

ORDINANCE NO. 30 -07  
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER \_\_\_\_\_ ON THE  
DAY OF \_\_\_\_\_, 2007.

AN ORDINANCE PROVIDING FOR THE CONSTRUCTION OF CERTAIN PUBLIC IMPROVEMENTS WITHIN THE CITY BY CREATING A TAX INCREMENT FINANCING AREA ENCOMPASSING CERTAIN PARCELS OF REAL PROPERTY, DECLARING IMPROVEMENTS TO SUCH PARCELS TO BE A PUBLIC PURPOSE, EXEMPTING SUCH IMPROVEMENTS FROM TAXATION, REQUIRING THE OWNERS OF SUCH PARCELS TO MAKE SERVICE PAYMENTS IN LIEU OF TAXES, PROVIDING FOR THE PAYMENT OF CERTAIN COMPENSATION TO SUGARCREEK TOWNSHIP AND THE SUGARCREEK LOCAL SCHOOL DISTRICT, ESTABLISHING A MUNICIPAL PUBLIC IMPROVEMENT TAX INCREMENT EQUIVALENT FUND FOR THE DEPOSIT OF THE REMAINDER OF SUCH SERVICE PAYMENTS, DESCRIBING THE PUBLIC INFRASTRUCTURE IMPROVEMENTS MADE, TO BE MADE OR IN THE PROCESS OF BEING MADE BY THE CITY THAT DIRECTLY BENEFIT, OR THAT ONCE MADE WILL DIRECTLY BENEFIT, THOSE PARCELS AND APPROVING AND AUTHORIZING THE EXECUTION OF A COMPENSATION AGREEMENT.

WHEREAS, this Ordinance is introduced, considered and passed in furtherance of a Memorandum of Understanding Relating to the Dille Property (the "*Memorandum of Understanding*") among the City, Sugarcreek Township (Greene County), Ohio (the "*Township*") and Bear Creek Capital, LLC which Memorandum of Understanding intended to resolve all disputes relating to pending legal actions concerning annexation of the Dille property, and is

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contemplated in furtherance of the settlement of the litigation in accordance with the Memorandum of Understanding; and

WHEREAS, the Memorandum of Understanding generally relates to the City's ability to authorize the tax exemption provided for herein, and pursuant to that Memorandum of Understanding, the City has agreed to make certain payments to the Township and the Sugarcreek Local School District, Ohio (the "*School District*") and to work cooperatively with the Township to facilitate the construction of certain public improvements; and

WHEREAS, Ohio Revised Code Sections 5709.40(B), 5709.42, 5709.43 and 5709.82 (collectively, the "*TIF Statutes*") authorize the legislative authority of a municipal corporation, by ordinance, to declare the improvement to one or more parcels of real property located within the municipal corporation to be a public purpose and exempt from taxation, require the owner(s) of such parcel(s) to make service payments in lieu of taxes, provide for compensation payments to the city, local or exempted village school district or other taxing unit, establish a municipal public improvement tax increment equivalent fund for the deposit of the remainder of such service payments and specify public infrastructure improvements made, to be made or in the process of being made that directly benefit, or that once made will directly benefit such parcel(s); and

WHEREAS, this Council has determined to declare the improvements to the parcels of real property identified and depicted in Exhibit A attached hereto (each individually, a "*Parcel*" and collectively, the "*Parcels*") to be a public purpose; and

WHEREAS, the owners of the Parcels (each individually, an “*Owner*” and collectively, the “*Owners*”) intend to make or cause to be made certain improvements to the Parcels as described in Exhibit B attached hereto (collectively, the “*Project*”); and

WHEREAS, the City desires to provide for the public infrastructure improvements described in Exhibit C attached thereto (the “*Public Infrastructure Improvements*”); and

WHEREAS, this Council has determined to provide, for each Parcel, semi-annual payments to the School District in an amount equal to 100% of the amount of real property taxes and Property Tax Rollback Payments (as defined in Section 2 of this Ordinance) that the School District would have received for the Improvement (as defined in Section 1 of this Ordinance) to that Parcel absent the TIF Exemption provided in Section 1 of this Ordinance (the “*School District Payments*”); and

WHEREAS, the Board of Education of the School District adopted a resolution on December 13, 2007 waiving notice of this Ordinance as required by the TIF Statutes and approving the Compensation Agreement (as hereinafter defined); and

WHEREAS, notice of this proposed Ordinance has been delivered to the board of education of the Greene County Career Center in accordance with and within the time period prescribed in Ohio Revised Code Section 5709.83; and

WHEREAS, this Council has determined to provide for the execution and delivery of one or more Tax Increment Financing Agreements to provide for the development of the Parcels;

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION 1. Authorization of Tax Exemption. This Council hereby finds and determines that 100% of the increase in assessed value for all of the Parcels subsequent to the effective date of this Ordinance (which increase in assessed value is hereinafter referred to as the “*Improvement*” as defined in Ohio Revised Code Section 5709.40(A)) is hereby declared to be a public purpose and shall be exempt from taxation for a period commencing with the first tax year that begins after the effective date of this Ordinance and in which an Improvement due to a Project structure first appears on the tax list and duplicate of real and public utility property for any of the Parcels and ending on the earlier of (a) thirty (30) years after such commencement or (b) the date on which the City can no longer require service payments in lieu of taxes, all in accordance with the requirements of the TIF Statutes (the “*TIF Exemption*”).

SECTION 2. Service Payments and Property Tax Rollback Payments. As provided in Ohio Revised Code Section 5709.42, the Owner of each Parcel is hereby required to and shall make service payments in lieu of taxes with respect to the Improvements allocable thereto to the Treasurer of Greene County, Ohio (the “*County Treasurer*”) on or before the final dates for payment of real property taxes. Each service payment in lieu of taxes shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been

charged and payable against that Parcel if it were not exempt from taxation pursuant to Section 1 of this Ordinance, including any penalties and interest (collectively, the “*Service Payments*”). The Service Payments, and any other payments with respect to each Parcel that are received by the County Treasurer in connection with the reduction required by Ohio Revised Code Sections 319.302, 321.24, 323.152 and 323.156, as the same may be amended from time to time, or any successor provisions thereto as the same may be amended from time to time (the “*Property Tax Rollback Payments*”), shall be allocated and distributed in accordance with Sections 4 and 5 of this Ordinance.

SECTION 3. Tax Increment Equivalent Fund. This Council hereby establishes, pursuant to and in accordance with the provisions of Ohio Revised Code Section 5709.43, the Cornerstone Project Municipal Public Improvement Tax Increment Equivalent Fund (the “*Fund*”). The Fund shall be maintained in the custody of the City and shall receive all distributions to be made to the City pursuant to Section 4 of this Ordinance. Those Service Payments and Property Tax Rollback Payments received by the City with respect to the Improvement of each Parcel and so deposited pursuant to Ohio Revised Code Section 5709.42 shall be used solely for the purposes authorized in the TIF Statutes or this Ordinance. The Fund shall remain in existence so long as such Service Payments and Property Tax Rollback Payments are collected and used for the aforesaid purposes, after which time the Fund shall be dissolved and any surplus funds remaining therein transferred to the City’s General Fund, all in accordance with Ohio Revised Code Section 5709.43.

SECTION 4. Distribution of Service Payments and Property Tax Rollback

Payments. Pursuant to the TIF Statutes, the County Treasurer is requested to distribute the Service Payments and the Property Tax Rollback Payments as follows:

- *first*, an amount equal to the School District Payments to the School District, and
- *second*, all remaining amounts to the City for deposit in the Fund.

All distributions required under this Section 4 are requested to be made at the same time and in the same manner as real property tax distributions.

SECTION 5. Distribution of Monies in the Fund. Pursuant to the TIF

Statutes and in each calendar year in which Service Payments and Property Tax Rollback Payments are deposited into the Fund, monies on deposit in the Fund shall be distributed to the extent permitted by law as follows:

- *first*, to the extent that the Township provided fire protection and emergency medical services to the Parcels in the then current calendar year, to the Township by December 31 of that calendar year, an amount equal to the greater of (a) \$100,000, which amount shall be payable in the first calendar year in which the City receives Service Payments and Property Tax Rollback Payments, provided, that such amount shall be increased by \$10,000 per year for each successive calendar year in which the City receives Service Payments and Property Tax Rollback Payments, or (b) the amount of real property taxes which the Township would have received in

that calendar year in respect of the Improvement to each Parcel and computed based on the applicable effective rate of any Township real property tax or taxes levied specifically for any of the purposes described in Ohio Revised Code Section 5705.19(I), for the purpose of acquiring fire protection and emergency medical services facilities and/or equipment which will be used to directly benefit the Parcels, and

- *second*, to the appropriate fund of the City, and after the payment required by *first* above, any remaining Service Payments and Property Tax Rollback Payments shall be used to provide for the payment of debt service, and reimbursements in respect of debt service, as such amounts come due in that current calendar year, on securities issued by the City to pay the costs of the Public Infrastructure Improvements, and to provide for the prepayment of debt service on those securities.

SECTION 6. Public Infrastructure Improvements. This Council hereby designates the public infrastructure improvements described in Exhibit C attached hereto (the "*Public Infrastructure Improvements*") as Public Infrastructure Improvements made, to be made or in the process of being made by the City that directly benefit, or that once made will directly benefit, the Parcels.

SECTION 7. Compensation Agreement. A form of Compensation Agreement (the "*Compensation Agreement*") presently on file with the Clerk of this Council, providing for, among other things, the payment of compensation to

the Township and the School District, is hereby approved and authorized with changes therein and amendments thereto not inconsistent with this Ordinance and not substantially adverse to this City and which shall be approved by the City Manager. The City Manager, for and in the name of this City, is hereby authorized to execute a Compensation Agreement with the Township and the School District in substantially that form along with any amendments thereto, provided that the approval of such changes and amendments thereto by the City Manager, and the character of those changes and amendments as not being substantially adverse to this City, shall be evidenced conclusively by the City Manager's execution thereof.

SECTION 8. Non-Discriminatory Hiring Policy. In accordance with Section 5709.823 of the Ohio Revised Code, this Council hereby determines that no employer located upon the Parcel shall deny any individual employment based solely on the basis of race, religion, sex, disability, color, national origin or ancestry.

SECTION 9. Further Authorizations. This Council hereby authorizes and directs the Mayor, the Deputy Mayor, the City Manager, the Director of Finance, the Municipal Attorney, the Clerk of Council or other appropriate officers of the City, to make such arrangements as are necessary and proper for collection from the Owners of the Service Payments. This Council further hereby authorizes and directs the Mayor, the Deputy Mayor, the City Manager, the Director of Finance, the Municipal Attorney, the Clerk of Council or other appropriate officers



of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Ordinance.

SECTION 10. Filings with Ohio Department of Development. Pursuant to Ohio Revised Code Section 5709.40(G), the Clerk of Council is hereby directed to deliver a copy of this Ordinance to the Director of Development of the State of Ohio within fifteen days after its effective date. Further, and on or before March 31 of each year that the Exemption set forth in this Ordinance remains in effect, the Economic Development Director or other authorized officer of the City shall prepare and submit to the Director of Development of the State of Ohio the status report required under Ohio Revised Code Section 5709.40(G).

SECTION 11. Open Meetings. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or its committees, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Ohio Revised Code Section 121.22.

SECTION 12. Effective Date. This Ordinance shall be in full force and effect on the earliest date permitted by law.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor of the City of Centerville, Ohio

ATTEST:

\_\_\_\_\_  
Clerk of Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. \_\_\_\_\_, passed by the Council of the City of Centerville, Ohio on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Clerk of Council

Approved as to form, consistency with the  
Charter and Constitutional Provisions.  
Department of Law  
Scott A. Liberman  
Municipal Attorney

EXHIBIT A

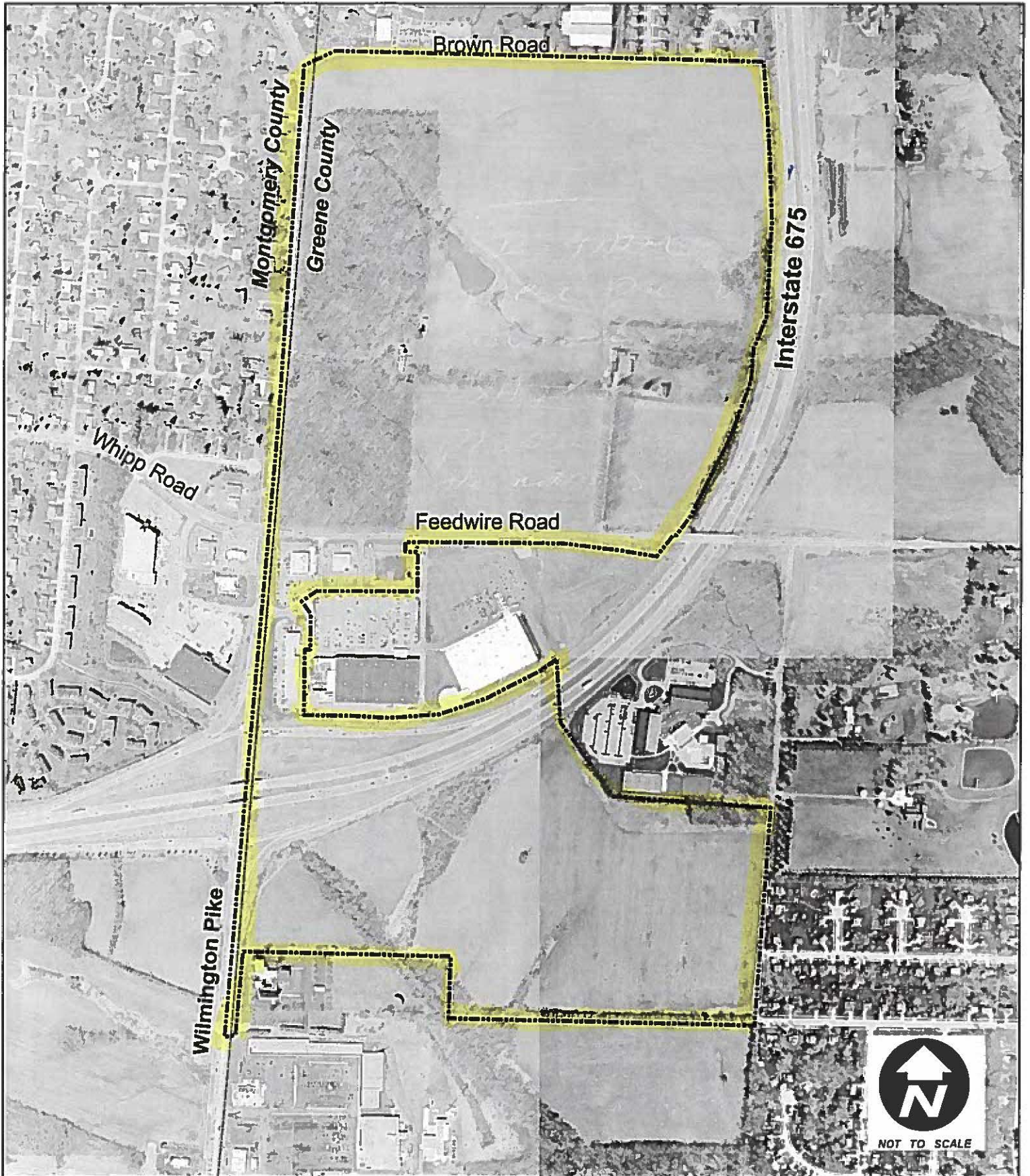
PROPERTY

The outlined area on the following map specifically identifies and depicts the Parcels and constitutes part of this Exhibit A. The parcels include the following tax parcels:

| Auditor Parcel Number | Formal Parcel Number* |
|-----------------------|-----------------------|
| Northern Annexation   |                       |
| L 49000100010000200   | L32000100020000100    |
| L 49000100010000300   | L32000100020000200    |
| L 49000100010000300   | L32000100020000400    |
| L 49000100010000300   | L32000100020000500    |
| L 49000100010000300   | L320001000200004900   |
| L 49000100010000500   | L320001000200008000   |
| L 49000100010000600   | L320001000200007900   |
| L 49000100010000700   | L320001000200007800   |
| L 49000100010000800   | L320001000200007700   |
| Southern Annexation   |                       |
| L 49000100010001200   | L32000100020000300    |

\*Formal parcel numbers are taken from the annexation maps

# EXHIBIT A



## EXHIBIT B

### PROJECT DESCRIPTION

The Project is expected to include a mixed use planned development consisting of retail, office, hotel, residential and medical uses.

## EXHIBIT C

### PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include the construction of the following improvements and all related costs (as defined in Ohio Revised Code Section 133.15(B)):

- Extension of Clyo Road to connect Wilmington Pike and Feedwire Road;
- Improvements to Feedwire Road between Wilmington Pike and I-675;
- Construction of Miami Valley Drive from Wilmington Pike to Clyo Road;
- Improvements to Wilmington Pike between Clyo and Brown roads;
- Improvements to Brown Road;
- Construction of a public roadway network within the Cornerstone Project; and
- Installation of three (3) new traffic signals and renovation of two (2) existing traffic signals,

together with constructing and installing curbs and gutters, public utilities which include water mains, sanitary sewer, and storm sewer, stormwater improvements, burial of utility lines, gas, electric and communications service facilities (including fiber optics), street lighting and signs, sidewalks, bikeways, and landscaping (including scenic fencing and irrigation), traffic signs and signalization, and including design and other related costs, any right-of-way or real estate acquisition, erosion and sediment control measures, grading, drainage and other related work, survey work, soil engineering, inspection fees and construction staking, any other necessary site improvements, and acquiring and constructing public safety equipment and facilities necessary to provide service to the Parcels, and in each case, all other costs and improvements necessary and appurtenant thereto.

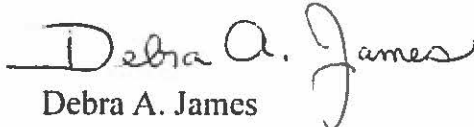


*C. Mark Kingseed, Mayor*  
*Gregory B. Horn, City Manager*

## NOTICE OF PUBLIC HEARING

Notice is hereby given that there will be a Public Hearing on January 28, 2008, at 8:00 P.M., during the Council Meeting to be held in the Council Chambers of the Centerville Municipal Building, 100 West Spring Valley Road, Centerville, Ohio, concerning Ordinance No. 30-07, An Ordinance Providing For The Construction Of Certain Public Improvements Within The City By Creating A Tax Increment Financing Area Encompassing Certain Parcels Of Real Property, Declaring Improvements To Such Parcels To Be A Public Purpose, Exempting Such Improvements From Taxation, Requiring The Owners Of Such Parcels To Make Service Payments In Lieu Of Taxes, Providing For The Payment Of Certain Compensation To Sugarcreek Township And The Sugarcreek Local School District, Establishing A Municipal Public Improvement Tax Increment Equivalent Fund For The Deposit Of The Remainder Of Such Service Payments, Describing The Public Infrastructure Improvements Made, To Be Made Or In The Process Of Being Made By The City That Directly Benefit, Or That Once Made Will Directly Benefit, Those Parcels And Approving And Authorizing The Execution Of A Compensation Agreement.

By order of the Council of the City of Centerville, Ohio.

  
Debra A. James  
Clerk of Council