

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, October 15, 2012, at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Pastor Kirk Lithhandler of Fairhaven Church, with the Pledge of Allegiance, and with Mayor Mark Kingseed presiding. Councilmembers and City Staff present were as follows:

Deputy-Mayor Brooks Compton
Councilmembers John Beals
Douglas Cline
Paul Gresham
Belinda Kenley
James Singer

Clerk of Council Debra James
City Manager Gregory Horn
Finance Director Steven Hinshaw
City Planner Steven Feverston
Public Works Director Robert James
City Engineer Douglas Spittler
Assistant to the City Manager Kristen Gopman
Community Resources Director Maureen Russell Hodgson
Municipal Attorney Scott Liberman

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

Council Meeting	September 17, 2012.
Work Session Meetings	September 17, 2012. October 01, 2012. October 08, 2012.

Mr. Compton made a motion to approve the minutes, as distributed. Mrs. Kenley seconded the motion. The motion passed unanimously. Dr. Gresham abstained from the minutes of October 8, because he was out of town at that time.

Mrs. James announced that the Clerk's Office had received a communication from Dan Wilson withdrawing an appeal he filed against the decisions of the Planning Commission in denying three variances for 115 Compark Road. Mayor Kingseed thanked staff for working with the applicant.

As an item added to the agenda, Representative Jim Butler gave an update on the work of the Ohio State Legislature. Mr. Butler reported that the state's financial improvements included reducing the unemployment rate, improving the State's credit rating, balancing the budget, and reestablishing the rainy day fund. The legislators twice cut, among other austerity measures, the local government fund by 25% per year (about 50% going forward), repealed the estate tax and reduced income taxes. He discussed the issues of the centralization of the collection of income taxes and tax code uniformity for loss carried forward and for the length of time one had to work within a jurisdiction before tax filing would be required.

Mr. Horn responded to the changes Mr. Butler outlined for tax uniformity and pointed out over \$3 million in losses to the City's budget as the result of recent changes and proposed changes from the State. Mr. Horn stated that we "have to stop the bleeding" in relation to municipal budgets.

Representative Butler noted some possible ways the State may provide to offset a small portion of the cuts. He mentioned some possibility of reinstating the estate tax, of funding some community improvement projects in a Capital Appropriations Bill for 2014, of distributing casino taxes differently and of creating a fund for low cost loans to convert public fleets to operate on compressed natural gas.

Mayor Kingseed reiterated that the City would be willing to support changes for tax uniformity as long as the end result is revenue neutral for the City of Centerville. Dr. Gresham invited Mr. Butler to return to Council every six months to keep the lines of communication open, before Mr. Compton stated that, when setting the formula for distribution of casino money, the legislature needs to realize that unincorporated areas of townships are already subsidized by counties to a significant degree.

Mayor Kingseed welcomed Bonnie Sekely and administered the oath of office to her as a member of the City Beautiful Commission. He thanked her for volunteering. She stated that she was anxious to begin her duties.

Mayor Kingseed introduced Carol Kennard, Director of the Centerville-Washington Township Park District, and Bill Williams, President of the Park Board. Ms. Kennard noted partnerships that have allowed exciting projects, including Mom and Dad's Garden on the Smith property at Bill Yeck Park, the renovation of the historic home there, the Mark Crush Nature Place at Grant Park, the archery range at Oak Creek Park and a nature literature trail. Although funding has been down, attendance at park programs has been up 42% over the last year and shelter reservations were up 31%. She reviewed other programs run by the Park District.

Mr. Cline commended the Park District for the changes that have been made to the Forest Field Park. He mentioned some of the concerns that Council hears with regard to neighborhood parks and soccer practices. Ms. Kennard stated that the Park District is in the process of developing Forest Field Park into a soccer practice facility, so that more practices can be moved out of neighborhood parks. The Park District tries to be cognizant of the concerns of neighbors while accommodating the needs of the large number of youngsters who participate in youth sports. Mayor Kingseed thanked Mr. Williams, whose term expires in the spring of 2013, for his service the past nine years as Park Commissioner.

Mayor Kingseed noted the following in the Mayor's Report:
He attended three charitable events during the past month.

- The Centerville Lions Club held a 5-K Run/Walk and Pancake Breakfast on October 13 with proceeds dedicated to the Food-2-Go Program which provides meals to low income children in the community both on weekends and in the summer.
- Morning Star Baptist Church held a 5-K Run for donations for the Haiti Relief Fund.
- The Castle, 133 North Main Street, held its 2nd Annual Mental Illness Awareness Week Changing Attitudes/Changing Lives event on October 9.

Mr. Horn explained the following in the City Manager's Report:

The Supreme Court decision concerning Tax Increment Financing for the Dille property in Sugarcreek Township was a 7-0 unanimous decision in favor of the position of the City of Centerville. He gave a broad overview of the events related to the case. The property along Wilmington Pike on the northeastern corner of Centerville was annexed to the City of Centerville in

2006 using a 100% owner petition annexation meaning that the City was approached by representatives of the ownership group to annex the property. Knowing that annexation can involve legal challenges, considerable expense and time, the Council and the Petitioners agreed that they would stay with the process to a favorable conclusion. In this particular case, the City went through a two to three year legal confrontation as the City was sued by Sugarcreek Township over the annexation. The City and the property owners did prevail.

Unfortunately, the litigation continued with a second challenge that involved Tax Increment Financing. Tax Increment Financing (TIF) is a tool that has been created by the State legislature to be used for large scale development projects. We were of the belief that Tax Increment Financing was a tool that was available to the City as it would be to any large scale development and felt it was a tool that was available for land that was annexed under the Type II format. A TIF allows a portion of real estate tax money to be re-directed for a set period of time to pay the debt on major public infrastructure improvements. Sugarcreek Township was in opposition and felt that, because it was a Type II annexation, no tax dollars could be redirected. We unfortunately ended up in three years of litigation defending our position. If the Supreme Court decision had gone against Centerville there would have been state-wide repercussions. It was a position which was paramount to the success of this future development and for any development of this size throughout the State of Ohio, so the Ohio Municipal League and a number of municipalities throughout Ohio joined us in this effort. Mr. Horn thanked staff members for their participation over the past 5 to 6 years, and he thanked City Council, because at times it was difficult. Council knew that our position was valid and stayed the course throughout the process, and we were very pleased with the outcome.

Mr. Cline congratulated Mr. Horn and his staff, and he thanked Oberer Development. As of 60 to 90 days ago things looked pretty bleak with George Oberer filing for detachment of the Cornerstone area from the City of Centerville and going back to Sugarcreek Township. Mr. Cline congratulated everyone for pulling together. Mr. Cline also stated that the Council and Mayor Kingseed want to reach out in good faith to the Sugarcreek Township government and work together in a cooperative way, because the development of the Dille property would benefit both Sugarcreek Township and the City of Centerville.

Mrs. Gopman reported on property maintenance code violations and resolutions for September 2012 and presented the community calendar for the coming weeks. She covered items such as the Police Department Pharmaceutical Drop Box, the Farmers Market, Beggars Night, the Veterans Day Ceremony, Thanksgiving Holiday, Holiday Walk and Tree Lighting, Arts Commission activities, Yankee Trace, leaf collection, recycling, discount drug cards and board/commission openings.

Mayor Kingseed explained that the Consent Agenda contains procedural and administrative matters that have been discussed during Council Work Sessions and have unanimous support of Council. Approval of these issues will be as a group with one motion being made. Councilmembers read aloud the titles of the items, before Mr. Beals sponsored the following legislation and moved that it be passed:

- A. Ordinance Number 15-12, 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 November 19, 2012.

- B. Resolution Number 44-12, A Resolution Authorizing And Directing The City Manager To Enter Into An Agreement With Washington Township And Yankee Trace Development, LLC For The Detachment And Re-annexation Of Property Located At Yankee Trace Consisting of Seven Lots.
- C. Resolution Number 45-12, A Resolution Authorizing And Directing The City Manager To Enter Into A Lease Agreement With The Board Of County Commissioners Of Montgomery County For Building Located At 108 West Spring Valley Road.
- D. Resolution Number 46-12, A Resolution In The Matter Of The Stated Described Project, D07 Systematic GR FY 13, PID No. 93389, Providing Systematic Guardrail End Terminal Upgrades On State Route 48 Within The Corporate Limits Of The City Of Centerville.
- E. Resolution Number 47-12, A Resolution Authorizing The City Manager Or His Designee, On Behalf Of The City Of Centerville, To Submit An Application For New Freedom Grant Funding From The Federal Transit Administration To The Miami Valley Regional Planning Commission For Public Infrastructure Improvements Benefitting Americans With Disabilities.
- F. Resolution Number 48-12, A Resolution Authorizing Staff To Submit An Application For Federal MAP-21 (Moving Ahead For Progress In The 21st Century) Funds Through The Miami Valley Regional Planning Commission.
- G. Re-appointment of Joyce Ray-Brown To The Property Review Commission For A Term Of Three Years.

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

DAN WILSON, 115 COMPARK ROAD, APPEAL TO COUNCIL

Mayor Kingseed reiterated Mrs. James's communication that a request to withdraw this Appeal had been received from Dan Wilson, the applicant. Mr. Wilson of Centerville Climate Storage had filed the appeal against a decision rendered by the Planning Commission on August 28, 2012, denying three variances for property located at 115 Compark Road. Since the appeal was withdrawn, no public hearing was held.

REZONING 888 EAST FRANKLIN STREET FROM I-1 TO B-2

Mr. Feverston's presentation simultaneously covered the staff report for rezoning both 888 East Franklin Street and 900 East Franklin Street as the two parcels were related and had the same applicant, Mark Van Nest of MidWest Leasing who asked to rezone the two properties from I-1 Light Industrial zone classification to B-2, General Business zone classification. Each property is about one-third of an acre. Mr. Feverston gave background on the development of the East Franklin

Street corridor and located the properties on an aerial map. He described the mixed zoning nearby and noted that there is B-2 zoning directly across the street to the north and directly to the west so this rezoning would not be classified as spot zoning. The properties in the area were developed in the late sixties and early seventies, when the zoning standards didn't provide for stormwater management, setbacks, landscaping, strict parking requirements or guidelines on building placement, so there are many non-conformities with the current zoning ordinance. Rezoning from I-1 to B-2 would not require compliance with current regulations with regards to those non-conformities. The palette of permitted uses in the B-2 district is more intensive in terms of the parking and use demands. Therefore, issues could be created by rezoning the property from I-1 to B-2, if they are left as stand-alone lots. Mr. Van Nest originally planned to purchase both lots, so Planning Commission recommended consolidating the lots to improve parking availability and to facilitate access and egress.

The Planning Commission recommended to Council the approval of the rezoning of 888 East Franklin Street subject to these conditions:

1. That the Planning Commission also recommends the rezoning of 900 East Franklin Street.
2. That the ordinance rezoning the property at 900 East Franklin Street shall not be effective until the map consolidating the two lots at 888 and 900 East Franklin Street is recorded with Montgomery County.

The Planning Commission recommended to Council the approval of the rezoning of 900 East Franklin Street subject to the following condition:

1. That the ordinance rezoning the property at 900 East Franklin Street shall not be effective until the map consolidating the two lots at 888 and 900 East Franklin Street is recorded with Montgomery County.

Mr. Feverston noted that this area was not included in the study areas of the Comprehensive Plan of *Create the Vision*, but the Land Use Plan suggested commercial purposes. The East Franklin Street Task Force recently recommended rezoning as a method of stimulating the re-development of this area of Centerville.

Mr. Randy McCoy, 166 Enfield Road, owner of the property at 888 East Franklin Street, asked for the rezoning of his property. He gave the history of uses of the parcel and stated that the building has been empty for the past 2 1/2 years. He was hopeful that rezoning would help him to be able to rent or sell his property. He stated his disagreement with the requirement of combining the lots.

Mr. Mark Van Nest, the applicant for the two rezoning requests and the Managing Partner of Midwest Leasing, stated that he had two issues to discuss. One problem was that the consolidation of the two pieces of property was not working out. He had not been able to strike a deal with Mr. McCoy. The second issue was that he would like to have the properties rezoned, but if that could not happen, he wanted to present a case that his business should be allowed to occupy the property even with the I-1 zoning. He said he was a commercial vehicle equipment lessor and not in the retail or used car business. His employees would see clients at their places of business, not at his location on Franklin Street. Mr. Van Nest stated that he had been in the leasing business in the Miami Valley

for over 27 years. He would not need the extra parking, the extra acreage or the added expense of the property at 888 East Franklin Street. He was relocating only because the property he leased had been sold.

Mr. Feverston responded that any kind of car sales or leasing establishment is clearly stated in the UDO to be a B-2 general business use. Mayor Kingseed clarified that both owners want the rezoning, but the question is whether the two lots need to be combined. Mr. Feverston added that the two properties have very tight set-backs around the perimeter, large curb cuts to South Suburban and multiple curb cuts along East Franklin Street. Mr. Feverston stated the need to look at the whole range of possible uses that could go in these buildings as stand-alone properties if they were rezoned as B-2. By consolidating driveways and parking spaces, the two parcels would become a more viable B-2 kind of business property. That was the basis of the original condition that placed the effective date of the rezoning upon the date that the consolidation of the lots was recorded. Following discussion of whether it should require the consolidation of the lots or the elimination of some of the curb cuts, Council concurred not to require those conditions of the owners.

Mr. Cline stated that he did not think rezoning at this time was the best solution for utilizing these two properties and ultimately for revitalizing this area. He concurred with the recommendation of the Planning Commission and staff.

Mr. Compton sponsored Ordinance No. 13-12, An Ordinance Amending Ordinance Number 14-08, Chapter 1216, The Unified Development Ordinance As Amended, To Rezone 0.3358 Acres Of Land, More Or Less, Located At 888 East Franklin Street From I-1, Light Industrial Zone Classification, To B-2, General Business Zone Classification and moved that the property be rezoned and the ordinance passed without the condition of combining the two lots into one. Also, he revised the wording to be used in the Ordinance under Section 3 to say, "This ordinance shall take effect at the earliest date provided by law." Dr. Gresham seconded the motion. A roll call vote resulted in six ayes in favor of the motion. Mr. Cline voted no. The motion passed.

REZONING 900 EAST FRANKLIN FROM I-1 TO B-2

Mr. Compton sponsored Ordinance No. 14-12, An Ordinance Amending Ordinance Number 14-08, Chapter 1216, The Unified Development Ordinance As Amended, To Rezone 0.3409 Acres of Land, More Or Less, Located At 900 East Franklin Street From I-1, Light Industrial Zone Classification, To B-2, General Business Zone Classification and moved that this property be rezoned and the ordinance passed without the condition of combining the two lots into one. Therefore, the wording in the Ordinance under Section 3 should state, "This Ordinance shall take effect at the earliest date provided by law." Mrs. Kenley seconded the motion. A roll call vote resulted in six ayes in favor of the motion. Mr. Cline voted no. The motion passed.

There being no further business, the meeting was adjourned.

Approved: C. Mark Kingseed
Mayor

ATTEST: Debra A. James
Clerk of Council