

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, August 19, 2013, at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Pastor Chad Current of Living Hope Church and the Pledge of Allegiance with Deputy Mayor Brooks A. Compton presiding. Council Members and City Staff were present as follows:

Council Members John Beals
 Douglas Cline
 Paul Gresham
 Belinda Kenley
 James Singer

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

Dr. Gresham made a motion to excuse Mayor Kingseed from the meeting. Mr. Beals seconded the motion. The motion passed with six ayes.

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

Council Meeting - July 15, 2013.
 August 5, 2013.

Work Session Meetings - July 15, 2013.
 August 05, 2013.
 August 12, 2013.

Dr. Gresham made a motion for approval of the minutes, as distributed. Mr. Cline seconded the motion. The motion to approve the minutes passed with six ayes. Mr. Compton abstained from the vote on the minutes of the work session of August 12, 2013.

Mrs. James announced communications on two topics—the chairmanship of the Stormwater Drainage Task Force and an extension of the approval of a record plat for Bethany Lutheran Village, 6445 Far Hills Avenue. Since Mr. Singer will be retiring from Council in December, he made a motion to appoint Mr. Beals as the Chair of the Stormwater Drainage Task Force. Mrs. Kenley seconded the motion. The motion passed with six ayes. Mr. Compton commented on the dedication of Mr. Singer in heading the Stormwater Drainage Task Force for more than twenty years with benefit to the City. Policies have been put in place. The group meets every year for updates. Mr. Compton thanked Mr. Singer for his leadership.

Dr. Gresham made a motion to extend the approval to the record plat at Bethany Lutheran Village, for an additional six months. Mr. Beals seconded the motion. The motion passed with six ayes. The extension of the approval will expire on February 17, 2014. This request was

received from Mr. Willis Serr of Graceworks Lutheran Services, so that a shift in utility easements may be recorded with Montgomery County.

On behalf of the City Beautiful Commission, Mrs. Jan Prettyman announced that the Cheltenham HOA with landscaped beds at the entrances to the subdivision on Briggs Road and Penridge and The Woods of Centerville Apartments with landscaping at the entrance on Meeting House Road were the winners of the August Community Pride Awards. She announced the August Residential Landscape Award winners as follows:

John Gruenwald
6670 Leeds Circle

Joe Willhoite
225 Linden Drive

Linda Macke
6410 Hidden Hills Drive

Marc & Judy Tebben
9171 Stephanie Street

Roger & Ann Wurtzbacher
7410 Forest Creek Drive

Andrew & Kristy Harmon
1258 Waters Edge Drive

Arnold & Teresa Nickell
116 Gershwin Drive

Deputy Mayor Compton noted the following in the Mayor's Report:

He commended the Arts Commission for the summer evening concerts held the last couple of month at Stubbs Park. Approximately 15,000 people have attended the shows this summer. He thanked the members of the Arts Commission, Mrs. Kenley, Mrs. Gopman, Walt Smucker and Stage Manager Carolyn Emsley.

In the City Manager's Report, Mr. Horn shared the following:

He thanked Public Works crews and the city engineers for their work this summer. It was the earliest that we completed the vast majority of the summer repaving program and the concrete repair program. He thanked the traveling public for its patience and noted that things are in good shape for the start of the school year.

Mr. Cahall gave the statistics on Code violations and corrections for July, before presenting the community calendar for the remainder of August and September. He reviewed items such as the Farmers Market, the Stubbs Park Veterans Memorial Enhancement Project, the Centerville Art Gallery at Centerville Police Headquarters, the summer concert series, and Yankee Trace events. He reviewed information on Public Works activities, recycling resources, prescription cards and board and commission openings.

Mr. Beals covered several topics in his report. He commended the City Beautiful Commission and Chair Jan Prettyman for the work they do year-round for our community, including the selection of the landscape winners during the summer months, special awards at Christmas, and the hands on work of planting of flowers, weeding, and watering at Police Headquarters and the Four Corners at the center of town. Mr. Beals reminded the public that the Historical Society has reprinted their number one seller, *A Sense of Place*, on the development of the local area. Because it was sold out, they went back to the printer and updated it, adding color to the photos. Next Mr. Beals announced the 16th Annual Kalamian Golf Outing and Pig Roast

would be September 9, 2013. The Pig Roast is available to golfers and non-golfers who want to support the efforts to remember and honor John P. Kalamian, our Police Officer struck down in the line of duty some 16 years ago.

Mr. Compton applauded the finish of the East Spring Valley Road project finished within the corporate limits and commended those responsible. Mr. Horn explained that there was coordination with the County because a water main had to be replaced, but the project progressed well, all in all.

Mr. Compton 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 Dr. Gresham sponsored the following items and moved for their approval:

- A. Resolution Number 35-13, A Resolution Ratifying The Actions Of The City Manager To Enter Into A Pre-Annexation Agreement With Yankee Trace Woods, LLC For Property Located In Washington Township.
- B. Resolution Number 36-13, A Service Resolution In Support Of The Proposed Annexation Of Property Containing 13.8 Acres More Or Less From Washington Township, Montgomery County, Ohio To The City Of Centerville, Montgomery County, Ohio Pursuant To The Requirement Of Section 709.023 Ohio Revised Code.
- C. Resolution Number 37-13, A Resolution Regarding Zoning Buffers In A Proposed Annexation Of Property Containing 13.8 Acres More Or Less From Washington Township, Montgomery County, Ohio To The City Of Centerville, Montgomery County, Ohio Pursuant To The Requirement Of Section 709.023(C) Ohio Revised Code.
- D. Resolution Number 38-13, A Resolution Authorizing And Directing The City Manager To Enter Into An Economic Development (PIR) Grant Agreement With Centerville South Point, LLC.
- E. Resolution Number 39-13, A Resolution Designating The Public Depositories For Funds Of The City Of Centerville, Ohio And Authorizing The City Manager To Enter Into Agreements With Said Depositories.
- F. Resolution Number 40-13, A Resolution Ratifying Actions Of The City Manager, On Behalf Of The City Of Centerville, In Signing An Eighth Amendment To An Agreement Between The City And The Corporate Predecessor Of Yankee Trace Development, Inc. Originally Dated On June 27, 1994.
- G. Resolution Number 41-13, A Resolution Authorizing The Montgomery County Environmental Services Department, To Apply For An Ohio Public Works Commission's State Capital Improvement And/or Transportation Improvement Program Grant/Loan For Lakeview/Cherry/Martha Water Main Replacement Project No. 130054-94 And To Include The City Of Centerville, Ohio.

- H. Resolution Number 42-13, A Resolution Accepting The Bid From North American Salt Co., And Authorizing The City Manager To Enter Into An Agreement With North American Salt Co., For The Purchase Of Highway Rock Salt For Snow And Ice Control For The City Of Centerville For The Year 2013.
- I. Acceptance of the Report of the Mayor's Committee To Study Inter-Governmental Relations.

Mr. Beals noted that there would be a detailed explanation and discussion of Item I. at the September Council Meeting, when Mayor Kingseed would be in attendance. Mr. Singer seconded the motion for the Consent Agenda. The motion passed unanimously with six ayes.

PUBLIC HEARING: ORDINANCE NUMBER 6-13: CONCERNING CHAPTER 836
PEDDLERS, VENDORS, CANVASSERS, AND CHARITABLE SOLICITORS

Mr. Beals made a motion to remove Ordinance Number 6-13 from the table for consideration. The Ordinance was tabled at the July 15, 2013 Council Meeting. Mrs. Kenley seconded the motion. The motion passed to return Ordinance Number 6-13 to the table with six ayes.

Mr. Compton stated that it was the intention of Council to table this Ordinance for a couple of months, because the members had not had the opportunity to discuss this matter thoroughly. He noted that if people were present for the public hearing, they would be invited to speak.

Mr. Liberman gave a history of the issues pertinent to the Solicitation Ordinance and discussed the recent case that involved the City of Englewood. This case gave guidance as to what type of law would be constitutionally acceptable as cities struggle to balance one's privacy rights versus a group's first amendment rights. Individual homeowners who wish to maintain privacy can post a no solicitation notice, and our police can enforce such restrictions through trespassing laws. Many feel that a City needs other laws on the books for enforcement, so cities have passed Solicitation Ordinances. The Englewood case highlights several items that are important in drafting a new ordinance, especially the exemption of juveniles. Either the City can make juveniles comply with the requirements or the City has to provide a substantial, defensible justification why minors pose less of a privacy invasion than adults and why minors pose less of a risk of crime, fraud or casing of homes than adults would. It is the opinion of staff that the City needs to remove the current ordinance that is not being enforced. Council will decide whether to pass a new ordinance or simply remove the one that is currently there.

Chief Robertson explained what is currently being done when citizens call about solicitors. When an officer responds, he or she cannot ask for ID; the officer can only talk to the person to see if the solicitor is willing to offer an ID or share the business in the neighborhood. In calendar year 2012 the Police Department had 97 calls for solicitation, and so far this year there have been 85 calls. Chief Robertson had not found any history of calls involving Girl Scouts, Boy Scouts, booster clubs, or PTO. Many calls are after the fact when consumers call to report someone who sealed a driveway and it isn't real sealant or who cut down three trees for \$10,000. These are the types of calls where the Centerville Police can't offer any sort of protection because they don't have authority under the current law.

Don Morrison, 6518 Hollowview Trail, voiced his opinion that the ordinance, as proposed, went too far in its regulations and the barriers that it creates for legitimate youth organizations, such as Scouts, civic organizations and school-based groups like athletic teams and PTO. He said the conditions were unreasonable in terms of the costs and comfort for fellow citizens that are trying to do the right thing. He stated that selling teaches important life skills as well as providing program funding. The children are encouraged to go beyond their comfort zone and to act in a friendly, courteous, cheerful and appropriate manner. He noted the increasing need for independent funding as tax levies receive scrutiny. He respectfully requested that Council reconsider the ordinance as written and make appropriate allowances for youth-based organizations. He submitted a copy of Oakwood's Solicitation Ordinance for Council review.

Dave Douglas, 1161 Red Ash Court, voiced his compliments to the youth and the parents who support efforts to involve children in the community through fundraising in the neighborhoods. He noted that he was a Boy Scout and learned valuable lessons as a young person going door to door. It was one of the experiences that gave him the courage to run for Washington Township Trustee and campaign for the fall election this year. He reminded Council that political activity was also a legitimate endeavor that should be encouraged rather than restricted.

Jack Wysong, 664 Legendary Way, asked how the ordinance affects people getting signatures on petitions. Mr. Liberman stated, as the ordinance is currently written, individuals out getting petitions would fall under canvassers; they are exempt from all the restrictions. They would not have to get a license, but they would need to respect the privacy of anyone who had a "No Solicitation" sign on the door.

Jonathan Tvaryanas, 9685 Olde Georgetown Way, stressed that it was his firsthand experience that door to door selling helps youth educationally and financially. He stated that selling funds camp outs, an integral part of scouting. He asked Council to exclude juveniles from the requirements of the ordinance.

Mr. Cline made several comments with regard to the youth group organizations and said he would not support an ordinance that includes restrictions on their fundraising efforts. The fees for families could be prohibitive and burdensome. Council suggested interested parties send emails and come to work sessions as the matter is discussed further.

Dr. Gresham made the motion to table the public hearing for Ordinance No. 6-13, An Ordinance Repealing Chapter 836 "Peddlers and Solicitors" Of The Codified Ordinances Of The City Of Centerville And Enacting New Chapter 836 Entitled "Peddlers, Vendors, Canvassers, And Charitable Solicitations, until the October 21, 2013 Council Meeting. Mrs. Kenley seconded the motion. The motion passed with six ayes.

Citizens' Comments

Jack Wysong, 664 Legendary Way, asked about the ability of the public to comment at a work session. Mr. Compton stated that comments can be heard following a meeting. Mr. Liberman clarified that, in general, comments are reserved for public hearings at Council's regular monthly meetings or for the Citizens' Comments section of the agenda. Work sessions

are always open to the public to listen. To speak at a work session one must be on the agenda or be asked a question by the members.

Mr. Wysong expressed concern over the concept of the consent agenda. He stated he did not agree with approval with so little information given to the public. He suggested Council give more background prior to the vote and noted that he had not heard several of the items discussed at work sessions.

Mr. Horn stated that consent agenda items are those that do not involve public hearings and are seen as administrative. Mr. Compton said he could have asked for a report before the vote on the consent agenda items.

Louis Duchesneau, El Kenna Court, inquired about items B and C of the Consent Agenda. First, he asked for the location of the parcel being annexed. Mr. Horn replied that the 13.8 acres fronted on Paragon Road extending westward to Yankee Trace Drive. The property is south of the S curve on Paragon Road. Second, Mr. Duchesneau asked about the annexation agreement. Mr. Horn stated that the document was a standard annexation agreement. The City is named to act on behalf of the owner in this Type 2, 100% owner requested, annexation to present the annexation petition to the County Commissioners. The other main item is the Special Assessment Financing for infrastructure that was requested by the owner. This type of financing has been used by the developers at Yankee Trace Golf Community and passes some costs for preparing the subdivision through the City to the eventual property owner by assessment. The City is the conduit for the process.

EMERGENCY ORDINANCE NUMBER 9-13: PROVIDING FOR THE SALE OF BONDS TO REFINANCE GENERAL OBLIGATION DEBT FOR YANKEE TRACE

Mr. Horn gave the staff report explaining the opportunity to refinance debt incurred for construction projects in the City of Centerville at a significant savings to the City of Centerville because of the currently lower interest rates. There are two parts to this debt: \$0.5 million remaining for work on South Main Street and \$9.08 million remaining for work at Yankee Trace. Both parts have a 4.6% interest rate.

The ordinance would allow the City to defease \$5.8 million worth of debt by using cash balances in the debt retirement fund. The remaining \$3.78 million would be refinanced with an estimated savings of \$2.09 million over the remaining life of the issues. Enacting this measure would enable Yankee Trace to be debt free by 2019. He asked for an emergency ordinance, so that the transactions could be done in a timely manner.

Should the ordinance be approved, Dr. Steve Hinshaw, Mr. Scott Liberman, Esq., Mr. Chris Franzmann, Esq. at Squires Sanders and Mr. Kent Cashell (Bond Underwriter) will continue to work to affirm the City's current Moody's rating of Aa2 or seek an upgrade to Aa1.

Mr. Beals sponsored Emergency Ordinance No. 9-13, An Ordinance Providing For The Issuance And Sale Of Bonds In The Maximum Aggregate Principal Amount of \$4,500,000 For The Purpose Of Refunding Bonds Issued By The City For The Purposes Of (A) Paying Costs Of Constructing A Municipal Golf Course, Including A Club House, Maintenance Building, Pump House, Utilities, Parking Facilities, Landscaping, Equipment, And All Necessary Appurtenances,

(B) Acquiring Real Property For Municipal Recreational Facilities, (C) Paying Costs Of Constructing A Municipal Golf Course, Including A Clubhouse, Parking Facilities, Landscaping Equipment, Acquiring Rights To The Use Of Sanitary Sewers, Together With All Necessary Appurtenances And (D) Paying Costs Of Reconstructing And Widening South Main Street Between Certain Termini, Including Providing Curbs, Storm Sewers, Sidewalks, Water Main Adjustments, Street Lighting, Traffic Signals And Traffic Signal Improvements, And Providing Right-Of-Way, Together With All Necessary Appurtenances and Declaring An Emergency, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed unanimously.

EMERGENCY ORDINANCE NUMBER 10-13: PROVIDING FOR BONDS TO REFINANCE SPECIAL ASSESSMENT DEBT FOR YANKEE TRACE INFRASTRUCTURE

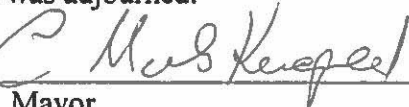
Mr. Horn presented background information on an emergency ordinance to obtain a lower interest rate for debt incurred for infrastructure for Yankee Trace residential areas. Yankee Trace homeowners would benefit from this action by the City. There were seven separate issues for Yankee Trace special assessments paid by residents. \$5.625 million in debt remains with varying interest rates from 4.2-6.6%.

The emergency ordinance would allow the City to refinance the entire debt, keeping the maturity dates as they are for each series of bonds. The estimated savings for the homeowners paying special assessments would be 7-14% or \$0.7 million over the remaining life of the issues.

Mr. Beals sponsored Emergency Ordinance No. 10-13, An Ordinance Providing For The Issuance And Sale Of Bonds In The Maximum Aggregate Principal Amount Of \$6,500,000 For The Purpose Of Refunding Bonds Issued By The City For The Purposes Of Paying The Costs Of Various Public Infrastructure Projects And Declaring An Emergency, and moved for its approval. Mrs. Kenley seconded the motion. The motion passed with seven ayes.

There being no further business, the meeting was adjourned.

Approved: _____



Mayor

ATTEST: _____


Clerk of Council