

RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held July 17

20 06

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, July 17, 2006, 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 of Epiphany Lutheran Church, and the Pledge of Allegiance to the Flag, with Mayor C. Mark Kingseed presiding. Councilmembers and City Staff present were as follows:

- Deputy-Mayor Douglas Cline
- Councilmembers Susan Lienesch
- Paul Gresham
- Robert Corbin
- Brooks Compton
- James Singer

- Clerk of Council Debra James
- Finance Director Mark Schlagheck
- City Planner Steven Feverston
- City Engineer Doug Spitler
- Chief Building Official Doug Filaseta
- Zoning Inspector Sande Heck
- Assistant to the City Manager Jennifer Wilder
- Assistant to the City Manager Jenn Kuschnerus
- Municipal Attorney Scott Liberman

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

- Council Meetings - June 19, 2006.
- July 10, 2006.
- Work Session Meetings - June 19, 2006.
- July 10, 2006.

Mr. Compton moved that the minutes of the foregoing meetings, as distributed, be approved. Mr. Cline seconded the motion. The motion passed unanimously.

The mayor noted the resignation of Don Eadie from the City Beautiful Commission and thanked him for his service to the community.

Mayor Kingseed administered the Oath of Office to Sister City Committee member, Jeannie Weidlich.

Carol Echols, Chairman of the City Beautiful Commission, gave the Centerville Business Pride Award along with a certificate for brunch at Yankee Trace to Far Hills Florist located at 278 North Main Street and J.D. Wearley Building Contractor, Inc., located at 88 East Franklin Street.

Mayor Kingseed reported the following during his Mayor's Report:

He acknowledged the opening of Panera Bread and noted that bringing the enterprise to the community is the culmination of three years of effort and a good example of a public-private

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partnership. The 110 public parking spaces were developed with the cooperation of the business, the City of Centerville, Washington Township and a grant from Montgomery County.

Congratulations were extended to the Centerville-Washington Township Historical Society on its fortieth anniversary.

An update was given explaining that the Greene County Commissioners recently approved the petitions for annexations of the areas in Sugarcreek Township and the annexation process will continue. Meetings with Sugarcreek Township leaders are being arranged.

He reminded the community of the Relay for Life being held at Centerville High School on Saturday and Sunday, July 22-23, 2006.

Mr. Schlagheck reported the following during the City Manager's Report:

Appreciation was expressed to members of City Staff who helped with the Americana Festival in various capacities for their outstanding support in making the festival run smoothly.

Road work at Zengel Drive and SR 48 started earlier than anticipated because a contractor cut a phone cable. The work will continue for the next few weeks as a sanitary sewer is installed.

He also reminded the community of the importance of the Relay for Life and noted that significant contributions had been made by some Councilmembers and challenged the others and staff to donate also.

Mrs. Wilder outlined code violations and resolutions for the month of June, 2006, and Mrs. Kuschnerus reviewed the community calendar for the coming month.

Mayor Kingseed explained the Consent Agenda which contains procedural administrative matters. Approval of these issues would be as a group with one motion being made. He brought attention to the appointment contained in the Consent Agenda. Mr. Singer moved that the following Consent Agenda items be approved:

1. Resolution 33-06, A Resolution Authorizing And Directing The City Manager, On Behalf Of The City of Centerville, To Make An Application To The Ohio Attorney General's Office For Salary Funding Of The D.A.R.E. Officer, be passed.
2. Doris Ventolini be appointed as a member of the City Beautiful Commission.

Mr. Cline seconded the motion. The motion passed unanimously.

Mayor Kingseed explained the procedures to be followed during the public hearings next on the agenda.

## ORDINANCE NUMBER 16-06 INTERNATIONAL PROPERTY MAINTENANCE CODE

The Public Hearing was held concerning Ordinance Number 16-06. Mrs. Wilder gave the historical background relative to this proposed Ordinance to adopt the 2006 International Property

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Maintenance Code and Repeal Title Eight of the existing code which is in conflict therewith. She outlined remedies for vacant properties, requirements for property identification, requirements for handrails and guardrails, the definition of "junk" and time limits for outside storage and use of tarps. This legislation is the first major update of the Property Maintenance Code since 1984; it will be updated every three years. Mrs. Lienesch, as Chair of the Property Maintenance Code Task Force, thanked the members for their diligent work preparing this update to the Code. The members include Brooks Compton, Dan Carfagno, Jack Lobeck, Connie Pavliga, Jim Gallagher, Tom McDermott and City Staff. Mrs. Lienesch sponsored Ordinance Number 16-06, An Ordinance Of The City Of Centerville, Ohio Adopting The 2006 Edition Of The International Property Maintenance Code, Regulating And Governing The Conditions And Maintenance Of All Property, Buildings And Structures; By Providing The Standards For Supplied Utilities And Facilities And Other Physical Things And Conditions Essential To Ensure That Structures Are Safe, Sanitary And Fit For Occupation And Use; And The Condemnation Of Buildings And Structures Unfit For Human Occupancy And Use, And The Demolition Of Such Existing Structures In The City; Repealing Of Title Eight Of The Centerville Municipal Code And All Other Ordinances And Parts Of Ordinances In Conflict Therewith, and moved that it be passed. Mr. Corbin seconded the motion. The motion passed by unanimous vote.

**ORDINANCE 17-06 APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AND RESOLUTIONS IN THE CODES OF CODIFIED ORDINANCES**

The Public Hearing was held concerning Ordinance Number 17-06. Mr. Schlagheck explained that this proposed Ordinance which approves the annual recodification of the Centerville Municipal Code to include certain Ordinances and Resolutions passed by City Council during the past year and to bring it in conformance with the Ohio Revised Code. Mr. Cline sponsored Ordinance Number 17-06,

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, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote.

**ORDINANCE 13-06, ORDINANCE 18-06 and ORDINANCE 19-06 RESIDENTIAL RENTAL UNIT MANDATORY INSPECTION REQUIREMENT**

The Public Hearing was held concerning Ordinance Numbers 13-06, 18-06 and 19-06. Mr. Schlagheck explained that the three ordinances were different versions of the same ordinance that evolved over time. The original ordinance contained language for both rental inspections and mandatory registration of rental units and landlords. Since Ordinance 13-06 was first penned, the Ohio legislature passed a bill requiring landlords to register with the county auditor effective September 28, 2006. Therefore a second version of the ordinance, Ordinance 18-06, was composed eliminating the need for registration with the City. Another change in language caused a third version to be under consideration and recommended for passage tonight.

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Ordinance 19-06 includes a statement that a rental unit inspection can be triggered if a landlord fails to register with the county auditor.

Mrs. Wilder, Assistant to the City Manager, gave the historical perspective on the need for and the development of Ordinance 19-06. She stated that the ordinance was the result of over three years of effort of various groups and was needed to protect the health, safety and investments of citizens in an aging housing market where conversions from single family homes to rental units were becoming more numerous. She summarized the details of the ordinance.

Mr. Mike Ratcliff, Executive Director of the Mayors and Managers of Montgomery and Greene Counties offered additional background on the Ordinance. He stressed that the issue began with regional concerns about housing, that an assessment team from the National Vacant Properties Campaign recommended that such an ordinance be passed in local jurisdictions, that the Greater Dayton Area Apartment Association was consulted for input, and that the Mayors and Managers support a regional effort to stabilize housing. Mr. Ratcliff says the National Vacant Housing Campaign assured area leaders that such an ordinance had been an effective tool in other locales.

Mrs. Wilder showed a video of recent problems in an apartment at the Villager Apartments, stating that the new ordinance would help the City to resolve the issues at the complex.

Mary Wyke, 115-B North Village Drive, lives below the apartment in the video at the Villager Apartments. The vacant apartment has been in deplorable condition for approximately seven or eight months. Her two cats died of complications of flea bites (even though they were in flea collars). A neighbor made her aware of the filth in the apartment above hers, and she tried to call the Management Company on July 3, 2006. The flea infestation is supposedly under control. She has been out of her apartment for two weeks and it took a week for Ms. Wyke to get any kind of response from the Management Company.

Kenneth Marcroft, 6030 Ironside Drive, stated that he is a property owner and that between the time an eviction notice is served and the tenant vacates the property, a landlord is not allowed to enter his own property. He asked Council to be careful to give landlords a little help and be aware of the legal constraints working against them.

Mary Kuonen, 115 North Village Drive, expressed her concern regarding big business apartment owners; maintenance issues are not addressed in a timely manner. She cited examples of geese living in the swimming pool, water in her bathroom having a foul smell, sewer backups in which flooded areas did not have the carpet replaced, broken limbs remaining on the ground for long periods, and burned out lights or broken stairs not being replaced.

Dimitri Hatzifotinos, 1294 West First Avenue, Columbus, Ohio, represented the Ohio and Columbus Apartment Associations and also the Dayton Apartment Association. He came to speak against this Ordinance and believes that this legislation will break private business and public relationships because of the statutory implications, ordinance implications and practical implications. He stated that Section 5321.04 of the Ohio Revised Code, a portion of the Landlord Tenant Act, addresses the concerns of this Ordinance. It already says that landlords must "make all repairs and do whatever is reasonably necessary to put and keep the premises in a fit and habitable condition." It imposes strict liability on landlords who fail to do so and gives

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tenants the right to put their rent in escrow. He believes this Ordinance will be onerous on owners and will be a negative from a business point of view. He also stated that he believes statutorily, laws such as these are being challenged. He also believes that there are substantial costs and time to the City and the Landlords.

Connie Pavliga, 1100 Kentshire Drive and a member of the Property Maintenance Code Task Force, stated that she took her job seriously. The Task Force looked at this issue from many standpoints. She owned an apartment and would have welcomed the rental inspection checklist and inspections. She believes it would have brought up the value of her investment. As it was, others did not keep up the property and values fell. She felt that that the Ordinance does not go beyond what is needed from a safety standpoint. The goal is to ensure that everyone lives in safe housing, especially as more and more homes turn into rental units. Properties of out of state landlords who refuse to do anything fall apart.

Jim Ritterhoff, 2785 Orchard Run Road, in Miami Township, is President of Simms Management, a company that owns and manages 550 rental units in the south Dayton area. He sees this as trying to solve problems of the few with an ordinance that affects everyone. This can drive away good owners, who keep good, decent and affordable units and do not have this hassle and expense elsewhere. Everyone wants the same things: upkeep of the housing stock of the community. He feels it is unfair to blanket the entire rental industry which punishes the renter through higher fees and taxes and punishes the good property owners. He requested that Council use existing codes, rather than pushing away good owners who care for their properties.

Brian Beason, 856 Revere Village Drive, encouraged Council for fairness for each side and suggested not making a decision this evening.

John Stalnaker, owner of Revere Village Apartments, expressed appreciation for the candor and respect he has received from City Council Members as he has had good phone conversations with them over the last ten days. However, he doesn't agree with this legislation and believes that the existing ordinances can take care of existing problems, and that privacy is a particular issue.

Ken Hahn, 311 South Village Drive, expressed concern over single family homes becoming rentals. A great number of properties have become rental homes on his street. His home is a significant part of his net worth, so property values in his neighborhood are a concern. Renters do not have a financial stake in the property they occupy. Absentee owners may not be as attentive to maintenance and have little incentive to upgrade. He supports the Ordinance.

Larry Laski, 8910 Treeland Lane, Washington Township, is an owner of a multi-unit complex in Centerville. He expressed his concerns that this Ordinance is like comfort food, that the City thinks will make problems go away. He believes it will not solve things in the long run. Ordinances are already on the books; the City can bring a nuisance civil suit against problems. With this legislation there will be costs in personnel, legal fees and PERS. Adding a bill for comfort is not going to be comfortable in the long run.

Kathleen O'Herron, 6895 Castlerock Trail, is in favor of this Ordinance. Good property managers can get their hands tied because they are not the owner and have to call owners for interventions for property maintenance. Sometimes they do not have the authority or expertise to solve problems. You cannot assume that renters will use the escrow account option. There are obstacles to the process.

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Joseph Dixon, 900 Greatview (Hillside Court Apartments), expressed his appreciation for the good job that his apartment complex does regarding maintenance. He feels that this Ordinance could hurt the school district and the stores, if it hurts apartment complexes.

Adam Zengel, 6759 Green Park Drive, said that Zengel Apartments have been in Centerville since the mid-sixties and that they have 44 properties and manage 12 other properties. He explained that inspections are costly to landlords, to the city and to tenants. Scheduling can be a nightmare. Tenants aren't available until after 5:00 - they make you reschedule, wasting time and effort. He believes that the examples cited could be taken care of by the existing Ordinances. Rental housing is only a small percentage of the problems of neglect and maintenance issues in the community and solutions should not focus on this group only. To be fair the City should inspect all houses, not just rental housing.

Janelle Packet, 1954 Cuyuse Court, lives in Vandalia and works in Centerville. She manages property and stated that many residents oppose this ordinance. She believes whether you rent or are a homeowner, people deserve the same respect. She asked that the Ordinance not be passed until talking to more residents.

Darinda Reis, 7560 Pine Frost Drive (lifetime resident and owns a business here), believes this is a privacy issue and suggested that education of landlords and renters would help as much as new codes. She suggested that funding a navigator who would educate people and walk them through the processes that are already available would perhaps be money better spent. She asked Council to make the system user friendly.

John Grossman, representing the Greater Dayton Apartment Association, 2555 S. Dixie Drive, Suite 100, and Greater Dayton Real Estate Investors Association, 440 Colonial Drive, Beavercreek, Ohio, spoke in opposition to this Ordinance and believes that new legislation is not justified. He also commented that the Associations want to maintain the quality of housing stock. The general impression that long distance landlords let properties run down is not always true. The Ordinance would create a double standard because owner occupied housing is not subject to inspection. He asked Council to be proactive and enforce the code that is current.

Julie Couch, 418 Blackstone who has been a property manager since 1988, expressed her concerns regarding privacy and expense. She suggested that Council take the money to be spent on the inspections, get the list from the County Auditor, obtain the addresses of the renters and educate the renters on the forms of recourse that they have. That way, the bad landlords are made accountable and good landlords can go about their business.

Larisa Butcher, 920 Revere Village Ct., asked Council to enforce the current code. She is a renter and feels it is an invasion of her privacy.

Maxine Halasz, 912 Revere Village, has lived at Revere Village for 24 years. She believes inspections are an invasion of her privacy and, if being done, should also include owner-occupied housing.

Lisa Triplet, 802 Revere Village Ct., is opposed to this Ordinance and asked that a vote not be taken until more questions are answered.

Mary Dolle, 230 Glenburn Drive, has lived in Village South for 27 years. There have been three homes that have become rental units within the past year-20% of her street is now rental. Typically homeowners increase the value of homes with upgrades. Rentals are typically maintained only. She is in favor of this Ordinance.

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Kelsey O'Herron, 6895 Castlerock Trail (Hillside Court), completely supports the Ordinance for reasons of health and safety of people who rent. She believes the Ordinance will encourage the owners to keep things in good shape.

Adrian Rose, 105 Cushwa Court, commented that the City has enough Ohio Revised Code to take care of problem situations. If it is passed, he strenuously objects to the \$75 an hour for re-inspections.

Mayor Kingseed thanked everyone who gave input and opened discussion for Council.

Mr. Compton pointed out that if Council is elected to help protect the health, welfare, property values and interests of everyone in the community, then there is a cost-benefit analysis that needs to be done. The Council must look at the costs and decide what is a reasonable tradeoff for the goal of maintaining housing in the community. The biggest thing we have heard is that no one wants anyone else in their homes, but nearly everyone is already contracted to have that happen. Our inspections could be coordinated if landlords or managers are already going in one or two or three times a year. Our inspections are only going to be once every other year. It seems reasonable to expect that they would be coordinated between the City and the large scale places like Revere Village or Hillside Court.

In relation to the privacy issues that have been raised, Mayor Kingseed explained that this Ordinance would require tenants to allow the city inspector in, but if they refused for whatever reasons, the City would have to go to court and ask the judge for a search warrant. At that point, the City would have to show probable cause.

Mr. Singer commented that he felt there was fine input from the audience, and he would be glad to discuss this further. He requested to postpone the vote.

Mayor Kingseed agreed that there has been great input on all sides. He explained that Council had been working on this legislation for almost two years. There is a sense that there are some problems in some areas of the City with property values, and, that Council has an obligation to do whatever it can to alleviate this and to maintain the health, welfare and safety of the City. The Ordinance gives the City additional teeth, so that the City can help to maintain property values. No one wants to over regulate. Having an inspection every two years is not an unfair standard to put on landlords. The privacy concerns have been raised, but again, the tenant, if they choose may refuse the inspection and then the City would have to convince a judge that there is probable cause for the inspection to occur. The Mayor said that as far as the legal fees are concerned, he would suggest that the Landlords' Association and individual landlords work with the City and get together 12 or 18 months from now with the task force to analyze how this Ordinance is working in real life. If there are ways to make it better, to revise or to tweak it, Council would consider suggestions at that time.

Mr. Corbin sponsored Ordinance Number 19-06 which would take effect on September 28, 2006, An Ordinance Enacting A Residential Rental Unit Mandatory Inspection Requirement. Mrs. Lienesch seconded the motion. A roll call vote resulted in five ayes in favor of the motion. Mr. Singer and Dr. Gresham voted no.

Mayor Kingseed asked if there were any comments from Council.

Mrs. Lienesch reported that during the Neighborhood Meetings there were many concerns about single family homes becoming rental properties. Until this recent state law requiring

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registration with the County Auditor, we had no way of tracking this trend.

Mrs. Wilder explained that the City has seen the challenge in tracking down the owners of many of these properties. The owner must be cited, not the tenant. Even with certified mail for out of state, it is difficult to get things done in a timely manner.

Mr. Compton moved to make a motion to reject Ordinance 13-06, An Ordinance Enacting A Residential Rental Unit Mandatory Registration And Inspection Requirement, and Ordinance Number 18-06, An Ordinance Enacting A Residential Rental Unit Mandatory Inspection Requirement. Mr. Cline seconded the motion. The motion passed unanimously.

Mr. Corbin called a point of order and objected to Mr. Koussa making comments and moved to make a motion to prohibit Mr. Koussa from speaking. Mr. Koussa is not a resident of Centerville and he does not raise issues which require Council action. Mr. Compton seconded the motion. A roll call vote to prohibit Mr. Koussa from speaking resulted with one aye in favor of the motion. Mrs. Lienesch, Mr. Compton, Mr. Singer, Dr. Gresham, Mr. Cline, and Mayor Kingseed voted no.

Mr. Corbin left the meeting at this time.

Mr. Koussa, 1537 Beaver creek Lane, asked that troops come home safely and stated that the Fourth of July reminds him of the military men and women who fight for our safety and freedom. Also he mentioned that there is a picture in the Kettering-Oakwood Times of Mayor Kingseed and Mrs. Young who said thanks to the many volunteers who help make Centerville-Washington Township a wonderful place to call home.

Darinda Reis, 7560 Pine Frost Drive, urged Council to listen to the citizenry. The option was there to table the motion tonight. Many are disappointed.

Mayor Kingseed explained that Council did not take their input lightly. It is important for people attending tonight to know that this final meeting is the culmination of a three year process. There have been discussions with citizens, landlords, Landlord Associations, experts, Neighborhood Improvement Association, and the Mayor and Managers. Hundreds of people have been involved over a long period of time. This Council is serious about reassessing this in 12 - 24 months and making changes needed.

Darinda Reis, also urged Council to take this opportunity to educate the public, to inform the citizens, to be proactive and not just pass more legislation. Educating the public would alleviate fear and decrease the problems. Education is empowerment and empowerment of citizens will

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make this a better community. She suggested seeking a grant for the education of renters because education would help the system to function properly.

There being no further business, the meeting was adjourned.

Approved: *C. Mark Kenzler*  
Mayor

ATTEST: *Debra A. James*  
Clerk of Council