

RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held November 1920 07

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, November 19, 2007, at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Pastor John Bradosky and the Pledge of Allegiance to the Flag with Deputy Mayor Douglas Cline presiding. Councilmembers and City Staff present were as follows:

Councilmembers Brooks Compton
 Robert Corbin
 Paul Gresham
 Susan Lienesch
 James Singer

Clerk of Council Debra James
 City Manager Gregory Horn
 Finance Director Mark Schlagheck
 Public Works Director Robert James
 City Engineer Douglas Spitler
 City Planner Steven Feverston
 Assistant to the City Manager Jennifer Wilder
 Assistant to the City Manager Kristen Gopman
 Municipal Attorney Scott Liberman

Mrs. Lienesch moved to excuse Mayor Kingseed from the meeting. Dr. Gresham seconded the motion. The motion passed with six ayes.

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

Council Meetings -	October 15, 2007. November 5, 2007.
Work Session Meetings -	October 15, 2007. October 22, 2007. November 5, 2007. November 12, 2007.

Dr. Gresham moved that the minutes of the foregoing Council Meetings, as distributed, be approved. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote.

Deputy Mayor Cline greeted Samuel Hansford who had completed all the requirements for advancement to the rank of Eagle Scout, and Mrs. Lienesch read a Certificate of Congratulations.

Deputy Mayor Cline welcomed Mrs. Helen Jackson who is celebrating her ninetieth birthday on November 20, 2007. Dr. Gresham read a proclamation honoring her as a lifelong resident of the community, a founding member of the Centerville Washington Historical Society, and the wife of a former mayor of Centerville.

Mrs. James announced the receipt of a letter of resignation from Planning Commission member, Mrs. Carolyn Meininger, who had served a full four year term.

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Mrs. Lienesch moved to accept the resignation with regret. Mr. Compton seconded the motion. The Deputy Mayor thanked Mrs. Meininger for her service which also included work with Create the Vision and the Unified Development Ordinance Task Force.

Dr. David Roer of the Centerville City Schools and Andrea White the Clerk of Courts for Kettering Municipal Court came to Council to give a presentation on the South Suburban Teen Alcohol and Other Drug Prevention Task Force. Its goals are to assess the scope of the problem in the south suburbs, to research best practices to address the problem and to seek community support for solutions. Communities involved in the process are Centerville, Miamisburg, Kettering, Oakwood, Miami Township, Moraine, and Washington Township. Dr. Roer noted statistics including that, in Montgomery County in 2005, sixty-five percent of the youth seen in the Juvenile Court system had alcohol and/or drug related problems. Underage drinkers consume twenty-six percent of all the alcohol consumed in the State of Ohio. The Community Anti-Drug Coalitions of America, CADCA, presents a model of cross community cooperation which averages a forty-one percent reduction in use and access. After doing the study, the group recommends the creation of a formal South Suburban Teen Alcohol and Other Drug Prevention Coalition and the continuation of the Task Force while the Coalition is put in place. The group is asking for a resolution to support the coalition, to join the coalition, and to contribute \$3,000.00 for the startup costs so grants can be obtained. Deputy Mayor Cline said Centerville would put the report on the City's website. Mrs. Lienesch noted that asking both the City of Centerville and Washington Township for the \$3000.00 contribution creates a redundancy of taxation for the citizens of Centerville.

Deputy Mayor Cline noted the following in the Mayor's report:

A Memorandum of Understanding was passed at a special meeting of Council and by Sugarcreek Township Trustees on November 5, 2007.

The results of the November 6th election included the re-election of Mayor Kingseed and Councilmember Gresham, and the election of Mr. John Beals and Mrs. Belinda Kenley. He congratulated those elected and commended Mrs. Lienesch on a close race for township trustee.

The tree lighting at Benham's Grove was the culmination of the Hometown Holiday Walk on Sunday, November 18th. Mr. Cline recognized the Co-Chairs, Debbie Teeters and Joy Mueller, for their efforts.

City Barbeque has reopened after being closed for several months following the fire.

City offices will be closed on Thursday and Friday this week for the Thanksgiving Holiday.

Mr. Horn announced the following during his City Manager's Report:

Leaf collection continues. Because of the lateness of the loss of leaves, the City will work with residents for pickups.

A draft of the City and Washington Township fiscal analysis has arrived, and staff should be ready to share that document with Council by mid-December.

Mediation has resulted in a Memorandum of Understanding with Sugarcreek Township concerning the annexation and tax revenue generated by development of the

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270 acres of land known as the Dille property. The MOU lays out points of consensus which will be incorporated into a formal settlement agreement. In addition, a development agreement between Bear Creek Capital and the City should come before Council in December. A compensation agreement between the City of Centerville and the Sugarcreek Local Schools is in process. The fourth part of the needed documentation is Tax Increment Financing legislation which could come before Council in December as well.

Mr. Horn then noted the main points of the MOU with Sugarcreek Township.

1. The annexations will remain in place, and the legal challenge by Sugarcreek Township will be dismissed.
2. The Sugarcreek Local School Board needs to be satisfied with the compensation it will receive as the area develops. The City, the schools and the developer must reach agreement within sixty days.
3. Sugarcreek Township Fire and EMS will receive a minimum of \$100,000 plus an additional 10 percent each year. Bear Creek Capital will make this payment until tax revenues grow.
4. No hotel or hospitality taxes will be paid to Sugarcreek Township.
5. Service payments for the full amount of the Tax Increment Financing shall be guaranteed by the developer until the TIF generates sufficient revenue to pay related debt service payments due.
6. Sugarcreek Township shall be informed of the zoning process in the annexed area and will have an opportunity to give input to the City Planning Commission during its regular processes.
7. Sugarcreek Township agrees to remove its TIF on the property.
8. Public improvements in addition to the EMS and school fees that are able to be financed with TIF funds will be determined by City TIF counsel and applicable law. The TIF will be limited to \$17 million dollars over thirty years and any excess may be used to retire bond and debt service early.
9. The City will design and manage roadway and signal improvements on Feedwire Road, Wilmington Pike and Miami Valley East. The City and Sugarcreek Township will cooperate with Greene County on the extension of Clio Road.
10. The only service the Township is required to provide to the annexed area is EMS and fire protection.
11. City has agreed not to divert tax from this area.
12. The consent decree or agreed judgment decree shall include binding language precluding further legal recourse for actions to date.
13. The annexed areas have been zoned by the City. Southern annexation will be rezoned to 100% Office Planned Development zoning, rather than 45 acres of Residential-Planned Development. Also the City has pledged that the 36 acres north of I-675 zoned R-PD will be limited to a density of 6 units per acre.
14. Identification signage in the area will be jurisdictionally neutral.

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Mrs. Gopman outlined code violations and resolutions for the month of October, 2007, and presented the community calendar for the coming month. She noted openings on the Sister City Committee, Arts Commission and Planning Commission.

CHANGE IN RECORD PLAN FOR CENTERVILLE MILL TO CONSOLIDATE TWO LOTS

Mr. Feverston gave the report from the Planning Commission concerning a requested change in the record plat for 5.1 acres at Centerville Mill north of Franklin Street at 7845 Clys Road. Mr. Will Wilson has asked for the consolidation of smaller lots allowing frontage on both Clys Road and Compark Drive in an area with I-1 Zoning. Planning Commission unanimously recommended the approval of this request. Mr. Corbin moved for approval of the change in the Record Plan for Centerville Mill. Mr. Singer seconded the motion. The motion passed with six ayes.

Dr. Gresham reported attending the National League of Cities Convention in New Orleans last week. The NLC selected policies for lobbying and elected new officers. Dr. Gresham was asked to be the Chair of the Human Development Policy and Advocacy Committee of the NLC.

Mrs. Lienesch noted that the Property Maintenance Task Force will meet with the Planning Commission on Tuesday, November 27 at 7:00 p.m. to discuss the changes suggested and allow Council to incorporate these into the Zoning Ordinance and the Unified Development Ordinance of the Create the Vision plan.

Deputy Mayor Cline explained that the Consent Agenda contains procedural and administrative matters. Approval of these issues will be as a group with one motion being made. He noted that the Consent Agenda included the appointment of Sally Ann Harris as a member of the Sister City Committee. Mr. Horn briefly explained each of the Consent Agenda items. Mrs. Lienesch moved that the following Consent Agenda items be approved.

- A. Ordinance No. 25-07, An Ordinance To Amend Ordinance Number 24-06, Adopting All Fees, Rules And Regulations Associated With The Golf Club At Yankee Trace And Providing Compensation For Golf Professionals, be set for Public Hearing on December 17, 2007.
- B. Resolution 53-07, A Resolution Authorizing And Directing The City Manager To Enter Into A Service Agreement With The Law Office Of The Montgomery County Public Defender To Provide Legal Services For Indigent Persons Charged With Jailable Offenses Under The City's Local Ordinances.
- C. Resolution 54-07, A Resolution Accepting The Bid Submitted By Stoops Freightliner Quality Trailer, Inc., For The Purchase Of Two Cabs And

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Chassis And To Authorize The City Manager To Enter Into A Contract In Connection Therewith.

- D. Resolution 55-07, A Resolution Accepting The Bid Submitted By Green Velvet Sod Farms, Turfgrass, Inc. And Lesco, Inc. For The Purchase Of Fertilizer For The Golf Course At Yankee Trace And To Authorize The City Manager To Enter Into A Contract In Connection Therewith.
- E. Resolution 56-07, A Resolution Authorizing And Directing The City Manager To Execute The Employment Release And Release Of Claims Agreement With Chester W. Smith.
- F. Appoint Sally Ann Harris as a Member of the Sister City Committee.

Mr. Compton seconded the motion. The Consent Agenda passed unanimously.

**ORDINANCE NO. 16-07 ZONING ORDINANCE AMENDMENT
DILLE NORTH PARCEL**

The public hearing was held concerning the Rezoning Request submitted by Roger Pfister and Bear Creek Capital, LLC for property located east of Wilmington Pike, south of Brown Road and north of Feedwire Road. Mr. Feverston explained that Bear Creek Capital, the developer, and Roger Pfister, the trustee for the Dille family, have asked for small adjustments in the boundaries of the R-PD, Residential-Planned Development, and B-PD, Business-Planned Development, districts as they currently exist. He advised that Planning Commission has unanimously recommended the change.

Steve Kelly with Bear Creek Capital addressed the Council to ask for this slight change to fit the footprint of current plans for development of the parcel.

Anthony Singleton, 4311 Limerick Lane, was concerned about increased traffic and asked what improvements are planned for Brown Road. Mr. Feverston explained that the current legislation is only for the zoning and that Brown Road technically is not in the City of Centerville. Improvements for that road have not been addressed yet.

Mr. Corbin moved to approve Ordinance No. 16-07, An Ordinance Amending Ordinance Number 11-86, The Zoning Ordinance, To Adjust The Boundaries Of The R-PD, Residential-Planned Development, And B-PD, Business-Planned Development, Districts East Of Wilmington Pike And South Of Brown Road By Rezoning 2.76 Acres Of A Larger B-PD Parcel From B-PD, Business-Planned Development, To Be Added To A Larger R-PD, Residential-Planned Development, Zone Classification; And Rezoning 4.10 Acres Of A Larger R-PD Parcel From R-PD, Residential-Planned Development, To Be Added To A Larger B-PD, Business-Planned Development, Zone Classification. Dr. Gresham seconded the motion. The motion passed unanimously.

**ORDINANCE NO. 17-07 ZONING ORDINANCE AMENDMENT
DILLE SOUTH PARCEL**

The Public Hearing was held concerning the Rezoning Request submitted by Roger Pfister, Trustee and Bear Creek Capital, LLC for property located east of Wilmington Pike

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and west of Possum Run Road, to change the zoning for 44.931 acres from R-PD, Residential-Planned Development, to O-PD, Office-Planned Development, Zone Classification. Mr. Feverston advised that, in September, the Planning Commission had unanimously approved the change as requested by Bear Creek Capital and Roger Pfister, Trustee.

Mr. Steve Kelly with Bear Creek Capital spoke to Council to explain the need for the change in zoning to create an office park. Life Care, a long term acute care facility, is interested in the site. Deputy Mayor Cline asked whether the decision was to accommodate the Life Care or to compensate for the soft housing market. Mr. Kelly said the change was motivated by the interest of Life Care and strong demand for office space in the area.

Jeff Matthews, 4340 Possum Run Road, stated that his biggest concern was where the intersection of Clyo Road and Possum Run Road would be located.

Kathy Bauman, 4259 Sugar Leaf Drive, asked about the barrier planned as a buffer and asked for sensitivity to the nature of the housing community as it currently exists.

Mr. Singer sponsored Ordinance No. 17-07, An Ordinance Amending Ordinance Number 11-86, The Zoning Ordinance, By Rezoning 44.931 Acres More Or Less, From City Of Centerville R-PD, Residential-Planned Development, To City of Centerville O-PD, Office-Planned Development, Zone Classification, and moved that it be passed. Mr. Corbin seconded the motion. The motion passed by unanimous vote.

MAJOR USE SPECIAL APPROVAL DEVELOPMENT PLAN DILLE SOUTH PARCEL

Mr. Feverston explained that major use plans establish an overall vision for the use of the property. It does not tie down specific plans for specific sites. All final development plans for particular sites will come back to the Planning Commission with greater details for approval. South of I-675 and east of Wilmington Pike the zoning is O-PD and the developer sees the area as being an office park campus. The Major Use Plan deals with things such as street patterns, traffic flow, pedestrian accessibility, hiker-biker trails, and drainage patterns. Major connectors are the Clyo Road extension, Miami Valley East Drive, and Possum Run Drive and a cul-de-sac for residents on Possum Run Drive to protect the single family homes.

1. The Residential Planned Development, R-PD, portion of the site be rezoned to Office-Planned Development, O-PD, by the City Council.
2. The Major Use Plan, including Phase 1, shall be modified to integrate the Clyo Road and Possum Run Road extensions as shown on the Clyo Road Construction Plans subject to approval by the City Council.
3. Final plans, including site, grading, stormwater management, walkways, landscape, lighting and building elevation plans for each development parcel shall be subject to approval by the Planning Commission in accordance with the Special Approval Section of the Zoning Ordinance.
4. The final design of all gateways, public amenities including decorative street lighting, public benches, and street trees, and the proposed General Design Guidelines to create a "campus environment" shall be subject to approval by the Planning Commission.

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5. The proposed development shall be platted including the right-of-way for Clyo Road and Possum Run Road in accordance with the City Subdivision Regulations.
6. A covenant shall be placed on the Record Plat dedicating Clyo Road that prohibits vehicular access to the remaining portion of Possum Run Road subject to approval by the City Attorney.
7. The proposed east/west public street shown in Phase 1 shall intersect Clyo Road at the Possum Run Road intersection.
8. A final traffic impact study shall be subject to approval by the City Engineering Department.
9. A private drive and access easement shall be established at the northeastern portion of the site that connects the proposed east/west public streets subject to approval by the City Planner.
10. The public right-of-way for the proposed cul-de-sac street shall be extended to the northeast and southwest property lines to allow for future vehicular and/or pedestrian connections subject to approval by the City Planner.
11. All street names shall be subject to approval by the City Planning Department.
12. A hiker/biker trail, eight (8) feet in width, shall be constructed along the western edge of Clyo Road and northern edge of the east/west collector street in-lieu of a sidewalk subject to approval by the City Engineer. A five (5) foot sidewalk shall be constructed on the opposite side of the street.
13. Sidewalks, five (5) feet in width, shall be constructed on both sides of all other public streets.
14. A final grading and stormwater drainage plan shall be subject to approval by the City Engineering Department showing drainage calculations and incorporating retention and/or detention and erosion control during construction in accordance with the City Stormwater Drainage Control Ordinance.
15. Easements shall be recorded to allow for emergency access to all retention/detention basins by the City.
16. An earthen mound averaging three (3) feet in height and landscaping shall be provided along the frontage of existing Possum Run Road in accordance with the landscaping requirements of the Zoning Ordinance.

With these conditions, the Planning Commission unanimously recommended approval of the Major Use Special Approval Application by Bear Creek Capital. Staff fielded questions from Council concerning building height, parking, Create the Vision and UDO conformity, barrier heights, sidewalk width and coordination of hiker-biker trails with Greene County.

Mr. Barry Tiffany, Township Trustee, asked when the engineering plans were completed for Clyo Road. He voiced displeasure with the lack of exchange of information between Sugarcreek Township and the City of Centerville. Mr. Compton reiterated that all

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Planning Commission Meetings have been open to the public and have met on regularly scheduled dates. Mr. Tiffany requested greater involvement in the overall process.

Steve Kelly of Bear Creek Development stated that the group is proposing that the area south of I-675 become an office campus which matches the feel of Miami Valley South Health Center in order to make a professional gateway with I-675 exposure. The eastern portion of the property could become the site for Life Care. Bob Geyer, Greene County Engineer, is spearheading the Clio Road extension. Miami Valley Drive East could become the second major entrance to the area.

Bill Hollenkamp of Cole + Russell Architects, 537 East Pete Rose Way, Cincinnati, Ohio, who worked on the plan for parking and roadways, talked about the vision and positioning of the various components to create a unified campus with dedicated sidewalks, biker trails, green spaces and storm water run-off controls.

Tim Bach of 1440 Peck Lane, Centerville, stated that his experience with Sugarcreek Township would lead him to believe that interactions with the Township will remain strained.

Jeff Matthews, 4340 Possum Run Road, stated he preferred the revised plan for Clio Road, since it facilitates egress and ingress for the homes on Possum Run Road. He asked the City to buffer the area as much as possible as the area near the subdivision develops.

Kathy Bauman, 4259 Sugar Leaf Drive, thanked Council for the cul-de-sac on Possum Run Rd. to protect the single family homes. She asked about the three foot mound with landscaping that was one of the conditions for Planning Commission approval. When she inquired about the trees on the south parcel, Mr. Feverston showed areas where some trees should be able to be preserved.

Mr. Compton reviewed the process that has led to this request for major use special approval. With the annexation, the area changed from Sugarcreek Commercial to a combination of Centerville Office-Planned Development and Residential-Planned Development. That zoning has now been changed to all Office-Planned Development so that no multi-family housing is currently allowed in the southern Dille parcel. Comments from the Sugarcreek Fire Department were included in the information given to Planning Commission.

Mr. Horn pointed out that communication with Sugarcreek has been difficult for a variety of reasons. He noted that active litigation ended only thirteen days ago and that staff meetings are to have been set so that communication can go forward.

Mr. Compton moved for approval of the Major Use Special Approval Application contingent upon the conditions set by the Planning Commission on September 25, 2007. Mr. Corbin seconded the motion. The motion passed unanimously with six ayes.

ORDINANCE NO. 18-07 RECODIFICATION OF CITY CODIFIED ORDINANCES

Mr. Horn explained this annual update of the Municipal Code. Mr. Compton sponsored Ordinance No. 18-07, 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

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Updated And Revised Codified Ordinances; And Repealing Ordinances And Resolutions In Conflict Therewith and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed unanimously.

ORDINANCE NO. 20-07 MAINTENANCE OF INTERSTATE ENHANCEMENT IMPROVEMENTS

Mr. Horn explained that a change since legislation was initially approved for the interstate enhancement improvements necessitates replacing the original ordinance with this new legislation. The new language guarantees that the City of Centerville will take responsibility for maintenance of the enhancements. Mr. Corbin sponsored Ordinance No. 20-07, An Ordinance Rescinding Ordinance No. 16-03, Passed September 15, 2003, Due To A Change Based Upon Future Maintenance Of The Project Improvements Enacted By The City Of Centerville, To Cooperate With The State Of Ohio, Director Of Transportation To Enhance The Visual Appearance Of The Intersection Area Of Interstate Route 675 And State Route 48 (MOT-SR48-4.33) and moved that it be passed. Mr. Compton seconded the motion. The motion passed unanimously.

ORDINANCE NO. 22-07, AMENDING THE CODIFIED ORDINANCES RELATED TO FEES, AUTHORIZATIONS AND NOTICE TO VIDEO SERVICE PROVIDERS

Mr. Horn explained that Senate Bill 117, which was recently passed, requires that communities take positive action to define gross receipts and retain the five percent franchise fees paid by cable companies. The other members of the Miami Valley Communications Council will be enacting similar legislation. Mr. Singer sponsored Ordinance No. 22-07, An Ordinance To Amend The Codified Ordinances Of The City Of Centerville To Include Chapter 840 Adding Provisions For Competitive Video Service Authorizations, Establishing Fees, Defining Certain Terms, And Authorizing The City Manager Or Designee To Provide Certain Notice To The Video Service Providers Offering Video Service In The City Pursuant To A State Authorization, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed unanimously.

ORDINANCE NO. 23-07 CHANGING VICIOUS DOG PROVISIONS IN THE CODE

Mr. Liberman stated that, due to Supreme Court rulings, there have been changes in the ways dogs are determined to be called "vicious." Mr. Liberman worked with the Police Department and the Prosecutor to determine an appropriate appeal process for residents. Mr. Corbin sponsored Ordinance No. 23-07, An Ordinance Amending Sections 618.01 Of The Centerville Municipal Code To Provide A Right Of Appeal, To Allow Classification of Animals and To Make Other Administrative Changes To The Dangerous and Vicious Dogs Provisions, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed unanimously.

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EMERGENCY ORDINANCE NO. 24-07 GOLF FEES

Mr. Horn noted that historically the Council has set fees and regulations for the Golf Club at Yankee Trace in time for the sale of certificates for the holidays. Junior fees have been lowered for the weekends, and there are small increases in some specific memberships. Council has seen figures related to these changes and discussed them at length at a work session. Dr. Gresham moved for approval of Emergency Ordinance No. 24-07, An Emergency Ordinance To Amend Ordinance Number 24-06, Adopting All Fees, Rules And Regulations Associated With The Golf Club At Yankee Trace And Providing Compensation For Golf Professionals. Mrs. Lienesch seconded the motion. The ordinance passed unanimously.

Bob Kyvik, 2555 Goodfield Point, Washington Township, spoke concerning the fiscal analysis with the University of Toledo. Mr. Kyvik asked to be included at a meeting that is scheduled with the consultant. He made comments concerning signs and encouraged the City to be proactive in regulating signs.

Tim Bach asked the Council for help. On October 15, 2007, he made a records' request of the Montgomery County Engineering Superintendent regarding work and invoices for work on Raintree Drive. Mr. Bach recently has had sewer water back up into his basement; this is the third such incident in the last fifteen years. He would like the City to take a look at what has happened.

Jim Maddox commented about human signs, since he depends on the income from this part-time work. He asked for an explanation of the City's regulations concerning human signs. Temporary sign provisions limit the business to 30 days of temporary signage per year, and the person has to be behind the right of way on the business's property. Mr. Horn noted that this issue is separate from the LED signs legislation that is currently tabled.

There was discussion of communication with Sugarcreek Township in order to reassure residents that there has been full public disclosure.

There being no further business, the meeting was adjourned.

Approved: _____

Deputy-Mayor

ATTEST: _____

Clerk of Council