

RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held July 18

20 11

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, July 18, 2011, at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Pastor Sara Cutter of Epiphany Lutheran Church, followed by the Pledge of Allegiance with Mayor Mark Kingseed presiding. Councilmembers and City Staff were present as follows:

Deputy Mayor Doug Cline
Councilmembers

John Beals
Brooks Compton
Paul Gresham
Belinda Kenley
James Singer

Clerk of Council Debra James
City Manager Gregory Horn
Finance Director Steven Hinshaw
Police Chief Bruce Robertson
City Planner Steven Feverston
Public Works Director Robert James
City Engineer John Sliemers
Assistant to the City Manager Jennifer Wilder

Municipal Attorney Scott Liberman

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

Council Meeting June 20, 2011.

Work Session Meetings June 20, 2011.
July 11, 2011.

Mr. Compton moved that the minutes of the foregoing meetings be approved as distributed. Mr. Cline seconded the motion. The motion passed with seven ayes. Mr. Singer abstained from the vote on the minutes of the work session on July 11, 2011 as he was absent.

Mrs. James noted the receipt of the resignation of Sandra Baver from the Sister City Committee. Mayor Kingseed thanked Mrs. Baver for the many years of service she has given to the Sister City Committee.

Mayor Kingseed administered the Oath of Office to Mr. David Blum, a new member of the Board of Tax Appeals. The mayor thanked Mr. Blum for volunteering to perform a valuable service for the City of Centerville.

Mayor Kingseed welcomed Police Chief Bruce Robertson who called forward Sergeant Joe LaVigne and Officer Brad Eshler to be honored for heroic efforts that earned them Life Saving Awards. On June 3, 2011, they promptly administered CPR at the scene of an accident and are credited with saving the life of the individual. Chief Robertson thanked the City Manager and the Council for authorizing the funds for the training that gives our police officers

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20 11

skills as first responders. Chief Robertson presented plaques with Life Saving Certificates and Life Saving Pins for display on their uniforms to Officer Eshler and to Sergeant LaVigne.

Mrs. Kim Engelman announced that Walgreens at 911 South Main Street was the winner of the July Business Pride Award. A plaque and gift certificate will be forwarded to Scott Hayden, the manager. Because of the hailstorm, the monthly business awards did not start until July and will continue into September. Mrs. Engelman noted that the high quality of many displays made it difficult to select winners this year. The Centerville City Beautiful Commission recognized the following as Residential Summer Landscape Award Winners for July.

Russell and Linda Brown 6767 Nestle Creek Lane	Bob and Nancy Yowell 157 Bradstreet Road	Don and Connie Monnin 5384 Royalwood Drive
Walter and Sue Schenk 440 Island Lake Court	John and Gayle Havert 8217 Station House Road	Andy and Kristine Harmon 1258 Waters Edge Drive

In the Mayor's Report, Mayor Kingseed noted the following:

He thanked everyone on the Americana Committee for making the Americana Festival such a successful community event.

He recognized the Heart of Centerville for its *Third Fridays* presentation of a "Taste of Centerville" showcasing the restaurants of the area. *Third Fridays* celebrations and activities will continue through September.

He encouraged participation of residents in the appreciation night at Yankee Trace on Monday, July 25, 2011.

He wished local former senator and astronaut John Glenn a happy 90th birthday.

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

He thanked and congratulated the Americana Committee and the members of the City Staff who contributed to the success of all the Americana activities. Huge crowds attended the concert, the parade, the festival and the fireworks.

He added his congratulations to Officer Eshler and Sergeant LaVigne. He noted how fortunate the community is to have a police force that can function as first responders.

Two important work sessions for Council concerning the Cornerstone Developments are coming in early August. The Preliminary Development Plans for the Dille properties will probably be on the agenda for Council on August 15.

Mrs. Wilder, Assistant to the City Manager, outlined code violations and their resolutions for the month of June, 2011, and presented the community calendar for the coming weeks. In the past month, 284 illegal signs were removed from the rights of way within the City. She covered items such as the Farmers Market, the National Night Out Against Crime, activities at Yankee Trace, concerts at Stubbs Park, Arts Commission events, recycling, the availability of discount prescription drug cards from NLC and openings on City Boards and Commissions.

Public Works Director Rob James introduced Mary Lou Pence, Operations Manager, who described the northbound detour for State Route 48 north of Spring Valley and south of Franklin Street, starting July 19 and lasting about ten days. Following the detour period there will be two more weeks of water line work and then paving.

RECORD OF PROCEEDINGS

Minutes of *COUNCIL*

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DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held *July 18*20 *11*

Mr. Cline shared that the Environmental Committee had met to discuss issues related to legislation for solar panel systems and alternative energy sources. He thanked Mr. Feverston, Mrs. Gopman, Mrs. Kenley and Mr. Beals for the efforts to set uniform design standards for the City of Centerville and to strike a balance between the need for cleaner energy and protecting other residents of the neighborhood.

Dr. Gresham shared that he had attended the National League of Cities Board of Directors meeting in Charlotte, North Carolina, July 6-10, 2011. The budget set by the group included no increase in dues for many member cities, including Centerville. The conference in Phoenix later this year will have four different tracks for attendees, combining the information of four conferences into one. The Board also discussed the role of NLC in the elections of 2012.

Mrs. Kenley noted that the *Third Friday's* Taste of Centerville was a fundraiser for Food 4 Summer and thanked Mary Ellen Lee for her efforts.

Mr. Beals brought up the issue of the proliferation of contractor signs following the hailstorm of May 25, 2011. Mr. Horn stated that the current Municipal Code only allows commercial signs in residential neighborhoods for very brief periods of time while work is actually being done on the home. He noted that the weather event has created a unique circumstance. Legislation on the agenda proposes a moratorium on enforcement of the Code and collection of these signs until September 1, 2011.

Mayor Kingseed explained that the Consent Agenda contains procedural and administrative matters. Approval of these issues is as a group with one motion being made. Members of Council read the titles of the legislation into the record before Dr. Gresham sponsored the Consent Agenda and moved for its approval:

- A. Ordinance Number 13-11, An Ordinance Amending Ordinance 14-08, The Unified Development Ordinance For The City Of Centerville, Ohio, be set for Public Hearing on September 19, 2011.
- B. Resolution Number 22-11, A Resolution By The Centerville City Council Imposing A Moratorium On Enforcement Of Unified Development Ordinance Section 9.51 *Sign Standards* Subsection D(13) In Single Family Residential Use Districts Until September 1, 2011.
- C. Resolution Number 23-11, A Resolution Accepting The Bid From Cargill, Inc., And Authorizing The City Manager To Enter Into An Agreement With Cargill, Inc., For The Purchase Of Highway Rock Salt For Snow And Ice Control For The City Of Centerville For The Year 2011.
- D. Resolution Number 24-11, A Resolution Authorizing The City Manager To Enter Into An Agreement, On Behalf Of The City Of Centerville, With Mandeep Parhar For The Construction Of A Cricket Field On Property Owned By The City Of Centerville.

RECORD OF PROCEEDINGS

Minutes of *COUNCIL*

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 1014B

Held *July 18*20 *11*

- E. Resolution Number 25-11, A Resolution Authorizing The City Manager To Enter Into A Sub-Divider's Contract For Installation Of Sanitary Sewer, On Behalf Of The City Of Centerville With The Board Of County Commissioners Of Montgomery County, Ohio For The Installation Of A Sanitary Sewer To Serve The Yankee Trace Residential Development.
- F. Resolution Number 26-11, A Resolution Accepting The Bid Submitted By The Nelson Stark Company Of Cincinnati, Ohio For The Highlands At Yankee Trace Section 2 Off Site Sewer Extension Project, In The City Of Centerville And Authorizing The City Manager To Enter Into A Contract In Connection Therewith.
- G. Performance Bond Reduction to a Maintenance Bond – The Highlands at Yankee Trace Section 1.
- H. Appointment of Phillip McLaughlin as a member of the Stormwater Drainage Task Force.
- I. Reappointments as follows:
 James Teske as Chair of the Arts Commission for a one-year term.
 Walt Smucker as a member of the Arts Commission for a three-year term.
 Ginny Strausburg as a member of the Arts Commission for a three-year term.
 Cynthia Monter Clay as a member of the Sister City Committee for a three year term.

Mr. Beals seconded the motion. The motion passed with seven ayes.

PUBLIC HEARING: ORDINANCE NUMBER 05-11 REZONING CENTERVILLE BUSINESS PARKWAY TO O-PD

Mr. Compton moved to remove Ordinance Number 05-11 from the table to allow consideration of the matter. Mrs. Kenley seconded the motion. The motion passed with seven ayes.

Mr. Feverston explained that the City-initiated rezoning would change the zoning along Centerville Business Parkway from I-PD to O-PD. Several properties along Clys Road have already been rezoned, as well as the former Sears building and the Washington Township Fire Department. Most of the existing buildings have uses that are compatible with O-PD zoning. Only two or three properties would be non-conforming. The Planning Commission unanimously recommended approval to the Council.

Mr. Liberman discussed grandfathering for the properties with non-conforming uses. The City typically includes a one-year discontinuance clause in rezoning ordinances, where a long term vacancy or change of use negates the grandfathering and requires compliance. Following a question at the earlier public hearing, Mr. Liberman did research and determined that one year is not the maximum time limit for a vacancy that could trigger the loss of grandfathering. Case law showed that abandonment was more the issue and that the city would

RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held July 18

2011

bear the burden in proving abandonment. Using the building for a less intensive O-PD type use would require conformance going forward.

Mr. Horn noted that the two property owners had raised concerns that, in this economic climate, they might need more than one year to fill vacancies.

James Weprin an associate of Mr. John Folkerth who spoke at the earlier hearing and a representative of Mr. Tolliver who owns 6635 Centerville Business Parkway, stated his continuing opposition to the rezoning of the property because of the financial hardship this could cause his client in the future. He respectfully asked that the Council not rezone the property.

Mr. Compton asked if a new owner would be allowed to have an industrial use, if the building were sold. Mr. Liberman replied that the I-PD zoning would be in place from one owner to the next as long as there was no change of use to O-PD in the interim or intent to abandon the building. Mr. Singer stated that the Municipal Attorney had satisfied his concerns. Mr. Weprin disagreed with Mr. Singer and noted that the property no longer has the same value because of the potential loss of options at a later time and a possible expense for retrofitting.

Following discussion, Mr. Compton sponsored Ordinance 05-11, An Ordinance Amending Ordinance Number 14-08, Chapter 1216, The Unified Development Ordinance, To Rezone 29.83 Acres Of Land, More Or Less, Located Along Centerville Business Parkway And North Of Clio Road And Being Multiple Tracts Of Land, From I-PD, Industrial-Planned Development, to O-PD, Office-Planned Development. Dr. Gresham seconded the motion. Mr. Compton and Mayor Kingseed stated that the research by the Municipal Attorney satisfied their concerns. The motion passed unanimously with seven ayes.

PUBLIC HEARING: APPEAL OF PC DECISION FOR MULTIPLE SOLAR PANELS
FOR 161 TERRACE VILLA DRIVE, DONALD TARAZANO

Dr. Gresham moved to remove the Appeal of the Planning Commission's decision regarding the installation of solar panels at 161 Terrace Villa Drive from the table for consideration. Mr. Cline seconded the motion. The motion passed with seven ayes.

Mr. Feverston reviewed the background on the appeal of the decision of the Planning Commission denying a request for the installation of 53-56 solar panels on numerous faces of the roof of a home at 161 Terrace Villa Drive as an accessory use. He described the lot and the placement of the panels. The Planning Commission denied the request with a vote of 5-1. Mr. Donald Tarazano filed an appeal, bringing the matter before Council.

After looking at regulations from jurisdictions across the country and doing fact-finding concerning solar panels and installation in order to form some regulations for the future, Mr. Feverston worked with Mr. Tarazano and Mr. Riemer of Astrum Solar. Mr. Tarazano has offered to re-roof to a darker shade, to paint the brackets and frames of the panels and conduit to match. There is discussion of repositioning the panels to allow better firefighting access to the attic.

RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held July 18

20 11

Mayor Kingseed asked Mr. Feverston and Mr. Tarazano about progress in discussions and retabling the matter for another month. When Mayor Kingseed invited the applicant to make a statement, Mr. Tarazano said he wanted a fair hearing, and he felt that the differences were small in nature at this time and that approval would be forthcoming in the future. "Next month is just another month to me and so if the group continues to work the words to make it a viable project for me, where I could save money and do what I want to do, as well as satisfy the conditions of Centerville, I would be only too happy to defer to that next month." Mayor Kingseed reiterated that Mr. Tarazano had a right to a decision, but he suggested another 30 days to allow time for final conversations with staff. Mr. Tarazano added that the issue was larger than his project and that the delays seem to pertain to the larger issues. Mr. Tarazano said he was patient and would be happy to wait for the right time, but he would like to get the project moving.

Mr. Compton moved to table the issue until the August meeting. Dr. Gresham seconded the motion. Mayor Kingseed asked for representatives of Astrum Solar to come to a work session to share some technical background with Council. Mr. Beals noted the support of Council for what Mr. Tarazano was trying to accomplish.

There being no further business, the meeting was adjourned.

Approved: C. M. Kingseed
Mayor

ATTEST: Debra A. James
Clerk of Council