one acre lot belonged to the Homeowners Association as the members had maintained it from the beginning, unlike the 14 acres and the mound along Yankee Trace Drive. In regards to the stubbed water lines, Mr. Hinds requested another condition so the developer would have to abate the potential hazards associated with the dead-end lines by a specific date. Concerning access to the 14 acres via Bethany Commons Trail, he protested the need for connectivity through the condo community, citing other examples of streets which did not have dual ingress/egress points. He asked Council to vote no on any proposal that called for the access easement through Bethany

Commons Trail or the separation of the one acre from the ownership of the HOA. Mr. Compton pointed out that the easements through Bethany Commons were already in place.

Following lengthy discussion, Mrs. Rau asked for clarification of the wishes of the HOA on each of the issues. Mr. Hinds defined the issues related to the 14 acres as the connection of the stubbed water lines and the amount of traffic using Bethany Commons Trail and McCullough Street—private streets. For the one acre, the HOA wanted the land to remain green space. Mrs. Kenley stated confusion about the ownership of the one acre. She thought it was owned by the developer. Mr. Hinds responded that it currently was owned by the developer, but so were the streets, the ponds, the stream, and the clubhouse. Dr. Gresham asked why the HOA maintained these items when they were owned by the developer. Mr. Hinds said that it was the responsibility of the HOA to maintain all of the land within the 98 units that had been built—plowing streets, cutting grass in yards and common areas, and maintaining the streets.

Mr. Compton stated it should be the responsibility of the homeowners to connect the waterlines. Providing the easement should be all the developer was required to do, because the members of the association would be the sole beneficiaries of the waterline easement. Mr. Hinds replied that any responsible developer would see it was his responsibility to make that condition right and complete the project. Mr. Compton said that the stubs were approved and signed off by the County as acceptable. Mr. Hinds pointed out that, when they were put in place, the stubs were thought to be temporary, because the fourteen acres were going to be developed.

Mayor Kingseed asked if the stubbed waterlines were a health hazard. Mr. Rodney stated that the condition had existed for a long time, before Mr. Brinegar added that Montgomery County recommended that all waterlines be interconnected.

Mr. Robert Curry, attorney representing the applicant, introduced Mr. Jeff Van Atta of Van Atta Engineering, 570 Congress Park Drive, who stated he had discussed the water main connections with the Montgomery County Engineering Department and found that private water systems were regulated by ten State of Ohio standards. The standards required dead-ends to be tied in whenever practical, to be flushed and to include a fire hydrant. He stated the current conditions were in keeping with the state mandates.

Discussion followed regarding the frequency of flushing, who would be responsible for flushing and whether a fire hydrant existed at each end of the stubbed water mains. Mr. Rodney said he would check the location of fire hydrants.

Mr. Curry spoke on the issue of the easement through the parking lot. He noted the easement was approved in the original development plan in 1998 and was revisited by Council in 2004. The easement shown on the plat was a continuation of what was already in place through the parking lot of the clubhouse. Mr. Curry stated the applicant would be willing to give up the easement if the one acre lot and the 2.4 acre lot on the north were rezoned and combined and if an access point would become available directly onto Yankee Street.

Mr. Curry next discussed access for the 14 acre parcel. He noted the right to use the construction drive had been in existence since the development was put in place. The right to use Bethany Commons Trail was always there. He said the applicant would be willing to surrender

direct access rights for McCullough Street and Bethany Commons Trail, if separate access was available to Yankee Street, so the area had two points of ingress/egress.

He restated the position of the applicant for handling the three dead-end streets and the water mains. He said the applicant would agree to remove the stub street at Bethany Commons Trail, create a hammerhead at Stansel Court and install reflectors and landscaping at the end of McCullough Street. Mr. Curry expressed that the applicant was willing to provide the easement for the connection of the water lines along the north line of the 14 acre parcel, but was not willing to pay for installation. He proposed that the easement should expire, if not used within the next fifteen years.

In response to a question from Dr. Gresham, Mr. Curry said he was not sure if the HOA had maintained the one acre the whole time. When Dr. Gresham asked why the developer maintained the fourteen acres and the two acres, but not the one acre, Mr. Curry responded that they should have maintained it.

Mr. Compton asked Mr. Curry if there was anything in documents related to the Commons that would indicate that the one acre was available for use as an assisted living facility. Mr. Curry said the Disclosure Statement did not call out the use for assisted living, but there was a discussion of an access easement for a parcel at the NW corner of the development.

Mrs. Rau stated that the stubbed waterlines might stay as they currently were into perpetuity, however, she felt Council should provide definition of a process to be used in case problems arose in the future. When Dr. Gresham asked for an estimate of the cost of connecting the waterlines, Public Works Director Doug Spitler offered a guess of \$60,000 to \$100,000.

Mr. George Oberer, Jr., representing Oberer Residential Construction, Ltd., discussed access onto Yankee Street for the fourteen acres, the stubbed water lines and maintenance of the common areas. Although he had been unable to find a copy of the drawing, he said he believed that the original concept plan for Yankee Trace included access for the complex at the site of the existing curb cut into the fourteen acres for construction traffic. He said if Council checked far enough back that the curb cut would be verified. He said Mr. Serr, who is CEO of Graceworks, Mr. Horn and I believe at the time that this parcel was zoned, Graceworks argued to eliminate the second connection onto Yankee Street for security reasons. As for the issue of the waterline, he said the stubs were relatively short. Even when a longer section of 8" waterline was in place during the housing recession when fewer houses had been constructed on the pipe, issues with water quality and stagnant water had not arisen. With respect to the maintenance of the undeveloped parcels, he stated that minimal work was required for the 14 acres. The one acre was seeded with grass at some point. He said that perhaps the developer should have been billed for a fair share of that by the condo association, but nobody on his team thought about that until this issue came up.

Mr. Hans Soltau, attorney for the condo owners, stated there was confusion with respect to the development of this project. He noted he had sent a memo and photos to the City concerning this application. He disagreed with Mr. Rodney's use of the apartment community plan from 1998 as the basis for current decisions. He felt plans for the initial retirement community died in 2003 with the conversion of the apartment complex to a condominium

complex, because he found no reference to the assisted living facility anywhere in the Disclosure Statements, which are the governing documents required for the creation of the condominium community. These documents spoke only of one or two condominiums areas consisting of 167 units with no mention of 50 assisted living spaces. These same documents required the condo association to maintain the common area. The next references he found to the assisted living facility dated to 2004 when the developer applied for the building permits and included the clubhouse and the easement for access to the north. He also argued that the 1998 development plan should not be considered the current development plan, because it was not followed. For example, the development plan from 1998 did not show stubbed streets or dead-end water lines. Presently, there was no plan at all for the 14.5 acres. Without a development plan, a record plan should not be approved, because a record plan must be consistent with the development plan. Mr. Soltau added that the one acre assisted living site was not known until 2011 at about the same time the adjacent 2.6 acres were acquired by Graceworks. Mr. Soltau urged the Councilmembers to consider his memo in making their decision.

Mr. Compton, Mr. Rodney and Mr. Horn disagreed with the statement that the assisted living site was not known until 2011. Mr. Horn cited minutes of Planning Commission and Council and an opinion rendered by City Law Director Nick Farquhar in 2004 that discussed the assisted living facility. Mr. Soltau clarified other pertinent documents did not reflect any information about the assisted living center until 2011 when Graceworks purchased the additional 2.4 acres. The condo owners who bought in the interim were unaware; the sales brochure did not mention assisted living.

Mrs. Rau asked several questions about the common areas and the declaration documents, before Mr. Rodney referenced Mr. Hinds having talked with Mr. Craig Rauch of the Washington Township Fire Department to discuss access for an assisted living facility at the suggested location. As Mr. Hinds had mentioned, the Fire Department had reservations about the access through the clubhouse parking lot. However, Mr. Rauch would not make specific comments about a recommendation for approval or disapproval without a plan to review.

Mayor Kingseed commented on several of the issues, mentioning Mr. Curry's proposal that the access easement through the parking lot would be abandoned, if the northern parcels were combined and permission could be obtained for direct access to Yankee Street. The mayor favored two access points to the 14 acres and the developer giving the easement for the waterline connections. He noted that the dead-end waterlines had not been a problem for ten years.

Dr. Gresham said he was concerned that the ninety-seven homeowners would bear the \$100,000 cost of connecting the waterlines, when they had expected the lines would be extended at a later time by the developer. He felt that was unfair.

Mr. Compton made a motion for approval of the record plan for the Graceworks Assisted Living Plat, subject to the following twelve (12) conditions:

1. An easement shall be provided at the end of Stansel Circle for the installation of automobile turnaround in that location. This would be Developer's obligation to install this turnaround at Developer's expense.

2. The stub street at the southeast corner of Bethany Commons Trail east of Sweet Shrub Circle shall be removed at Developer's expense and the area removed shall be graded and re-seeded to blend with adjoining parcels.
3. Developer shall install landscaping and reflective markers at the end of McCullough Street.
4. Access Easements shall continue along Bethany Commons Trail and McCullough Street to allow the potential for future roadway connection(s) and access(s) to public street(s). Developer would have the obligation to cost share based upon the proportionate share to cover the expense to use Bethany Commons Trail. At such time as Lot #2 obtains a separate, direct full service access point on Yankee Street, Developer will surrender (give up) its existing easement that connects Lot #2 to Yankee Street via McCullough Street and Bethany Commons Trail.
5. A 15' Private Waterline Easement shall be provided by Developer along the north line of Lot #2 to allow the future connection of the two private waterline stubs ending at Bethany Commons Trail and Stansel Circle. The waterline easement will expire if a waterline is not constructed in the easement area within 15 years. Any cost of waterline connection will be borne by the HOA.
6. Public Drainage Easements shall be provided for the public storm water system which empties into the property as determined by the City Engineer.
7. The temporary real estate sign at the corner of Yankee Street and Bethany Commons Trail shall be removed.
8. The area around the stub streets would be graded and seeded to minimize the erosion and siltation as determined necessary by the City Engineer.
9. "Reflective" markers shall be added at the end of each stub street as determined necessary by the City Engineer.
10. If the Developer submits Lot #1 for rezoning in combination with the approximately 2.4 acre parcel located north of Lot #1 and the combined parcel is replatted, and is provided a separate, direct full service access point on Yankee Street, Developer shall surrender (give up) its existing easement that connects Lot #1 to Bethany Commons Trail through the common property of the homeowners association.
11. For Lot #2 the Developer shall provide an easement for and the Lakewood HOA shall maintain the landscaping and mounding along the west side of Yankee Trace Drive in Lot #2.
12. The temporary "Construction Entrance" sign across Yankee Street from Silverlake Drive shall be removed and the grass area and horse-park fence within

the right-of-way shall be restored by Developer. The construction haul road on private property may remain.

Mrs. Kenley seconded the motion. The motion passed with a vote of 5-2. Dr. Gresham and Mrs. Rau voted no. Mrs. Rau said she voted no primarily because she thought the connection of the water mains should be the obligation of the developer and that it would be healthier.

Application P-2015-0039: Preliminary Development Plan, The Villas of Centerville
Chardonnay Drive, North of Alex-Bell Road
Applicant: Raj Grandhi, Rootstown, LLC.

Mr. Rodney announced he had received a request from the applicant for the item to be tabled until the next Council Meeting. Dr. Gresham made a motion to table application P-2015-0039, the Preliminary Development Plan for the Villas of Centerville, to the Council meeting on November 16, 2015. Mr. Beals seconded the motion. The motion passed 7-0.

Application P-2015-0043: Record Plan for Cornerstone Lot 1-B Replat
Applicant: Robert Hall, at 5381 Cornerstone North Boulevard

Mr. Rodney presented the staff report for the plat creating two lots on the 1.8778 acres of the former Milano's site for the Record Plat for Panda Express on the eastern half. The parcel was located west of Charles Drive, north of Feedwire Road and east of the Cheddar's Restaurant site. An end-user for the remnant parcel was unknown at this time.

Mr. Beals made a motion to approve Application P-2015-0043, the record plan for 5381 Cornerstone North Boulevard, without conditions. Mrs. Kenley seconded the motion. The motion passed unanimously.

Application P-2015-0044: Record Plan for Cornerstone North Section Six—Village Center
Applicant: Robert Hall, Cornerstone Developers, Ltd.

Mr. Rodney gave the staff report for the record plan for this 6.3 acre parcel north of Costco and east of Cornerstone North Boulevard to the creek, in the area reserved for the village. It was removed from the approved plat because of concerns the site plans for the layout of the village center and of the park were incomplete. The Planning Commission recommended approval of this plat with a vote of 4-2 at its meeting on September 29, 2014. Consideration of a major site plan for the village center was expected to be on the October agenda for the Planning Commission.

Mr. Compton made a motion to approve the record plat for Cornerstone North, Section Six, the Village Center. Mrs. Rau seconded the motion. The motion passed unanimously.

Committee Reports:

Mrs. Kenley noted she had attended the 25th Annual Firefighter/EMS Memorial on October 18 at Stubbs Park. She took the opportunity to publicly thank the Washington Township Fire Department and Chief Gaul for the services they provide.

Dr. Gresham said that he and Mr. Beals had the opportunity to play golf with volunteers at the recent Volunteer Golf Outing. He thanked them for the work that they do for the City.

Mr. Beals said he recently attended a Centerville Washington History meeting. The group is celebrating its 50th anniversary next year. The Sense of Taste fundraiser held on September 10 at Benham's Grove netted \$6,500. He also noted the Holiday Walk is scheduled for November 22.

Mr. Palcher encouraged residents to see the wonderful pieces of art by local artists displayed at the Police Department. He reminded everyone Art at the Trace will take place in February 2016.

Mayor Kingseed explained that the Consent Agenda contains routine procedural and administrative matters which the Council had discussed in Work Sessions. Members of Council read the following Consent Agenda items into the record:

- A. Ordinance Number 17-15, An Ordinance To Amend Section 234.06 Division Of Taxation, Of The Centerville Municipal Code, be set for Public Hearing on November 16, 2015.
- B. Ordinance Number 18-15, An Ordinance To Amend Chapter 880, Earned Income Tax, Of The Centerville Municipal Code, be set for Public Hearing on November 16, 2015.
- C. Ordinance Number 19-15, An Ordinance To Adopt New Chapter 885 Of The Codified Ordinances Of The City Of Centerville Regarding Municipal Income Tax, be set for Public Hearing, November 16, 2015.
- D. Resolution number 46-15, A Resolution Authorizing And Directing The City Manager To Enter Into An Agreement With Dayton Power And Light Company (DP&L) Regarding Property Located Along Yankee Road Across From Yankee Trace Golf Course And Adjacent To Property Owned By The City And Granting A Right Of Way Easement For Ingress And Egress For Electric Energy And Related Purposes.
- E. Ordinance Number 20-15, An Ordinance To Amend Section 840.02, Access To Rental Unit Of Rental Inspection Ordinance Of The Centerville Municipal Code, be set for Public Hearing on November 16, 2015.
- F. Resolution 47-15, A Resolution Authorizing And Directing The City Manager To Enter Into An Economic Development (PIR) Grant Agreement With Crest Commercial Realty, Inc.
- G. Resolution Number 48-15, A Resolution Authorizing The City Manager To Enter Into An Agreement On Behalf Of The City Of Centerville With B. J. Burke DBA Dayton Disc Golf Association on Property Owned By The City Of Centerville.


H. Reappointments as Follows:

Charles Graham as Chair of the Board of Architectural Review for one year.
Dan Carfagno as Chair of the Property Review Commission for one year.

Dr. Gresham sponsored the above consent agenda items and moved for their approval. Mr. Beals seconded the motion. The motion passed unanimously, 7-0.

There being no further business, the meeting was adjourned. The next meeting of the Centerville City Council was scheduled for November 16, 2015.

Approved: 
Mayor

ATTEST: 
Clerk of Council