

## RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held March 21

20<sup>05</sup>

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, March 21, 2005, 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 the Epiphany Lutheran Church and City Chaplain, 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  
 James Singer  
 Robert Corbin  
 Brooks Compton  
 Paul Gresham

Clerk of Council Marilyn McLaughlin  
 Assistant Clerk of Council Debra James  
 City Manager Gregory Horn  
 Public Works Director Robert James  
 Finance Director Mark Schlagheck  
 City Engineer Douglas Spitler  
 City Planner Steve Feverston  
 Finance Director Mark Schlagheck  
 Assistant to the City Manager Jennifer Wilder  
 Assistant to the City Manager Jennifer Kuschnerus  
 Public Works Operations Manager Mary Lou Pence  
 Golf Maintenance Superintendent John Miller  
 Municipal Attorney Scott Liberman

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

Council Meeting - February 21, 2005.  
 Work Session Meeting - February 21, 2005.

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

Mayor Kingseed outlined the purpose of the Sister City Committee in Centerville and invited interested residents to apply for membership on the Committee. Chairman Sandra Baver highlighted activities of the Committee with Waterloo, Canada, and Bad Zwischenahn, Germany, and explained the Student Exchange now in process with Bad Zwischenahn. The following students from Germany were made Honorary Citizens of the City of Centerville:

Bjorn Dierks  
 Freya Pahling  
 Christian Fuhrken  
 Ailine Chromenko  
 Stina Gesa Hobbie  
 Lena Stuettelberg  
 Justine Peters  
 Lennart Martens  
 Florina Hassel

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Maurine Strodthoff  
 Jan-Bernd Heinje  
 Hermann Martens (Teacher)

The students sang a song about their trip to Centerville.

Mrs. McLaughlin announced the receipt of a Request for Review filed by Mr. Corbin relative to a request from Oberer Land Developers, LTD for a minor amendment to the approved plan for the Lakewood at the Commons PUD.

Mrs. McLaughlin announced the receipt of an Appeal filed by Mommy Connection, c/o Darinda J. Reis, for property located at 155 South Main Street, against a decision rendered by the Board of Architectural Review to disapprove a sign which did not meet the General Design Standards for signs in the Architectural Preservation District.

Mayor Kingseed advised that the City is hosting the first annual meeting of the Faith-leaders in the community to a breakfast on March 30, 2005 to begin at 7:30 A.M. at Yankee Trace. The purpose of this meeting is to open dialogue about ways the local government and faith based organizations can cooperate to meet community needs.

Mrs. Lienesch read a Proclamation issued by Mayor Kingseed designating April 23, 2005, as March of Dimes Walkamerica Day in the City of Centerville.

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

The smoking ban in Centerville goes into effect on April 4, 2005. Six establishments have filed for exemption.

The demolition of buildings in the northwest quadrant of Main and Franklin Streets will begin during the next two to three weeks.

Legislation is on the agenda for the installation of street lights in the redeveloped parking areas in the Architectural Preservation District.

Steve Marino has been hired to serve as the Head Golf Professional at The Golf Club at Yankee Trace. Appreciation was expressed to John Miller for serving as interim Head Golf Professional until Mr. Marino begins his employment on April 4, 2005.

Assistant to the City Manager Jennifer Kuschnerus was introduced.

Mrs. Wilder outlined code violations and resolutions for the month of February, 2005, as well as the community calendar for the coming month. She announced the next Neighborhood Improvement meeting scheduled for Thursday, April 21, 2005, to begin at 7:00 P.M. at the Centerville Police facility; residents in Concept East and Concept West will be invited.

Relative to Neighborhood Revitalization and Rental Inspections, Mrs. Lienesch advised that City Council has supported the improvement of the property maintenance code. For this project, a Task Force will be created with Mrs. Lienesch and Mr. Compton being members. Mrs. Lienesch invited interested citizens to become members of the Task Force.

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Mr. Compton reviewed the Create the Vision Implementation Committee meeting held with ACP on April 9, 2005, to discuss the development of a comprehensive plan, to review the Washington Township Zoning Resolution and the City of Centerville Zoning Ordinance in reference to residential and commercial land development being completed at the same time by each entity. It is the recommendation of the Implementation Committee to create a unified development Ordinance which encompasses both residential and commercial.

Mr. Cline reviewed meetings held by the Joint Entities Sub-Committee charged with finding ways to coordinate activities for cost savings. He listed areas being considered and asked for suggestions from the general public.

Dr. Gresham reviewed the National League of Cities Congressional Conference held March 11-15, 2005, in Washington, D.C. Much discussion took place relative to CDBG funds. He was appointed to a Task Force to study health care costs for employees.

Mayor Kingseed explained the Consent Agenda which contains procedural administrative matters. Removed from the Consent Agenda was: A Resolution To Authorize And Direct The City Manager To Take All Steps And Execute All Documents Necessary In Order To Effect The Sale Of Real Property Known As Parcel #29 (Woodlands At Yankee Trace), Centerville, Ohio. Approval of these issues will be as a group with one motion being made. He brought attention to the reappointments to be made by passage of the Consent Agenda.

Mr. Singer moved that the following Consent Agenda items be approved:

1. Resolution Number 08-05, A Resolution Authorizing The City Manager To Enter Into A Contract With DPL Energy/Miami Valley Lighting For The Installation Of Street Lights In The Redeveloped Parking Areas At The Northwest Quadrant of Main and Franklin Streets In The APD In The City of Centerville.
2. Resolution Number 09-05, A Resolution Accepting The Bid Submitted By The R. A. Miller Construction Company, For The State Route 48 & 725 Concrete Repair Project, In The City Of Centerville And To Authorize The City Manager To Enter Into A Contract In Connection Therewith.
3. Resolution Number 10-05, A Resolution Accepting The Bid Submitted By Booher Blacktop, For The Yankee Trace Clubhouse Parking Lot Resurfacing Project, In The City Of Centerville And To Authorize The City Manager To Enter Into A Contract In Connection Therewith.
4. Resolution Number 11-05, A Resolution Authorizing The City Manager To Grant A Right Of Way And Easement, On Behalf Of The City of Centerville, To Vectren Energy Delivery Of Ohio Inc. For A Proposed Gas Main To Serve Paragon Place, Section One.
5. Resolution Number 12-05, A Resolution Designating City Manager Greg Horn, As The Authorized Agent Relative To The Public Assistance Grant Program For

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FEMA-DR-3198-OH.

- 6. Resolution Number 13-05, A Resolution Authorizing A Marriage Ceremony Fee Of \$35 And Designating Its Deposit Into The Veterans Memorial Fund.
- 7. Ordinance Number 01-05, An Ordinance Approving The Editing And Inclusion Of Certain Ordinances And Resolutions As Parts Of The Various Component Codes Of The Codified Ordinance, Providing For the Adoption And Publication of New Matter In The Updated And Revised Codified Ordinances; And Repealing Ordinances And Resolutions In Conflict Therewith, set for Public Hearing on April 18, 2005.
- 8. Emergency Ordinance Number 02-05, An Emergency Ordinance Waiving The Competitive Bidding Requirement Of Section 210.01 Of The Administrative Code And Adopting A "Request For Proposal" Process In Order For The Council To Determine The Advisability Of Contracting With Private Haulers For Refuse And Recyclables Collection.
- 9. Reappointments made as follows:
 

Leila Oliver	City Beautiful Commission.
Patricia Williams	City Beautiful Commission.

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

Mr. Compton left the meeting at this time due to a potential conflict of interest in the next agenda item.

THE TILE SHOP APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by The Tile Shop against a decision rendered by the Planning Commission denying a Variance Request for an off-street loading area and garage door located in the front yard at 271 East Alexandersville-Bellbrook Road. Mr. Feverston located the subject property on a map which fronts on Loop Road and Alexandersville-Bellbrook Road. The zoning on the property is B-PD, Business-Planned Development. The Zoning Ordinance prohibits a loading dock in the front yard of a business. Mr. Feverston pointed out that there are three loading docks in the rear of the building which could be modified to serve as the overhead door which is the subject of the variance. The applicant proposes to place an awning over the door, the same as over two other doors on the east side of the building, and to place a landscape median in front of the door in the parking lot. The Planning Commission denied the Variance Application seeing no practical difficulties or hardships in this case.

Leigh Behrman, Facilities Manager for The Tile Shop, apologized for not having the garage door approved prior to putting it into the store. He pointed out that 90 percent of merchandise purchased by customers is loaded from ground level. Ground level loading is much safer, and to remove the door at this time is a cost factor. Mr. Behrman asked Council to look at this issue from a common sense factor.

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Paul Clark, 104 West Ridgeway Road, Chairman of the Planning Commission, explained considerations made by the Commission when the variance was addressed.

Ed Klaben, 553 Yankee Trace Drive, asked that Council make it easy for businesses and that the Appeal be granted.

Mrs. Lienesch pointed out that when traveling on Loop Road the rear of the building as well as the east side is visible.

Mr. Corbin pointed out that Mr. Behrman was not aware that this door needed to be approved.

Mr. Behrman advised that the door was on the building plans for the proposed improvements. He did not know that there was a zoning requirement. The door was in prior to notification that it was in violation. Mr. Behrman advised that he is willing to paint the door to match the other doors and will consider planting more trees in the grassy area along Loop Road. Mr. Cline moved that the Appeal be granted and the Variance be approved provided that the business owner paints the garage door on the east side of the building in a color deemed appropriate and approved by the Planning Department, and that additional landscaping be put in place in the grassy area along Loop Road as well as in front of the door in the parking lot, and that an awning be placed over the door of a similar style and color of the other awnings. Mr. Corbin seconded the motion. The motion passed by unanimous vote.

Mr. Compton returned to the meeting at this time.

## PIECES OF STYLE APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by Pieces of Style against a decision rendered by the Board of Architectural Review denying the use of the color of pink on an advertising sign at 67 A South Main Street. Mr. Feverston located the subject property on a map being situated in the Architectural Preservation District. Pink, not being an approved color on the Board of Architectural Sign Color Chart, the Board of Architectural Review denied the use of pink on the sign.

Mary Ellen Lee, owner of Pieces of Style, explained that pink has been used on the sign as an accent color which has been used on all her advertising and marketing tools. Pieces of Style is a lady's shop and pink is a lady's color. Ms. Lee cited another sign in the AP District that has a color not on the approved color chart.

Mr. Compton moved that the Appeal filed by Pieces of Style be granted, thus approving the use of pink as an accent color on an advertising sign at 67 A South Main Street. Dr. Gresham seconded the motion. The motion passed unanimously.

## PRIMROSE SCHOOL APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by Jason Cambria against a decision rendered by the Planning Commission denying a Variance Application relative to minimum parking requirements for the Primrose Day Care Center at the southwest corner of State Route 725 and Wilmington Pike. Mr. Feverston located the subject property on a map being part of the property known as the Karras property. He advised that there is a Master plan for the Karras property pending before the Planning Commission of which the day care center is a part.

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Required are 60 parking spaces, Mr. Cambria is requesting 38 spaces. Mr. Feverston pointed out that the City's current code for traffic patterns is out of date, that 38 spaces would be adequate for a day care. City Staff, as directed by the Planning Commission, is drafting an Ordinance to update the code relative to required parking spaces.

Jim Alt, Alt Architect, representing the Cambrias, agreed with Mr. Feverston, that it is timely for the City of Centerville to update the code on requirements for asphalted areas for these kinds of uses to be consistent with Create the Vision. He explained that approval is urgent due to the fact that late summer is a high point for enrollment.

In answer to a question by Mrs. Lienesch, Mr. Feverston advised that the Variance stays with the property, the Variance would only allow another day care to take the place of the Primrose School.

Mr. Singer moved that the Appeal be granted, thus approving the Variance Request for 38 parking spaces for the Primrose School on the Karras property at the southwest corner of State Route 725 and Wilmington Pike conditioned upon the approval of a Master Plan for the entire Karras property. Mr. Corbin seconded the motion. The motion passed by unanimous vote.

#### THE WOODLANDS AT YANKEE TRACE SECTION ONE RECORD PLAN

Mr. Feverston reviewed the Record Plan for The Woodlands at Yankee Trace, Section One (Parcel 29). He located this 5.372 acre parcel of land on a map, being situated on Yankee Trace Drive, south of Club View Drive, consisting of ten single family lots, zoned R-1c. This Record Plan was considered by the Planning Commission in May, 2004. In the year 2000, City Council approved a Lifestyle Community Master Plan for Yankee Trace, then followed by a Residential Development Plan for this specific parcel approved by the Planning Commission. Mr. Feverston identified the location of each lot on the Record Plan. He gave a brief history of approvals and improvements through the course of residential development in Yankee Trace. The Planning Commission, in 2004, by a vote of 3 to 2, recommended approval of this Record Plan to City Council subject to the following conditions:

1. Prior to conveyance of the lands for this plat, all issues regarding wetlands that exist on this parcel must be resolved by the Developer to the satisfaction of the Centerville City Council in accordance with Section 7.19, Due Diligence, of the Agreement between the City of Centerville and Great Traditions Development Group, Inc.
2. The record plat shall delineate the location of all designated wetlands with appropriate language to preserve these areas to the intent of the wetland preservation requirements subject to approval by the City Attorney.
3. Prior to construction, all wooded areas that are maintained as part of this plat, including those within wetland areas, required building setbacks and reserve areas, shall be delineated with a plastic fencing subject to approval by the City Planning Department.
4. All setback lines and easements shall be dimensioned and labeled on the Record Plan

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subject to approval by the City Planning Department.

5. Lots 7 through 10 shall be modified to provide a minimum rear yard building setback of either 40 feet or outside of the designated wetlands boundary whichever is greater subject to approval by the City.
6. Reserve Areas "CC", "DD", "EE" and "GG" shall be deeded to the City for Golf Course purposes and labeled on the record plan for this purpose.
7. An easement shall be recorded with the record plat that grants the City access through the rear yard of Lots 1 through 4 for maintenance and emergency service of the lake subject to approval by the City Attorney.
8. Protective covenant(s) shall be placed on the record plat, subject to approval by the City Attorney, and state the following:
  - A. the lake was constructed by the City of Centerville for the purpose of golf course irrigation;
  - B. the lake shall be used solely and exclusively by the City of Centerville;
  - C. the water level may from time to time be low as a result of irrigation; and
  - D. these covenant(s) shall not be changed, altered or deleted without the approval by the City of Centerville.
9. Trees located within the required setbacks of Lots 1 through 4 shall be preserved to the greatest extent practical in accordance with the Yankee Trace Design Review Guidelines subject to approval by the City Planning Department.
10. The golf cart crossing of Gardenwood Place shall be constructed with brick pavers and in the same manner as other cart crossings in Yankee Trace subject to approval by the City Engineering Department.
11. Gas street lights shall be installed along Gardenwood Place subject to approval by the City Engineering Department.
12. The final grading and stormwater drainage plan shall be subject to approval by the City Engineering Department that includes provisions for rear yard drainage to mitigate impact to the golf course and protection of the wetland areas.
13. The final construction drawings shall show all utility easements for this plat.
14. In lieu of completion of the required improvements prior to the recording of the plat, a performance bond in an amount acceptable to the City Engineer shall be posted by the developer with the City of Centerville and a subdivider's agreement entered into with the City by the developer.

Mr. Horn explained that there are two issues with this Record Plan: the sale of the land by the City of Centerville to Great Traditions by Resolution, and approval of the Record Plan. The

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wetlands issue was to be resolved by December 31, 2003. Great Traditions Land and Development Company was acting under the guidance of the United States Army Corp of Engineers relative to the wetlands issue which was later transferred to the Ohio Environmental Protection Agency for jurisdiction.

Jim Sullivan, Vice President and Chief Financial Officer with Great Traditions, explained the process at Yankee Trace which began in 1994 involving key elements of the Master Plan and the Lifestyle Community Ordinance. He brought attention to the fact that at thirty-three different times there was input from the public and review and approval by the Planning Commission and City Council. Mr. Sullivan gave background on land purchases and plat developments since 1994. In October of 2000, the Master Plan was revised which included Parcel 29 with a sixteen lot configuration. Mr. Sullivan explained how the density in this parcel has now been reduced to ten lots, thus providing increased green space. He submitted an aerial picture with parcel 29 superimposed to show trees which will remain. Attention was brought to a stub street which was constructed in 2001 off Yankee Trace Drive into the area in question. Mr. Sullivan identified areas where trees will not be disturbed; their intent is to save as many as possible. He defined wetland areas. He advised that the Ohio EPA has determined that there are no permits required. Mr. Sullivan explained how many times the Master Plan was changed during the development process, at which times the Plan was not revised.

Lee Falke, 1181 Yankee Trace Drive, Attorney representing Yankee Trace Drive residents, showed pictures of areas at Yankee Trace where trees have been removed for housing development. He explained how buyers have been misled by Great Traditions through advertising prior to the purchase of their home. Publications listed the area as a nature reserve. Mr. Falke alleged that all necessary permits were not acquired prior to December 31, 2003, and therefore the City of Centerville is not obligated to sell the property to Great Traditions. He believes that the destruction of the woods will not be good for Centerville. Residents and golfers are the losers if the trees are removed for housing development. Mr. Falke believes that the beautiful view from the clubhouse to the golf course will be destroyed.

Tim Wolfe, 1104 Club View Drive, pointed out that there have been seven different maps which showed Parcel 29 as a nature area.

Pam Terzian, 1291 Club View Drive, does not understand why the City of Centerville wants to move forward with this Record Plan when all the residents are opposed. Great Traditions have made many changes during the development stages at Yankee Trace and this change occurred a year ago. Mrs. Terzian bought her house in good faith.

Ed Klaben, 553 Yankee Trace Drive, believes that the area being discussed would be a perfect nature reserve.

Anthony Gargano, 1510 Waterbury Woods Lane, believes that Great Traditions has done a great job with the development of Yankee Trace. He asked Council to look farther into the future, to leave the area in question undisturbed.

Joe Harmon, 531 Willowhurst Street, believes the City has an opportunity to save some wooded areas, and they should do so. He also believes that if the Woodlands are destroyed, it will effect the wetlands. Mr. Harmon questioned whether the wetlands are accurate and whether other wetlands have been disturbed with the construction at Yankee Trace. Animals and bird life will diminish if wooded areas are disturbed.

Lynton Dudley, 1015 Bentgrass Lane, moved to Yankee Trace because of the woodlands.



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Yankee Trace has some very scenic areas because of the wooded areas.

Chuck Henson, 765 Yankee Trace Drive, asked that the trees be preserved; he questioned who the City is serving; Mr. Henson understands the City's obligation to Great Traditions, but what about obligation to homeowners. Great Traditions will be gone.

Judith Wolfe, 1104 Club View Drive, pointed out that the map at Great Tradition's Sales Center did not show the development of Parcel 29. She asked Council to help preserve their neighborhood.

Cheri Walker 1439 Courtyard Place, moved to Yankee Trace because of the woods, she was told by the builder that the woods would be preserved. Many residents on Courtyard Place feel the same as she does.

John Walker, 1439 Courtyard Place, pointed out that lawsuits cost more money than the City not selling the property to Great Traditions.

Mr. Singer explained the City's concern for trees, thousands have been planted on The Golf Club at Yankee Trace and the golf course has preserved many trees. Centerville is a Tree City. He questioned why prospective property owners didn't contact the City relative to the area known as Parcel 29.

Mr. Corbin advised that Great Traditions has tried to respond to residents' concerns, the number of lots have been reduced from 16 to 14 to 10. Development of this parcel of land will have minor impact upon residents on Club View Drive.

Mayor Kingseed does not believe that the City is obligated, by contract, to sell this property, all environmental issues which needed to be completed by December 31, 2003 were not met. Residents have been misled, the City Council should listen to the people and take steps to save the trees.

Dr. Gresham pointed out that the marketing brochures in the Clubhouse were incorrect.

Mr. Miller advised that wetlands in other areas of Yankee Trace have not been encroached upon.

Upon question of Mr. Cline, Mr. Liberman stated his opinion that the City is obligated to move forward with the sale of the property in question.

In answer to a question of Dr. Gresham, Mr. Sullivan advised that parcels 26-31 were approved at the same time in 2003.

Mr. Horn explained that Great Traditions completed everything they were required to do prior to December 31, 2003 relative to permits.

Mr. Sullivan reviewed the process they went through from 2000 to 2003 concerning the preservation of the wetlands. They knew what they had to do if they encroached into wetlands.

Mrs. Lienesch questioned who the winners are, is saving these trees making Centerville a better place in which to live. Yankee Trace is not a big portion of the City, it is a great place, she does not believe the woods is a major amenity.

Mr. Compton expressed his belief that Great Traditions has complied with the spirit of the development agreement with the City of Centerville. Documents prepared by Great Traditions were for illustrous purposes only.

Mr. Cline advised that Great Traditions has done all that they needed to do in good faith. Changes made by the developer have been good.

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RESOLUTION NUMBER 14-05 SALE OF PARCEL 29 YANKEE TRACE

Mr. Corbin sponsored Resolution Number 14-05, A Resolution To Authorize And Direct The City Manager To Take All Steps And Execute All Documents Necessary In Order To Effect The Sale Of Real Property Known As Parcel #29 (Woodlands At Yankee Trace), Centerville, Ohio, and moved that it be passed. Mr. Compton seconded the motion. A roll call vote resulted in fives ayes in favor of the motion; Mayor Kingseed and Dr. Gresham voted no.

THE WOODLANDS AT YANKEE TRACE SECTION ONE (PARCEL 29) RECORD PLAN

Mr. Cline moved that the Record Plan for The Woodlands at Yankee Trace (Parcel 29) be approved as recommended by the Planning Commission including all fourteen conditions as previous listed. Mr. Compton seconded the motion. A roll call vote resulted in five ayes in favor of the motion; Mayor Kingseed and Dr. Gresham voted no.

Joseph Koussa 1537 Beavercreek Lane, asked that troops come home safely and urged motorists to conserve on the use of gasoline.

Adrian Rose, 104 Cushwa Drive, reported on a program held on March 10, 2005, at the Center for Jewish Culture & Education.

There being no further business, the meeting was adjourned.

Approved: [Signature] Mayor

ATTEST: [Signature] Clerk of Council