

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, November 16, 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 Kirk Lithander of Fairhaven 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
	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 Spittler
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 -	October 19, 2015.
Work Session Meetings -	October 19, 2015.
	November 02, 2015.
	November 09, 2015.
Neighborhood Meeting -	October 26, 2015

Mr. Beals made a motion to excuse Dr. Gresham's absence. Mr. Compton seconded the motion. The motion passed with six ayes.

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

Pastor Lithander explained the Circles program at Fairhaven Church which works in conjunction with other Dayton churches to aid unemployed single moms by building intentional relationships which help lift them from being completely dependent on benefits to being employed with stable incomes. Dayton has been one of the hubs for the Circles program that has 80 sites across the country.

Mayor Kingseed introduced Mr. Prentice Lipsey, the new Executive Director of St. Leonard's Living Community, who talked about the past, present and future of the retirement center. He said St. Leonard's was evaluating a ten-year strategic plan that would construct more independent living and assisted living units. Revamping the skilled nursing facility and adding retail space were also being considered. Also they are looking to continue to promote St.

Leonard and to work with the Centerville community in doing some interesting and exciting events. A Baby Boomer Festival is being planned for either July 16 or July 23, 2016. It will include twelve hours of music, dancing, commercial & craft vendors, and food vendors. As a highlight Eliot Lewis from "Hall & Oates" will headline this event.

Mayor Kingseed gave the Mayor's Report. He enumerated the businesses which have opened at Cornerstone North, before listing the cuts to City revenue that the State of Ohio Legislature imposed in the past few years. He noted the impact of the cuts on the City's ability to maintain its level of services, staffing and infrastructure.

In his City Manager's report, Mr. Horn announced a work session of Council for November 23, 2015. He congratulated Mark Yandrick, the GIS Analyst/Planner on being nominated as the Ohio Municipal League's representative for the OGRIP Council, which is a state GIS policy committee.

Public Works Director Doug Spitler updated Council on the project Montgomery County is doing along North Main Street, replacing water lines and meters.

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

Public Hearing: Application P-2015-0039: Preliminary Development Plan
The Villas of Centerville along Chardonnay Drive
Applicant: Raj Grandhi, Rootstown, LLC.

Since the application had been tabled at the previous meeting, Mr. Compton made a motion to remove Application P-2015-0039 from the table for consideration. Mr. Beals seconded the motion. The motion passed 6-0.

Mr. Rodney gave the staff presentation for the proposed Preliminary Development Plan along Chardonnay Drive between Alex-Bell Road and Versailles Drive in an area zoned R-PD. Current conditions included three streets, ten single family condominium homes and a retention pond. He gave an overview of the approval process and shared a brief history of the development which began in 1987 with a plan by Chardonnay Valley for single family homes and high rise condos. Only ten French Manor Condominium homes were ever built. Plans for Woodbrook Lakes and Brookstone Terrace were submitted but were not constructed. A Master Association was formed, as well as a sub-association known as the French Manor Homeowners Association.

Mr. Rodney shared general background on elements of the Preliminary Development Plan using the zoning map, aerial views, photos and plans to explain the layout of the 20 new homes on 3.4 acres of the undeveloped 38 acres in the plat. He discussed the steep topography, density, lot sizes, setbacks, open spaces, mounding, grading, and flood plain. All 20 new lots laid out in the Preliminary Development Plan required access onto Chardonnay Drive, with construction traffic split between Chardonnay Drive and Versailles Drive. The developer did not name a builder and or propose specifics for the homes; these items were not required with the submittal of the Preliminary Development Plan.

Mr. Rodney noted the Standards of Approval of Article 5.09 (G)(1) and stated the degree of compliance was sufficient at this stage of the process. All the UDO requirements would have to be accommodated with the Final Development Plan. Planning Commission's motion was to approve the Preliminary Development Plan with 16 conditions. That motion failed by a 3 to 3

vote. Because of the close vote, Mr. Rodney went over the conditions recommended by staff and considered by the Planning Commission. They were as follows:

1. Any proposed roadway extensions or further lot development beyond what is proposed as part of this Preliminary Development Plan shall require an amendment to this Preliminary Development Plan.
2. Homes adjacent to Alex-Bell Road shall be single-story dwellings.
3. Prior to the issuance of zoning and building permits, Versailles Drive shall be repaired to a navigable condition to the satisfaction of the City Engineer.
4. Construction traffic shall be limited to Versailles Drive for Lots #7-15, and Chardonnay Drive for Lots #1-6 and 16-21.
5. A Homeowner's Association or other legal regime shall be established or re-activated to the satisfaction of the Municipal Attorney for the perpetual and consistent maintenance of all common areas.
6. Minimum front building setback shall be 25 feet from the edge of pavement along all streets and shared driveways.
7. The lot proposed as Open Space (Lot #14) shall be owned by the homeowner's association or other similar legal regime, or dedicated to the Centerville-Washington Park District, to ensure perpetual and consistent maintenance.
8. Prior to the issuance of zoning and building permits, all encroachments of existing buildings across property lines shall be corrected via record plat to the extent practicable.
9. Proposed home style, architecture, exterior materials, size, and design shall be consistent with the existing homes along Chardonnay Drive.
10. A set of building design standards shall accompany a Final Development Plan submittal which – at minimum – prohibit the use of vinyl or aluminum as the predominant siding material, and minimize the appearance of blank or featureless walls on corner lots.
11. The Applicant shall provide a Traffic Impact Study at the Final Development Plan stage to calculate trip generation expected by the proposed development and any recommendations of the TIS shall be incorporated into the Final Development Plan at the discretion of the City Engineer.

12. The final design of stormwater management infrastructure and individual lot drainage systems shall be in accordance with Article 9.35 of the UDO.
13. Parkland shall be dedicated and/or a fee-in-lieu paid in accordance with Article 9.47 of the UDO.
14. Development shall adhere to all floodplain development regulations as stipulated in Article 9.37 of the UDO.
15. Detailed comments from the Engineering Division will follow and shall be incorporated into the final development plan, record plan, and construction documents as appropriate subject to approval by the City Engineer.
16. Detailed comments from Montgomery County Water Services and utility companies will follow and shall be incorporated into the final development plan, record plan, and construction documents as appropriate subject to approval by the City Engineer.

The Staff recommendation was to approve with all of the above conditions.

Mr. Liberman pointed out significant legal issues involved in developing this property. He said the City needed to make sure that the new homeowners had access to public roads and that all the roads, the retention pond and the common areas were maintained. Mr. Liberman advised that Council could consider the Preliminary Development Plan and the conditions staff recommended, as long as Council included the requirement that the legal issues be resolved prior to the approval of any Final Development Plan.

Mayor Kingseed opened the public hearing.

Mr. Raj Grandhi, 10708 Falls Creek Drive, stated that his team had worked with the City to create a plan that was fair to all parties. From his point of view, he had legal standing to proceed. He said he was willing to work with the residents, within reason, for the benefit of the whole community. He agreed to repair Versailles Drive and Grenoble Drive, although he felt it was the responsibility of the current residents. He asked Council to approve the Preliminary Development Plan, so he could move forward.

Questions followed from Council. Mr. Beals asked how the Homeowners Association for the twenty new homes would work. Mr. Grandhi explained he hoped to have a separate homeowners association with similar rules and identical fees under an overarching umbrella with the association for the ten existing condos. According to his financial advisors, fee simple lots would have less difficulty getting financing than condominiums. Ms. Kenley asked if it would be possible for the condo owners to reach agreement. She felt one or two holdouts could stymie the whole process because they were against development. Ms. Kenley also noted that the original streets were never properly finished. Council verified that Mr. Grandhi was agreeable to all 16 conditions recommended by staff and discussed the need to resolve the legal issues prior to the approval of a Final Development Plan.

Mr. Jeff Gammell, 7925 Paragon Road, and attorney for eight of ten condo owners of

the French Manor Condominium Association, noted the declarations of the Chardonnay Valley Master Association encompassed the land owned by Rootstown, Inc. and the French Manor Condominium Association, which is a sub-association of the full condo association. He stated the Master Declaration clearly states the whole area was meant to be condominiums, not a mix of ownership. The seven year time limit for condo development had expired in the nineties. He also explained the need for a written contract to define the maintenance of the three streets, the pond and the common areas. According to Mr. Gammell, the Master Association had been turned over to the condo unit owners of French Manor and Chardonnay Drive belonged to the condo unit owners, who had right-of-way and easement for ingress and egress. He said that construction easements did not run with the land and had terminated. Repair of streets following construction was another issue. He said a written plan was needed concerning the repair of existing roads following construction.

When Mr. Beals asked for a recommendation on solving the problems, Mr. Gammell stated two-thirds of the owners in French Manor would need to approve a written agreement and make an amendment to the Declarations. He felt the PDP was premature.

Matt Springer, 6848 Chardonnay Drive, Trustee for the HOA, stated he would not agree to change the condo units to fee simple lots. One of his biggest concerns was maintaining the value of the current homes, with attention to the size and quality of the proposed homes. He did not think the homes in Mr. Grandhi's proposal were priced high enough to maintain property values for existing homes. He also worried about an unnamed builder and the impact of construction traffic on the roads. Mr. Springer suggested the developer partner with a couple of homebuilders and let the current residents pick some models for the development. He repeated that he was against the current proposal.

James Free, 6896 Chardonnay Drive, was not in favor of fee simple lots mingled with the condo units, because adding 20 additional homes would give the newcomers the majority advantage in any voting which could cause trouble in the future. He also stated that a distance of ten feet between homes was not typical, as had been declared by the applicant and the planner. He and Mr. Springer measured the distance between the existing homes and only one property had just 10 feet between the houses; he felt ten feet was not enough.

Mr. Free asked for the following statement to be included in the record:

"French Manor in Chardonnay Valley is one of the very few, unique areas left in the City of Centerville. It is in the middle and close to everything – it is secluded and quite quiet. Its residents are mostly retired/semi-retired. Half of us are usually flying our country's flag on our homes and on our community flagpole which has become our designated open space. We all look out for each other's homes and properties. It is a unique little community. We have beautiful homes and a beautiful setting, and we have all worked very hard for the privilege of such ownership. We now find ourselves in the unique situation of not being in total control of our own or our neighborhood's future. So here we are at this meeting asking City Council to look after the integrity of our area and the future of our area. We would like it understood that our concern and future rests on the character of the present landowner and hope-to-be developer, Mr. Grandhi, whose dream is to buy cheap and sell for profit. None of us are against making money, but when profit is the prime motivation, important other things can and do get lost. All of which

brings us to the bottom line. As a resident and property owner, Chardon Valley, French Manor, I ask City Council of Centerville, Ohio to serve and protect the property values of the homes and the land we love in the City that we chose to live in and which we all greatly care for.”

Ms. Patricia Koenig, 6919 Chardon Drive, stated the neighbors were concerned about the number of houses proposed for Chardon Drive, about congestion on the short, narrow street, about two different associations working together long-term, about the new homes having deeper front setbacks than the current ones, and about the developer leaving after selling the lots with no responsibility for following through on promises. She described Chardon Drive as a “private lane,” 26 feet wide and 0.2 mile long with very little parking. She challenged Mr. Grandhi to be good to the current homeowners.

Mr. Jerry Jackson, 6827 Chardon Drive, asked Council to deny the Preliminary Development Plan application. He presented a series of slides defining issues and explaining the difficulties he saw with Mr. Grandhi’s statements and assumptions related to the development of the area. He said Mr. Grandhi’s construction easement claim was questionable. He agreed that some condominium units do encroach across lot lines. He said the application should be denied because it could not lawfully be implemented.

Mayor Kingseed summarized that the legal issues had to be resolved before anything else could move forward. He said Council understood that many, if not all, of the owners objected to the Mr. Grandhi’s development proposal. He noted it was not Council’s jurisdiction to decide the legal issues.

Ms. Cindy Springer, 6848 Chardon Drive, asked for denial of the current proposal. She said she was not against building and development, but asked that the 38 acres be developed in the same beautiful mode as the current housing. She felt 20 more houses on Chardon Drive would be unbearable.

Raj Grandhi stated one way to solve the problem was to sell the homeowners the property, and they could develop it as they wished. That being unrealistic, he said he was willing to work within the parameters set by the City and do what was necessary to build up the property in a fair manner. He noted that the property had been in limbo for nearly thirty years. He said he had rights related to the development of the land and asked Council to approve the Preliminary Development Plan.

Ms. Rau discussed several points with Mr. Grandhi including the long timeline for this development, the need for passage of the development plan to give him a better position for negotiations, and the potential for co-existence of the two associations. Mrs. Rau asked if he had looked at building a condo community. Mr. Grandhi replied that he had checked into that, but the real estate agents, bankers and credit unions all said they were generally more stringent about providing money to people who were buying condos.

Mayor Kingseed closed the public hearing.

Councilmembers shared their positions. Mrs. Kenley had reservations about passing the

Preliminary Development Plan. Mr. Compton did not favor passage of a plan that would generate litigation. He preferred settling the issues prior to approval. Mayor Kingseed supported passing the Preliminary Development Plan with a time limit for reaching an agreement. Mr. Beals said he did not prefer the intermingling of fee simple lots and condominium lands, but he wanted to vote to approve the plan to see if the parties could negotiate an agreement. Mrs. Rau agreed that the fee simple lots and the condo units should not be intermingled. She felt she should vote no because the plan was not consistent development that would reflect and enhance the existing neighborhood.

Mr. Compton suggested passing the PDP with a condition giving the parties 60 days to resolve the issues. Because of the approaching holidays, Mr. Beals suggested 90 days. Mr. Palcher was in favor of a delay for a specific period of time, but clearly stating the expectation for resolution of these long-standing issues. Mayor Kingseed pointed out that it was in everyone's best interests to resolve the differences and come up with a plan.

Mr. Liberman interjected that the applicant had a right to have his application decided at the current meeting. He suggested asking Mr. Grandhi, if he would agree to a delay.

Mr. Grandhi stated he was willing to work with the condo owners, but felt they would be more likely to negotiate in good faith with an approved PDP. Mayor Kingseed asked Mr. Liberman if it would be appropriate for him to mediate negotiations with the two parties at a meeting in December. If fairness was shown to both sides, Mr. Grandhi was agreeable to the delay and the Mayor's offer. Mayor Kingseed asked Mr. Gammell and Mr. Grandhi to inform Council within the next week of the date for the meeting.

Mr. Compton made a motion to close the public hearing and to table the preliminary development plan for ninety days to the Council Meeting on February 15, 2016. He clarified that no further testimony will be heard at that meeting. Mrs. Rau seconded the motion. The motion passed with six ayes.

Committee Reports:

Ms. Kenley thanked the voters for casting ballots allowing her to retain her seat on Council for four more years. She shared she had attended the National League of Cities Conference in Nashville and had taken advantage of workshops on communications strategies for cities and on utilizing budgets as a communication tool for Council and the citizens.

Mr. Beals echoed Ms. Kenley's comments about the election, saying he was happy with the results, and he was looking forward to working with Mr. Mark Engert, who would be new to Council in January.

Ms. Rau congratulated the Miami Valley Communications Council on its 40th Anniversary.

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 23-15: An Ordinance Approving The Editing And Inclusion Of Certain Ordinances And Resolutions As Parts Of The Various Component Codes Of The Codified Ordinances; Providing For The Adoption And Publication Of New Matter In The Updated And Revised Codified Ordinances; And Repealing Ordinances And Resolutions In Conflict Therewith, be set for Public Hearing at the Council Meeting on December 21, 2015.
- B. Ordinance Number 22-15: An Ordinance To Amend Ordinance Number 22-14, Adopting All Fees, Rules And Regulations Associated With The Golf Club At Yankee Trace And Providing Compensation For Golf Professionals, be set for Public Hearing at the Council Meeting on December 21, 2015.
- C. Resolution Number 49-15: A Resolution Endorsing An Application To The Miami Valley Regional Planning Commission For Federal STP Funds For The Resurfacing Of Various Thoroughfares.
- D. Resolution Number 50-15: A Resolution Authorizing The City Manager To Enter Into A Subdivider's Contract For Installation Of Sanitary Sewer, On Behalf Of The City Of Centerville With The Board Of County Commissioners Of Montgomery County, Ohio, For The Installation Of A Sanitary Sewer To Serve The Grove At Yankee Trace Residential Development.
- E. Resolution Number 51-15: A Resolution Authorizing And Directing The City Manager To Enter Into A Service Agreement With The Law Office Of The Montgomery County Public Defender To Provide Legal Services For Indigent Persons Charged With Jailable Offenses Under The City's Local Ordinances.
- F. Motion to remove Jaime Garrett from the Board of Architectural Review as he has moved from the City.
- G. Reappointment of Jan Prettyman to the City Beautiful Commission for a term of three years.

Mr. Compton sponsored the above consent agenda items and moved for their approval. Ms. Kenley seconded the motion. The motion passed unanimously, 6-0.

PUBLIC HEARING: ORDINANCE NO. 17-15, AMENDING
CENTERVILLE TAX CODE SECTION 234.06

Dr. Hinshaw gave a staff presentation for the three tax ordinances on the agenda— Ordinance Nos. 17-15, 18-15 and 19-15. The ordinances were needed because the State Legislature passed House Bill 5 in December 2014 to address income tax “uniformity”, a tax code reform that really did not make requirements uniform throughout all jurisdictions in Ohio. When fully implemented, the new provisions will result in an estimated annual loss to Centerville of over \$1,000,000 per year. Several state committees worked to develop model

legislation to assist cities in drafting new ordinances. Mr. Liberman and the income tax department reviewed the three ordinances.

Ordinance No. 17-15 amended Centerville Municipal Code Section 234.06 to acknowledge that Chapters #880 and #885 governed Centerville's municipal income tax and that the job title "superintendent of taxation" was interchangeable with "tax administrator."

Mayor Kingseed opened the public hearing. Seeing no speakers, he closed the public hearing.

Mr. Compton sponsored Ordinance No. 17-15, An Ordinance To Amend Section 234.06 Division of Taxation, of The Centerville Municipal Code, and moved that it be passed. Ms. Rau seconded the motion. The motion passed with six ayes.

PUBLIC HEARING: ORDINANCE NO. 18-15, AMENDING CENTERVILLE TAX CODE CHAPTER 880 EARNED INCOME TAX

Dr. Hinshaw explained Ordinance No. 18-15, a second income tax ordinance, amended Centerville Municipal Code Chapter 880 of the current municipal income tax code. It defined "qualifying wages" in accordance with Ohio Revised Code 718, without changing the current interpretation. The new verbiage defined tax for qualifying wages with stock options and for deferred compensation. It prohibited taxing individuals under the age of 18.

Mayor Kingseed opened the public hearing. Seeing no speakers, he closed the public hearing.

Mr. Beals sponsored Ordinance No. 18-15, An Ordinance To Amend Chapter 880, Earned Income Tax, Of The Centerville Municipal Code, and moved that it be passed. Mr. Palcher seconded the motion. The motion passed with six ayes.

PUBLIC HEARING: ORDINANCE NO. 19-15, ADOPTING NEW CHAPTER 885 THE CODIFIED ORDINANCES FOR MUNICIPAL INCOME TAX

Dr. Hinshaw explained the third ordinance created a new Centerville Municipal Code Chapter 885. He highlighted a few of the provisions, including that businesses will be able to carry forward net operating losses (NOL) for five years to offset taxes on future profits and that non-resident taxpayers will receive 20 "free" days instead of 12 days before paying any taxes. Tax will no longer be retroactive on wages earned in the initial period. Supplemental retirement benefits given to company executives could no longer be taxed. The law required employers to make withholding tax payments by electronic fund transfers and to file annual reconciliation statements and W2s electronically. The changes provided authority to the local tax administrator to adopt rules and regulations for implementing the municipal income tax code and required a local Board of Tax Review to hear appeals from taxpayers.

The two new chapters of the municipal income tax code (#880 and #885) were required to run concurrently for seven (7) years through 2023.

Dr. Hinshaw pointed out State Centralized Tax Collections of all municipal income tax could be on the horizon. That change would cost Centerville an additional \$1,000,000 annually. He estimated that the City soon will be losing \$3,157,000 annually from cuts initiated by the State Legislature.

Mayor Kingseed opened the public hearing. Seeing no speakers, he closed the public hearing.

Mr. Compton sponsored Ordinance No. 19-15, An Ordinance To Adopt New Chapter 885 Of The Codified Ordinances Of The City Of Centerville Regarding Municipal Income Tax, and moved that it be passed. Ms. Kenley seconded the motion. The motion passed with six ayes.

PUBLIC HEARING: ORDINANCE NO. 20-15, AMEND SECTION 840.02,
ACCESS TO RENTAL UNIT, OF THE RENTAL INSPECTION ORDINANCE OF
THE CENTERVILLE MUNICIPAL CODE

Mr. Liberman explained that staff periodically looked at ordinances for housekeeping changes. Staff recommended two updates for the rental inspection ordinance—correction of a typographical error in Section C and a clarification that an owner/occupant is not subject to penalties by refusing entry for inspection, unless the inspector has a warrant.

Mayor Kingseed opened the public hearing. Seeing no speakers, he closed the public hearing.

Mr. Compton sponsored Ordinance No. 20-15, An Ordinance To Amend Section 840.02 Access To Rental Unit Of Rental Inspection Ordinance Of The Centerville Municipal Code, and moved that it be passed. Mr. Palcher seconded the motion. The motion passed with six ayes.

PUBLIC HEARING: EMERGENCY ORDINANCE NO. 21-15: TO ADOPT 2016 FEES,
RULES AND REGULATIONS FOR THE GOLF CLUB AT YANKEE TRACE

Council held the Public Hearing for Ordinance No. 21-15 recommending updates in fees, rules and regulations for the Golf Club at Yankee Trace. Ms. Wilder reminded Council that staff presented an emergency ordinance every November, in order to provide the correct fee information for memberships for the coming year purchased as holiday gifts. At a prior work session, she had updated Council concerning some extremely minor changes. She stated that a full report would be given in December at the public hearing for the regular ordinance.

Mr. Beals sponsored Ordinance No. 21-15, An Emergency Ordinance To Amend Ordinance Number 22-14, Adopting All Fees, Rules And Regulations Associated With The Golf Club at Yankee Trace And Providing Compensation For Golf Professionals, and moved for its approval. Ms. Rau seconded the motion. The motion passed with six ayes.

There being no further business, the meeting was adjourned. The next meeting of the Centerville City Council was scheduled for December 21, 2015.

Approved: C. Mark Kneese
Mayor

ATTEST: Debra A. James
Clerk of Council