

# RECORD OF PROCEEDINGS

Minutes of *Council*

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held *November 20*20 *06*

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, November 20, 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 Mayor C. Mark Kingseed presiding. Councilmembers and City Staff present were as follows:

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

Clerk of Council Debra James  
 City Manager Gregory Horn  
 Finance Director Mark Schlagheck  
 City Planner Steven Feverston  
 Public Works Director Robert James  
 City Engineer Douglas Spitler  
 Assistant to the City Manager Jennifer Wilder  
 Management Analyst Kristen Gopman  
 Economic Development Administrator William Covell  
 Information Technology Manager Scott Ontjes  
 Municipal Attorney Scott Liberman

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

Council Meetings	- October 9, 2006.
	- October 16, 2006.
Work Session Meetings	- October 16, 2006.
	- November 6, 2006.
	- November 13, 2006.

Mr. Cline moved that the minutes of the foregoing meetings, as distributed, be approved. Mrs. Lienesch seconded the motion. The motion passed unanimously with Dr. Gresham abstaining from the Work Session meeting of November 13, 2006.

Mrs. James announced the receipt of an Appeal filed by Century 21 Elite Performance, c/o Mr. Tom Fitzgibbon for property located at 211 West Franklin Street, against a decision rendered by the Board of Architectural Review to disapprove of a storage unit which did not meet the General Design materials in the Architectural Preservation District.

Mayor Kingseed asked Deputy Mayor Cline to greet Beverly Leach, an employee who recently retired after over thirty years of service to the City. Mr. Cline read a proclamation honoring Mrs. Leach.

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Mayor Kingseed noted the following in the Mayor's Report:

As seen in some news articles recently, Centerville and Washington Township have been working toward a consensus on a joint financial study that would analyze whether there would be significant tax savings if the City and Washington Township would merge under one government. The issue was first addressed about fifteen years ago when each entity did a study. This time a joint study was proposed to see if a reduction in property taxes, levies or income taxes could take place if services were consolidated. Currently there is a difference of opinion about what should be included in the study. Once the study is completed, citizens could decide what action should be taken, if any. Any merger would take at least two years and two votes. He encouraged concerned citizens to contact the Washington Township Trustees to urge them to go along with the financial study.

Greg Horn stated the following in the City Manager's Report:

He reiterated the Mayor and Deputy Mayor's comments concerning Beverly Leach, commending her for outstanding service over a long period of time and adding that long-term employees provide stability and foster progress in our community.

Fall leaf pick up is about one day behind with the wet weather of the past few weeks.

Angie Tapogna, Project Manager for Create the Vision for the past one and a half years, is taking on the role of Arts Program Coordinator and wrapping up her duties with the Create the Vision as the initial phase of that is winding down.

This past week Lt. Williams of the Police Department and I attended two meetings on the countywide dispatch concept. Based on current information, it is questionable whether there is benefit for our community; this position is based on the cost we have for dispatching and the type of service we have, but we will continue to monitor the discussions and make a staff recommendation in January. The County wants to know by mid-February where jurisdictions stand on the concept.

With the holiday on Thursday, our refuse crews will be working on Friday to complete the Thursday routes even though City of Centerville offices are closed.

This past week we had the first advisory meeting related to the rental inspection program that is scheduled to begin in mid to late January. There were representatives from the Greater Dayton Apartment Association, a rental investment group in our region, the real estate community, apartment owners, and citizens at large.

Mrs. Wilder outlined code violations and resolutions for the month of October, 2006, as well as the community calendar for the coming month.

There were no standing committee reports from council members.

Mayor Kingseed explained the Consent Agenda which contains procedural administrative matters. Approval of these issues will be as a group with one motion being made. Mr. Horn gave an overview of the consent agenda items. He brought attention to the appointment of Roberta Goodrich to the City Beautiful Commission and the reappointments to be made by passage of the Consent Agenda.

Mr. Cline moved that the following Consent Agenda items be approved.

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- A. An Ordinance Amending Ordinance No. 16-06, Adoption Of The International Property Maintenance Code Of The Centerville Municipal Code, To Add Section 302.16 Vegetation, be set for Public Hearing on December 18, 2006.
- B. An Ordinance Amending Chapter 840 To Correct A Scrivener's Error And Enacting New Centerville Municipal Code Section 840.05 Exemption To The Rental Unit Inspection Regulations, be set for Public Hearing on December 18, 2006.
- C. A Resolution Authorizing And Directing The City Manager To Enter Into A Contract With National Inspection Corporation For Rental Inspection Services.
- D. A Resolution Approving The Montgomery County Natural Hazard Mitigation Plan.
- E. A Resolution Authorizing And Directing The City Manager, On Behalf Of The City Of Centerville, To Enter Into An Agreement With The Combined Health District Of Montgomery County For The Implementation, Operation And Maintenance Of A Program For The Prevention And Treatment Of Alcoholism And Chemical Dependency And Providing For The Payment Of Fees.
- F. 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.
- G. A Resolution Authorizing And Directing The City Manager To Enter Into A Contract With HarborLink Network, LTD For A WiFi Broadband Internet Access Service For The City Of Centerville And To Waive The Compensation Fee For Certificate Of Registration For HarborLink Network, LTD.
- H. A Resolution Authorizing And Directing The City Manager To Take All Steps And Execute All Documents Necessary In Order To Effect The Securing Of An Easement For Parking, Ingress/Egress And Utility Over Real Property Owned by Mulay Holdings, LLC.
- I. A Resolution Accepting The Bids Submitted By Green Velvet Sod Farms, Lesco, Turfgrass South, Allegheny Lawn and IKEX For The Purchase Of Chemicals For The Golf Club At Yankee Trace And To Authorize The City Manager To Enter Into Contracts In Connection Herewith.

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- J. A Resolution Declaring Specific Equipment No Longer Utilized By The City Of Centerville As Surplus Property And Authorizing The City Manager To Dispose Of Said Surplus Property In Accordance With The Guidelines As Stated Herein.
- K. Performance Bond Release – Forest Walk Section Two conditioned on the receipt of a one year Maintenance Bond in the amount of \$1,500.00.
- L. Escrow Release – Primrose Plat Section One (1) conditioned on the receipt of a one year Maintenance Bond in the amount of \$3,200.00.
- M. Appointment be made as Follows:  
Roberta Goodrich to the City Beautiful Commission.
- N. Reappointments be made as Follows:  
Heidi Miller, as Chairman, to the Board of Architectural Review.  
James Treffinger to the Board of Architectural Review.
- O. Carolyn Basford and Suzanne Walk be Appointed as Co-Chairs of the Sister City Committee.

Mr. Compton asked to abstain from the vote on Item “G” because a member of his firm had worked with one of the parties.

Mrs. Lienesch seconded the motion. The motion passed unanimously.

### ORDINANCE NUMBER 22-06 ZONING ORDINANCE AMENDMENT DILLE PROPERTY

The Public Hearing was held concerning Ordinance 22-06, rezoning the recently annexed Dille property (44.931 acres to R-PD Residential-Planned Development and 26.551 acres to O-PD Office-Planned Development). Mr. Feverston explained that the Planning Commission, by unanimous vote, recommended approval of the rezoning to City Council. This is a City initiated rezoning. The Centerville Zoning Code obligates the City to apply Centerville zones to recently annexed land with due diligence. The Residential-Planned Development Zone defines appropriate residential uses: single family, two-family, multi-family with a density maximum of 6 dwelling units per acre. The Office-Planned Development zoning permitted uses are principally office buildings, whether government, medical, business, and professional offices, banks, and lending institutions as well as residences.

With both Office and Residential-Planned development zones, the property owner or developer is obligated to come to the Council to have the overall plan approved. The vote is to assign the zoning district and does not approve a particular development master plan.

At the Planning Commission Meeting on September 26, 2006, the proposed rezonings were found to be compatible with the Create the Vision Comprehensive Plan in terms of the general requirements and recommendations of the Comprehensive Plan. The

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Planning Commission is currently amending Volume Two of the Comprehensive Plan, which is the study area section. "Study areas" are parts of the city where closer looks are needed to assure that the properties are planned and developed appropriately, in tandem with the goals and guidelines of Create the Vision. This particular area is known as Study Area "K".

Mr. Compton sponsored Ordinance Number 22-06, An Ordinance Amending Ordinance Number 11-86 Dated July 21, 1986, The Zoning Ordinance By Rezoning A Total Of 71.482 Acres, More Or Less, Parcel Of Land With 44.931 Acres, More Or Less, To City Of Centerville R-PD, Residential-Planned Development and 26.551 Acres, More Or Less, To City Of Centerville O-PD, Office-Planned Development Zone Classifications, and moved that it be passed. Mr. Singer seconded the motion. The motion passed unanimously.

### ORDINANCE NUMBER 23-06 ZONING ORDINANCE AMENDMENT DILLE PROPERTY

The Public Hearing was held concerning Ordinance Number 23-06. Mr. Feverston explained that this property is the second section of the Dille Annexation to be rezoned which is 120.904 Acres to B-PD, Business Planned Development and 36.053 acres to R-PD, Residential Planned Development. As with the previous Ordinance this is also a city initiated petition for rezoning newly annexed land. This action would establish general zones; in addition a specific master plan must be established and approved by the Council. This large tract is north of Feedwire Road, south of Brown Road and east of Wilmington Pike; it includes the mansion, one single family residence and some farm related outbuildings. Proposed rezoning is primarily Business Planned Development for the areas that front on Wilmington Pike and Feedwire Road and a portion of the land on Brown Road adjacent to Rollandia. The northern area adjacent to the current homes on Brown Road is the section zoned for Residential Planned Development. The Planning Commission, by unanimous vote, recommended approval of the rezoning to City Council. The Planning Commission looked at the Comprehensive Plan and decided that this zoning would meet the general requirements and recommendations of the Comprehensive Plan. Since this area also needs a closer look, it is now Study Area "J." so that the Commission will be able to provide more insight for proper development. The Business Planned Development Zone permits office uses, retail uses, banks, churches, government buildings, daycares, schools, food services, spas, health services, gyms, hotels and motels. Residential Planned Development permits single family through multi-family with a maximum density of 6 dwelling units per acre and some specific related uses such as daycares.

Mr. Michael Clary, 4968 Wilmington Pike, Kettering, asked that Council take into consideration the residences on the north side of Brown Road and on Wilmington Pike. The single family homes pay a price in noise, traffic and lack of privacy. What is done will affect property values. He noted that he was not notified of this public hearing and wants to be added to the mailing list.

Tony Burk, 4273 Galway Ct. in Brown's Run, Vice President of the Brown's Run Homeowners Association, stated that Sugarcreek Township had designated that any development would set back 200 feet instead of 100 feet from the road and had promised that there would not be apartments or landminiums; any development would have been

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condominiums or housing with less density. Mr. Burk inquired if Centerville would promise the same.

Mr. Horn responded that both those issues would be looked at as the master plan comes together. The zoning being discussed allows for any type housing up to six units per acre. The developer has focused primarily on condominiums but there is no obligation on his part. There will be more meetings as the plans progress. Mr. Burk asked that he be notified of the dates of those meetings.

Mr. Compton asked if he was correct in understanding that the master plan for an entire Business-Planned Development or Residential-Planned Development parcel would be brought to Council, rather than as piecemeal segments. Mr. Feverston stated that the Zoning Code does require a Master Plan. The Zoning Code can parcel it down into 10 acre sections, but the kind of vacant tract we have here as Business-Planned Development zoning does require a total plan for the entire acreage. Staff will do pre-application meetings with the developer to try to work out details acceptable to the City. Formal applications are then filed by the developer. There are public hearings as the plans come to Planning Commission, and again as they come to Council. It is always a two step process with hearings before the City Planning Commission and before the City Council.

Mr. Feverston pointed out that the City is currently working on a Unified Development Code which would give incentives for creating things like open space. Overlays mix uses to create a specific environment within the development and would be very appropriate here.

Mr. Horn stated that the staff will work hard for a uniform finished look for this development, providing a quality image for the neighborhood and being beneficial to those living in adjacent properties.

Dr. Gresham sponsored Ordinance Number 23-06, An Ordinance Amending Ordinance Number 11-86 Dated July 21, 1986, The Zoning Ordinance By Rezoning A Total Of 156.957 Acres, More Or Less, Parcel Of Land With 36.053 Acres, More Or Less, To City Of Centerville, R-PD, Residential-Planned Development And 120.904 Acres, More Or Less, To City Of Centerville B-PD, Business-Planned Development Zone Classifications, and moved that it be passed. Mr. Compton seconded the motion. The motion passed unanimously.

CENTURY 21 ELITE PERFORMANCE  
APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by Tom Fitzgibbon against a decision rendered by the Board of Architectural Review during their meeting on October 17, 2006, relative to an accessory building which does not meet general design materials in the Architectural Preservation District. The storage building on the property is located at 211 West Franklin Street. Mr. Feverston explained that Mr. Fitzgibbon is asking for permission to keep a plastic shed on the premises. It was erected without review or approval by the City. The material does not comply with those required in the APD. The Board of Architectural Review felt that the materials are not appropriate and was concerned about setting a precedent.

Mr. Tom Fitzgibbon, 211 W. Franklin Street, owner and broker for Century 21 Elite Performance, stated that he had moved his business in August. He was not aware that a

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permit was required for the ancillary building of less than one hundred square feet. It is not a permanent structure and the building has architectural details. There is a privacy fence along the edge of the property, and the structure has a functional purpose for storing signs.

Mr. Corbin explained that Council was sympathetic and had debated for an extended period of time about how they could give Mr. Fitzgibbon some relief, but felt they had no alternative than to deny the petition because of the material used, since it was not approved in the ordinances governing the APD.

Mr. Compton stated that he would vote to deny the appeal because it does not comply with the law or support the long-term objectives of the APD.

Mr. Cline suggested a waiver of the appeals filing fee.

Mr. Ken Ballwath, 234 West Ridgeway Road, a property which adjoins the business. He reiterated that citizens should get notices when hearings occur; he had only gotten the notice for this second meeting. He stated that he thought the building looked nice.

Mr. Feverston explained that the original meeting on the matter would not include notices for normal administrative actions of the Board. It was a public meeting, but not a public hearing.

Mayor Kingseed stated his agreement with Mr. Compton that the purpose of the Council is not to run interference with business or cause unnecessary hardship, but did not see how to grant the appeal without changing the rule about what materials could be used. Selective enforcement is not an option. Mrs. Lienesch moved to waive the filing fee for the appeal in the amount of \$100.00. Mr. Corbin seconded the motion. The motion passed unanimously.

Mr. Corbin moved that the appeal filed by Tom Fitzgibbon on behalf of Century 21 Performance Elite be denied. Mr. Compton seconded the motion. A roll call vote resulted in six ayes in favor of the motion; Mrs. Lienesch voted no.

## ORDINANCE NO. 25-06 – GOLF FEES

The Public Hearing was held concerning Ordinance No. 25-06. Mr. Compton sponsored Ordinance Number 25-06, An Ordinance To Amend Ordinance Numbers 14-05 And 12-06, Adopting All Fees, Rules And Regulations Associated With The Golf Club At Yankee Trace And Providing Compensation For Golf Professionals, and moved that it be passed. Mr. Cline seconded the motion. The motion passed by unanimous vote.

## ORDINANCE NO. 27-06 INCLUDING THE AREAS ANNEXED FROM SUGARCREEK TOWNSHIP IN THE MUNICIPAL CODE

The Public Hearing was held concerning Ordinance No. 27-06. Mr. Liberman reviewed the five sections of the Municipal Code that need to be revised to include references to "Greene County" and "Sugar creek Township". The changes expand the definition of "County" to include Greene County, appoint the Sugar creek Fire Chief to be Fire Chief for the City also, to include Greene County in the section on delinquent taxes related to certificates of registration, add the Greene County Court of Common Pleas to the section on appeals dealing with land in Greene County, and add references to the Sugar creek Fire Department in sections related to the Bureau of Fire Safety. Mr. Singer

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sponsored Ordinance No. 27-06, An Ordinance Amending The Centerville Municipal Code To Include The Code's Applicability To Those Areas Of Sugarcreek Township, Greene County, Ohio That Have Been Annexed To The City, and moved that it be passed. Mr. Corbin seconded the motion. The motion passed by unanimous vote.

Mr. Horn asked to have Mr. Travis Tangeman, chief technology expert, from Harborlink to speak on the WiFi item which was on the Consent Agenda. We are the first community in South Dayton to approve this partnership.

Mr. Tangeman gave details on the green spaces covered by free wireless connections in the City of Centerville. The service is not meant to replace home connections, rather it is an incentive offered by the community to encourage consumers to frequent businesses here. The areas to be set up by about May 1, 2007, are the Kroger area near City Hall, Franklin and Main, Benham's Grove and Yankee Trace. Mr. Horn added that all equipment would be added to properties and towers currently used by the City and that Stubbs Park will also be covered by the service.

**EMERGENCY ORDINANCE NO. 30-06- APPROPRIATIONS FOR  
CURRENT EXPENSES FOR THE FISCAL YEAR ENDING  
DECEMBER 31, 2006**

Mr. Schlagheck explained that this ordinance is one of several annual adjustments to the Appropriations Ordinance originally passed in January. Mr. Singer sponsored Emergency Ordinance No. 30-06, An Emergency Ordinance To Amend Ordinance 18-05 To Make Appropriations For The Current Expenses And Other Expenditures Of The City Of Centerville, State Of Ohio, During The Fiscal Year Ended December 31, 2006, and moved that it be passed. Mr. Corbin seconded the motion. The motion passed by unanimous vote.

Mr. Bob Kyvik, 2555 Goodfield Point spoke of the need for the joint study of the financial savings if a merger of services by the City and Washington Township as agreed in March, 2006. Mr. Kyvik suggested an unbiased representative from Council and from the Trustees, meeting with his group in order to move this forward Mr. Kyvik stated that looking for ways to save taxpayer dollars is an obligation.

Mr. Joseph Koussa, 1537 Beaver creek Lane, Kettering, Ohio came forward to share a letter from the Director of the Environmental Science Program at the University of West Alabama requesting Mr. Koussa's calculations of gas used in drive-through windows.

Mr. Corbin asked Mr. Koussa on the accuracy of his statements about gas savings from parking instead of idling in drive-throughs based on an article in The Dayton Daily News section called "Wheels" of October 26, 2006, stating the Ohio Department of Air Quality says the average car used only about .15 of a gallon of gas idling for an hour and objected to Mr. Koussa coming before Council when nothing relates to the business of the Council. Mr. Corbin left the meeting at this time.

There being no further business, the meeting was adjourned.



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Approved: C. Mark Kinspeck  
Mayor

ATTEST: Debra A. James  
Clerk of Council