

ORDINANCE NO. 7-89

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN Jeffrey Siler ON THE 20th  
DAY OF March, 1989.

AN EMERGENCY ORDINANCE ENACTED BY THE CITY OF CENTERVILLE, MONTGOMERY COUNTY, OHIO, IN THE MATTER OF THE HEREINAFTER DESCRIBED IMPROVEMENT AND TO REQUEST COOPERATION BY THE DIRECTOR OF TRANSPORTATION.

WHEREAS, the City has identified the need for and proposes the improvement of a portion of the public highway which is described as follows:

The reconstruction and widening of East Whipp Road from State Route No. 48 eastward to its intersection with Hewitt Road, in the City of Kettering.

WHEREAS, the City further desires cooperation from the Director of Transportation in the planning, design and construction of said improvement.

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

SECTION I. (Cooperation) That said City requests the cooperation of the Director of Transportation in the cost of the above described improvement as follows:

- (a) The City of Centerville will assume and bear one hundred percent (100%) of the cost of the improvement less the amount of Federal-Aid Funds set aside by the Director of Transportation, and allocated to the Miami Valley Regional Planning Commission, for financing the improvement from funds allocated by the Federal Highway Administration.
- (b) That the City of Centerville be designated as the lead agency for this joint project between the City of Centerville, Montgomery County, and the City of Kettering.

SECTION II. (Consent) That it is declared to be in the public interest that the consent of said City be and such consent is hereby given to the Director of Transportation to construct the above described improvement, in accordance with plans, specifications and estimates as approved by the Director.

SECTION III. (Authority to Sign) That the City Manager of said City, is hereby empowered and directed on behalf of the City to enter into agreements with the Director of Transportation necessary to complete the planning and construction of this improvement.

SECTION IV. (Traffic Control Signals and Devices) That traffic control devices installed within the limits of the project will conform with Section 4511 of the Ohio Revised Code.

SECTION V. (Maintenance and Parking) That upon completion of said improvement, said City, will thereafter keep said highway open to traffic at all times, and

- (a) Maintain the improvement in accordance with the provisions of the statutes relating thereto and make ample financial and other provisions for such maintenance; and
- (b) Maintain the right-of-way and keep it free of obstructions in a manner satisfactory to the State of Ohio and hold said right-of-way inviolate for public highway purposes and permit no signs, posters, billboards, roadside stands or other private installations within the right-of-way limits; and
- (c) Place and maintain all traffic control devices conforming to the Ohio Manual of Uniform Traffic Control Devices on the improvement in compliance with the provisions of Section 4511.11 and related sections of the Ohio Revised Code.
- (d) Regulate parking in the following manner:  
  
Prohibit parking on the travelled portion of the roadway.

SECTION VI. (Right-of-Way, Utility Rearrangement and Damage and Liability Responsibilities)

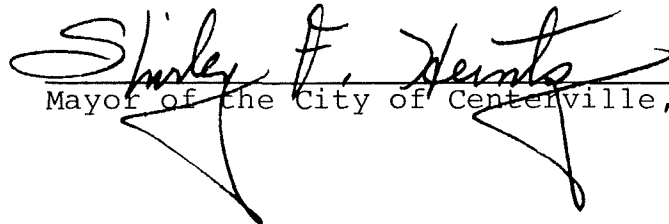
- (a) That all existing street and public way right-of-way within the City which is necessary for the aforesaid improvement, shall be made available therefor.
- (b) That the City will acquire any additional right-of-way required for the construction of the aforesaid improvement.
- (c) That arrangements have been or will be made with and agreements obtained from all public utility companies whose lines or structures will be affected by the said improvement and said

companies have agreed to make any and all necessary plant removals or rearrangements in such a manner as to be clear of any construction called for by the plans of said improvement and said companies have agreed to make such necessary rearrangements immediately after notification by said City or the Department of Transportation.

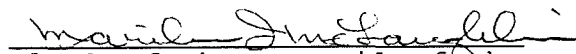
- (d) That it is hereby agreed that the City shall at its own expense, make all rearrangements of water mains, service lines, fire hydrants, valve boxes, sanitary sewers or other municipally owned utilities and/or any appurtenances thereto, which do not comply with the provisions of Directive DH-P-411 inside or outside the corporate limits as may be necessary to conform to the said improvement and said rearrangements shall be done at such time as requested by the Department of Transportation Engineer.
- (e) That the construction, reconstruction, and/or rearrangement of both publicly and privately owned utilities, referred to in subsections (c) and (d) above, shall be done in such a manner as not to interfere unduly with the operation of the contractor constructing the improvement and all backfilling of trenches made necessary by such utility rearrangements shall be performed in accordance with the provisions of the Ohio Department of Transportation Construction and Material Specifications and shall be subject to approval by the State.
- (f) That the installation of all utility facilities on the right-of-way shall conform with the requirements of the Federal Highway Administration Policy and Procedure Memorandum 30-4 "Utility Relocations and Adjustments" and the Department of Transportation's rules on Utility Accommodation.
- (g) That the City hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the negligence of its officers, employees or agents in the performance of the City's obligations made or agreed to in Sections (a), (b), (c), (d), (e) and (f) hereinabove. Likewise, the State agrees to accept responsibility for and all damages or claims for which it is legally liable arising from the negligence of its officers, employees, or agents in the performance of the State's obligations made or agreed to in Sections (a), (b), (c), (d), (e) and (f) hereinabove.

This Ordinance is hereby declared to be an emergency measure and shall become effectively immediately. An emergency affecting the public health, safety and welfare is declared to exist by reason of the need for expediting highway improvements to promote highway safety.

PASSED this 20th day of March, 1989.

  
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Mayor of the City of Centerville, Ohio

ATTEST:

  
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Clerk of the Council of the  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of Ordinance No. 7-89, passed by the Council of the City of Centerville, Ohio, on the 20th day of March, 1989.

  
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Clerk of Council

Approved as to form, consistency  
with existing ordinances, the  
charter and constitutional provisions.  
Department of Law  
Robert N. Farquhar  
Municipal Attorney