

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, June 16, 2014, at 7:30 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Dr. Stephen Swisher of Centerville United Methodist Church and the Pledge of Allegiance led by Mayor Kingseed, who also presided over the meeting. Council Members and City Staff were present as follows:

Deputy Mayor	Brooks Compton
Council Members	John Beals
	Paul Gresham
	Belinda Kenley
	John Palcher
	JoAnne Rau
Clerk of Council	Debra James
Acting City Manager	Steven Hinshaw
City Planner	Andrew Rodney
Economic Development Administrator	Nathan Cahall
Public Works Director	Rob James
City Engineer	Douglas Spitler
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 -	May 19, 2014.
Special Meetings -	May 12, 2014. June 02, 2014.
Work Session Meetings -	May 19, 2014. June 02, 2014. June 09, 2014.

Mr. Compton made a motion for approval of the minutes as distributed. Dr. Gresham seconded the motion. The motion to approve the minutes passed 7-0.

Mayor Kingseed welcomed Sandra Brasington who represented Governor John Kasich's Office. Ms. Brasington congratulated Jan Prettyman on being named the 2014 Volunteer of the Year for the City of Centerville and presented a Certificate. Mayor Kingseed thanked Mrs. Prettyman for her service to our community.

City Planner Andrew Rodney and Board of Architectural Review members Brad Thorp and Ed Ross honored Jan and David Ellinger of 107 East Franklin Street as the winners of the 2014 Board of Architectural Review's Preservation Award for excellence in stewardship. Dr. and Mrs. Ellinger had worked diligently for a number of years to upgrade their property which is both a home and an office. Mr. Ross and Mr. Thorp presented the award—a framed pen and ink drawing and certificate.

Mayor Kingseed read the proclamation designating June as Scleroderma Awareness Month in the City of Centerville. Ms. Demeshia Trice, a support group member, and Ms. Wilma Will were present to explain the illness and provide information concerning the support group and their third annual event, *Stepping Out to Cure Scleroderma*, to be held on August 2, 2014 in Fairborn, Ohio.

Mayor Kingseed noted the following in the Mayor's Report:

The Americana Festival festivities include a patriotic concert on July 3 at 7p.m. at Stubbs Park, as well as the parade and fireworks on the Fourth of July. This year's theme is a *Star Spangled Fourth*. He encouraged everyone in the community to enjoy the festivities.

Dr. Hinshaw included the following in the City Manager's Report:

He shared information about two major road projects:

- the repairs on East Franklin Street should be finished this Thursday, June 19.
- the expansion on Feedwire Road at the intersection of Wilmington Pike should begin June 23.

He announced that Mr. Rob James, Public Works Director for the City for the past 12 years, is leaving to take a position at the City of Dublin as the Director of Streets and Utilities. On behalf of City staff, he wished him well.

Mrs. Wilder outlined property maintenance code violations and resolutions for the month of May 2014, as well as the community calendar for the remainder of June and the month of July.

In Standing Committee Reports:

Mrs. Kenley gave a brief overview of the first Business Task Force Meeting. She acknowledged the members on the Task Force: City Council Members John Beals and JoAnne Rau, City Planner Andrew Rodney, Economic Development Administrator Nathan Cahall, Planning Commission Chair Paul Clark, Patrick Beckel of the Heart of Centerville, Cristlyn Johnston of Miami Valley Hospital South, Tim Minton of Centerville Barbers, Butch Spender of Bob Ross Auto Group, and Tim Suttmiller of Don Wright Realty. The purpose of the Task Force is to gain an understanding of the current processes for doing business with the City, evaluate them and develop recommendations for streamlining the processes where appropriate.

Mr. Beals reported on two items from the Miami Valley Regional Planning Commission meeting:

- By December 31, 2014, MVRPC will move its headquarters to the building formerly occupied by The Dayton Power and Light Company in downtown Dayton.
- MVRPC announced a project in Centerville for 2015 to increase traffic capacity at the I-675 underpass on Wilmington Pike. The project will narrow 12' lanes to 11' lanes and take out a concrete median in order to gain two additional traffic lanes.

Mr. Palcher encouraged everyone to come to Stubbs Park on Sunday evenings for the

Summer Concert series. It is free and open to the public.

Mayor Kingseed explained that the Consent Agenda contains routine procedural and administrative matters which the Council had discussed in Work Sessions. Council Members read the Consent Agenda items into the record, before Mr. Beals sponsored the following items and moved for their approval.

- A. Ordinance Number 10-14, An Ordinance By The Council Of The City Of Centerville, Montgomery County, State Of Ohio To Appropriate All Right Title And Interest In A Certain Parcel Of Real Property Located At 5770 Wilmington Pike, Centerville, Ohio For The Purpose Of Public Right-Of-Way And Temporary Construction Easement Purposes, And Declaring An Emergency, be set for Public Hearing on July 21, 2014.
- B. Ordinance Number 11-14, An Ordinance Amending Section 1020.01, Construction Requirements, of the Centerville Municipal Code, be set for Public Hearing on July 21, 2014.
- C. Resolution Number 24-14, A Resolution Accepting The Bid Submitted By America's Decorative Concrete, LTD. Of Union City, Ohio For The 2014 Concrete Program (Project SS-1B-14) For Concrete Repair On Streets And Sidewalks And Authorizing The City Manager To Enter Into A Contract In Connection Therewith, be passed.

Dr. Gresham seconded the motion. The motion passed with seven ayes.

**PUBLIC HEARING: ORDINANCE 04-14 AMENDING UDO SECTIONS 9.05 AND 9.55,
CELLULAR ANTENNAE ON STRUCTURES OUTSIDE AN OVERLAY DISTRICT**

Mr. Rodney explained the need to amend Sections 9.05 and 9.55 of the Unified Development Ordinance, the wireless communications section, to reorganize the guidelines and clarify the verbiage for cell towers, antennae and their related facilities. The updates related to the cellular use itself and where the use would be allowed, so that antennae could be co-located on an existing tall structure outside a Wireless Communications Facility Overlay District with Council's approval of a Conditional Use Application. No other sections of the Unified Development Ordinance related to wireless facilities would be affected. Mr. Rodney stated that few tall structures exist in the City of Centerville outside commercial zoning districts.

He also noted that this amendment was directly related to a recent Conditional Use case regarding the water towers adjacent to the Tower Heights Middle School at 190 N. Johanna Drive. In order to use a water tank as a site for an AT&T antenna, this UDO text amendment was needed. The approval of AT&T's Conditional Use Application was contingent on the approval of this text amendment that would permit antennae up to 10' above the roof line of structures outside the Wireless Communication Facility Overlay District.

The Mayor opened the public hearing. Seeing no one come forward, he closed the public

hearing.

Dr. Gresham sponsored Ordinance Number 04-14, An Ordinance Amending Ordinance No. 14-08, Chapter 1216 Of The Centerville Municipal Code, The Unified Development Ordinance For The City Of Centerville, Ohio, To Amend Sections 9.05 And 9.55 With Regards To Wireless Communications Facilities Of The Unified Development Ordinance, and moved for its approval. Mrs. Rau seconded the motion. The motion passed unanimously, 7-0.

PUBLIC HEARING: ORDINANCE NUMBER 06-14, ESTABLISHMENT AND OPERATION OF A MAYOR'S COURT IN CENTERVILLE

Dr. Hinshaw explained that passing this ordinance would be the first step in establishing a Mayor's Court here in the City of Centerville. The Mayor's Court would work in conjunction with the current Kettering Municipal Court, since Centerville would continue to use those services for many cases.

Mrs. Gopman gave further background concerning the Mayor's Court. She shared that Ohio law permits a Mayor's Court to hear cases involving violations of local ordinances, traffic laws and misdemeanors. A Mayor's Court is not a "court of record" and is not required to record its proceedings. Defendants can appeal decisions from a Mayor's Court to Municipal Court, and they can request a jury trial at a Municipal Court. Common Pleas Court will continue to hear felony cases, and Juvenile cases will continue at Juvenile Court. Mrs. Gopman stated that many Mayor's Court issues are settled without a court appearance. Out of 3,619 recent cases, 2,284 had the option to waive the court date and pay the fine, requiring little or no actual court time. She gave details on the costs for court services, prosecution services, and overtime hours paid to Centerville Police Officers for court purposes and travel time.

In 2012 Staff did a feasibility study to see if a Mayor's Court could provide similar court services in Centerville while being more convenient for Centerville residents, saving the City money and keeping residents' fees in Centerville. Research produced positive feedback. Therefore, Staff recommended the establishment of a Centerville Mayor's Court that would be in place by March 1, 2015.

When Mayor Kingseed opened the public hearing, Bob Rose, 409 Shawnee Trail, stated he was told by City staff that there was not written information available regarding the Mayor's Court, so he did research online. He asked that the following information from Wikipedia online be included in the record of the meeting:

Ohio's Mayor's Courts are state courts in Ohio created by some municipalities. The Mayor's Court hears traffic cases, violations of City ordinances and other misdemeanors. The presiding officer is a magistrate, not a judge, appointed by the Mayor and paid by the City or Village. Mayor's Courts are not considered trial courts or courts of record and are not subject to the supervision of the Ohio Supreme Court. Mayor's Courts are not authorized to conduct jury trials. If a defendant is entitled to and desires a jury trial then the case is transferred to the jurisdiction's – trial court, municipal court or county court. In jurisdictions that have Mayor's Courts the majority of revenue generated from the fines and court costs go to the City or Village. In contrast

the fines and courts costs levied by a municipal court or a county court. The late Chief Justice of the Ohio Supreme Court, Thomas J. Moyer, pointed out that the United States Court of Appeals for the Sixth Circuit ruled that there is an unconstitutional conflict of interest for a Mayor to levy a fine paid into a budget that the Mayor himself controls.

Mr. Rose spoke against establishing a Mayor's Court. He felt there would be duplication of services. He said Kettering Municipal Court had a marvelous facility, already equipped with metal detectors, armed guards etc. He pointed out that Montgomery County residents support the court system that already exists. Mr. Rose voiced concerns about the quality of justice. He said, since a Mayor's Court is not a Court of Record; magistrates can only make recommendations and a judge must approve their decisions.

In response, Mr. Liberman explained that magistrates are triers of facts and can make conclusions of law. A case goes to a judge, only if there is an objection to the magistrate's decision. The Ohio Supreme Court does monitor these courts; magistrates have training requirements.

Mrs. Gopman also presented information about proposed Ohio legislation that would allocate costs of the entire court based upon the percentage of total cases a jurisdiction sent to the courts. Such a requirement could add costs for Centerville, potentially about \$154,000. Using the Kettering Courts, the City has no ability to control present or future costs.

Dr. Hinshaw pointed out there had been no problem with the Kettering Municipal Court in terms of the services that the City of Centerville had received. Opting to create a Mayor's Court in no way should reflect poorly on the Kettering Municipal Court. The purpose of the change is to control our costs, while providing a more convenient court service for our residents.

Discussion followed with regard to the experience of nearby cities having Mayor's Courts and good stewardship of public dollars for the City. There was an awareness of the need to cut expenses and offset losses, because of the state cuts in local government funds and estate tax funds over the past couple of years.

Mr. Compton sponsored Ordinance Number 06-14, An Ordinance Adopting New Chapter 290, Mayor's Court, To The Centerville Municipal Code Providing For The Establishment And Operation Of A Municipal Mayor's Court, and moved for its approval. Mrs. Kenley seconded the motion. The motion passed 7-0.

**ORDINANCE NUMBER 08-14: CONSTRUCTION MANAGER AT RISK AGREEMENT
WITH OBERER CONSTRUCTION MANAGERS LTD., AND CORNERSTONE
DEVELOPERS, LTD.**

The Public Hearing was held concerning Ordinance Number 08-14. Dr. Hinshaw reported that this ordinance would authorize the city manager to sign an agreement for construction management services for the interior public infrastructure for Cornerstone North. The Construction Manager at Risk Agreement would provide \$1.76 million from TIF proceeds for onsite improvements, including roads and other public improvements on the site itself. The agreement sets a given price and any overruns would be borne by the construction management

company. The Developer is under strict timelines for the first phase of the Cornerstone project. With this agreement, the Cornerstone developers would control scheduling. All normal approvals and inspections remain as requirements.

No one came forward during the open public hearing.

Mr. Compton clarified that Oberer Construction Managers, LTD. is subject to the standard approvals of the City for particular parts of the project. Dr. Hinshaw answered the construction manager and the contractors are subject to the City's requirements for applications, proper financial oversight, bidding processes and inspections. Mr. Compton reiterated that the Construction Manager At Risk Agreement allows the project to move at a quicker pace, a pace the developer controls.

Mr. Beals sponsored Ordinance Number 08-14, An Ordinance Authorizing And Directing The City Manager At Risk Agreement With Oberer Construction Managers, LTD., And Cornerstone Developers, LTD. For Construction Management Services, and moved for its approval. Dr. Gresham seconded the motion. The motion passed unanimously, 7-0.

EMERGENCY ORDINANCE 09-14: APPROPRIATION OF PROPERTY AT 5770 WILMINGTON PIKE FOR PUBLIC RIGHT OF WAY AND EASEMENT PURPOSES

Dr. Hinshaw reported that this ordinance concerns appropriation of 0.008 acres on Wilmington Pike at Feedwire Road at Cracker Barrel, required for the widening of Feedwire Road. He pointed out that issues arose as title agents prepared for the closing of the City's purchase of the property. This ordinance continues from the expiration of the effective dates of an Emergency Ordinance that was passed in May to ensure that the widening project can proceed on schedule. Emergency ordinances expire in 75 days. The public hearing scheduled for July 21, 2014 concerning a regular ordinance will be held, if needed.

Mr. Compton sponsored Ordinance Number 09-14, An Emergency Ordinance By The Council Of The City Of Centerville, Montgomery County, State Of Ohio To Appropriate All Right Title And Interest In a Certain Parcel of Real Property Located at 5770 Wilmington Pike, Centerville Ohio, For The Purpose Of Public Right-Of-Way And Temporary Construction Easement Purposes; And Declaring An Emergency, and moved for its approval. Mr. Beals seconded the motion. The motion passed 7-0.

There being no further business, the meeting was adjourned. Council's next regularly scheduled meeting will be July 21, 2014.

Approved: _____

Mayor

ATTEST: _____

Clerk of Council