

## RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held November 2120<sup>05</sup>

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, November 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 Councilmember James Singer, 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
	Paul Gresham
	Susan Lienesch
	James Singer
	Robert Corbin

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

Mr. Compton moved that the minutes of the foregoing Council Meetings, as distributed be approved. Mrs. Lienesch seconded the motion. The motion passed unanimously with Mayor Kingseed and Mr. Corbin abstaining from the October 17, 2005 Work Session Meeting and the Council Meeting. Mr. Corbin also abstained from the October 24, 2005 Work Session Meeting.

Mayor Kingseed expressed congratulations to four Eagle Scouts for their great accomplishment and they were presented with a Certificate of Congratulations. The Eagle Scouts were as follows:

Ryan Anderson  
 Thomas Anderson  
 David Feverston (who is the son of City Planner, Steve Feverston)  
 Christopher Mehaffie

Community Resources Coordinator, Maureen Russell Hodgson, introduced Mike Cornett from the Miami Valley Communications Council and Judy Kuhns from the Police Department. Mrs. Russell-Hodgson explained that Centerville Reports, which is the City's cable news magazine program recently received the Award of Excellence for Best Video Special Programming in the 2005 Savvy Awards Competition from 3CMA (City-County Communications and Marketing Association). The program was called "What Happens When You Call 911". Mrs. Russell-Hodgson presented the award to the City and to Mayor, Mark Kingseed.

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Mayor Kingseed announced the following events which have taken place and will take place in the coming weeks:

Council has received some comments over the past month regarding the Home Occupancy Ordinance. It was recently before Council and the draft was turned down and basically we are going back to the drawing board. Mayor Kingseed would like for everyone to understand why the City is looking into this issue. The City was involved in the past with litigation that seemed to expose to Council a deficiency in the existing Home Occupancy Ordinance. The City is trying to come up with a new Ordinance that would protect the neighborhoods; to prevent a business that might start out small as a retail business and would grow and lead to a negative impact on their neighbors. The City is not trying to interfere with residents who have a side business in their homes. In our modern economy that is something that a lot of people do, it adds a lot of value and it brings income in and we don't want to interfere with that.

The City is working on a Rental Inspection Program that will allow the City (on a periodic basis, whether it is every one, two or three years) to check rental properties to see if they are being maintained, and are up to code. The idea is to preserve the property values of the homeowners in the community.

Appreciation was expressed to everyone that participated in the Veterans' Day Ceremony and the Vietnam Moving Wall.

Congratulated members of Council that were re-elected on November 8<sup>th</sup> - Mr. Cline, Mr. Compton and Mr. Singer.

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

Congratulated Maureen Russell Hodgson, Mike Cornett and Judy Kuhns for the Savvy Award winning production. Expressed his appreciation to Mr. Cornett and to the staff at Miami Valley Communications Council.

Appreciation was expressed to Jen Kuschnerus for all of her hard work on the Vietnam Moving Wall.

The leaf pick up is still underway and encouraged residents to take advantage of the nice weather and to get the leaves out to the curb for pick-up.

Mrs. Wilder outlined code violations and resolutions for the month of October, 2005, as well as the community calendar for the coming month.

#### YANKEE TRACE, SECTION 21-A RECORD PLAN (REPLAT)

Mr. Feverston, reporting for the Planning Commission. He reviewed the Record Plat for Yankee Trace, Section 21-A; it is a replat of Lot #380. The property is located at 1591 Olde Haley Drive and it is zoned R1-C Single Family Residential. Replats are the administrative function of the City where normally Public Hearing notices are not required. City Council felt the need to send out meeting notices to residences along Olde Haley Drive announcing this meeting and that this issue would be discussed on this date. This Record Plan involves one lot but it is doing two things: first it is replatting the side yard setback and second it is establishing a site distance easement on this property. Lot #380 has frontage on Old Haley Drive and frontage

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on a private drive/alley that provides vehicular access to all the lots along Olde Haley Drive in Section 21. This lot itself was platted as a single family lot - and was fully intended to be developed with a single family home on it. When the developer (Great Traditions Land & Development Co.) was actually looking to build the lot itself, found that the typical floor plan for Ryan Homes (their neo-traditional home) would not fit. Ryan Homes has done some modifications by adjusting the garage dimensions and adjusting the breezeway dimensions to get a house to fit. As part of that, it was necessary to modify the sideyard setback from twenty (20) feet that was on the original Record Plat to twelve (12) feet. At the same time maintaining a twenty (20) foot setback behind the building so that there would be a driveway where two cars could park in front of the garage door like every other single family home in this section. The thirteen (13) foot front yard would not be changed - it is the same setback as all of the other homes on Olde Haley Drive and then the second modification was adjusting this sideyard setback on the west side of the lot from one (1) foot to a three (3) foot setback. Also this plat establishes a site distance easement for the intersection for cars either pulling into Olde Haley Drive or more importantly sitting at this intersection waiting to pull out onto Olde Haley Drive to provide ample corner vision clearance. The site distance easement on the Record Plat would not allow anything higher than two and a half feet so it would preclude the construction of the white picket fence that is along the other houses on Olde Haley Drive. The Planning Commission did review this Record Plan (Replat) at their October 25, 2005 Meeting and unanimously recommended approval to City Council.

Mr. Rick Lendeman, 1663 Olde Haley Drive, felt that it would not look right if the fence was not continued to the end of the section. He suggested straightening the private drive/alley out so that the house could be set back a little more and still put the picket fence there and make room for the sidewalk.

Mr. Feverston stated that there were several options discussed and this option was considered. Mr. Jim Kiefer, Engineer for Great Traditions, looked at the storm drainage that is through that area and also the catch basins and found it would be a very expensive process to straighten the street out and basically do all the storm water direction and removal and redirecting the catch basins.

Mr. Menchhoffer, Sales Director and Project Director of Yankee Trace, with Great Traditions, addressed the fence issue and stated that Great Traditions would like to see it finished out but they have conceded to the fact that it is a site distance problem and that it could be a dangerous situation for cars.

Mr. Dick Anstaett, 1647 Olde Haley Drive, presented to Council a few pictures looking from the inside of a car. His number one concern is the safe use of the rear access drive. There are 20 homes that use that access drive. Putting another house on this lot would exacerbate the site problem and is a very definite safety concern. His second concern is how this property would look as you drive into their street.

Mr. Kevin Round, 1599 Olde Haley Drive, lives in the house which was the former model. He feels that by taking the smallest floor plan and reducing it even more would reduce all of the property values of the other homeowners. He is concerned with this lot being the first impression that one would get as they entered Yankee Trace. He doesn't feel that it is in the interest of the homeowners, the community or in the long range, in the best interest of the City.

Ms. Nancy Farkas, 1623 Olde Haley Drive, stated she was probably one of the first residents to live there. She is a Realtor and has sold a dozen of those homes on this street.

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She feels that building a compromised product will impact resaleability. She also mentioned that that particular lot has been reassessed as a flood plain so that will have to be disclosed when they try to sell that home. Her comment is that you will have a compromised model on a flood plain in an area that will detract from all the rest.

Mr. Dick Anstaett, feels some suspicion that there is a conflict of interest, because Great Traditions still has four members on the Homeowners Association Board which is a seven member board. The Homeowners Association did not want to buy the lot. He can see why they possibly didn't want to buy it if Great Traditions is trying to sell that lot for profit.

Mrs. Lienesh stated that it is her understanding, and in listening to the citizens, that there is a safety issue regarding the site distance. Mr. Spitler stated that they had done an evaluation in the field of the site distance. He explained that separate measurements were taken and there is a desirable site distance and a minimum site distance. This site distance meets the minimum standard. Putting the fence across the property reduces it, the house alone does not reduce it.

Mr. Horn stated that we have a fence issue and we have an issue to the north maybe on the width of the lot as far as how close it is to the private alley.

Mayor Kingseed stated that his personal belief and desire would be for that lot not to be built on. It is his opinion that it would look better and would be a better entryway into Yankee Trace, but on the other hand it apparently has been platted to be built on. My hope would be that the parties get together and try to do something that is economically beneficial to everyone.

Mr. Compton is concerned with the aspect of shoehorning a building in on this lot. His concern centers around the fact that there is an approved building envelope for this particular parcel. It is his opinion that it would be better served to have a parcel that fits in with the development's scheme of this plat; than to take a chance perhaps ten years from now and hope that the Design Review criteria that has been far removed from this, is then willing to do so. He would rather take his chances now and will go forward with voting in favor of the replat.

Mr. Singer moved to make a motion to approve the replat. Mr. Compton seconded the motion. A roll call vote resulted in three ayes in favor of the motion. Mr. Cline, Dr. Gresham, Mr. Corbin and Mayor Kingseed voted no. The replat was denied.

Mr. Cline gave a brief update on the Unified Development Ordinance. This task force has met three times to date. Brooks Compton and Doug Cline, Chair this Committee along with Paul Clark, Jim Durham, Carolyn Meininger, Dave Mulay, Gary Woodley, John Beals, Ken Seidl, Don Cima and Fred Dietrich. Would like to thank everyone for their time and effort so far. The task force is planning to have a full report in mid 2006.

Mrs. Lienesch reported that the Property Maintenance Code Task Force has been meeting since early summer and will bring to Council early next year the proposed changes to our current code. The areas that have been studied are outside storage, driveway maintenance, commercial vehicles, and recreational vehicles. The next meeting is scheduled for Monday, November 28, 2005 at 7:00 p.m. at the municipal building.

Mr. Compton reported for the Implementation Task Force of the Create the Vision, the most recent meeting was held on November 9<sup>th</sup>. Several recommendations were made and those recommendations have been forwarded to the Washington Township Trustees and to City Council. These recommendations will be addressed at Council's Work Session Meeting on

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December 12, 2005. The next meeting of the Task Force will be January 11, 2006.

Mr. Horn gave a brief overview of the Consent Agenda Items.

Deputy-Mayor Kingseed, calling for a motion to consider the Consent Agenda, Mr. Cline moved that the following items be passed:

1. Resolution Number 59-05: 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.
2. Resolution Number 60-05: A Resolution Accepting The Bid Submitted By L. J. DeWeese Company, Inc. For The Stubbs Park Bridge Replacement Project - 2005 (Project #BI-1D-05) For The City Of Centerville And To Authorize The City Manager To Enter Into A Contract In Connection Therewith.
3. Resolution Number 61-05: A Resolution Accepting The Bids Submitted By Green Velvet Sod Farms, Lesco, Pro Source One And Turfgrass South 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.
4. Resolution Number 62-05: A Resolution Authorizing The City Manager To Enter Into An Intergovernmental Cooperation Agreement, 2006 - 2010, On Behalf Of The City Of Centerville With Other Member Jurisdictions.
5. Resolution Number 63-05: A Resolution Authorizing The City Manager To Reject All Bids For The Sale Of Property Located At 43 W. Franklin Street And To Authorize The City Manager To Take Any And All Necessary Steps To Sell The Property Located At 43 W. Franklin Street To Mulay Holdings, Inc. By Private Sale.
6. Resolution Number 64-05: A Resolution Authorizing The City Manager To Grant To Dwight L. Miller An Advance Of Sick Leave Hours, Such That His Sick Leave Balance Shall Not Exceed A Negative Balance Of Four Hundred (400) Hours.
7. Performance Bond Reduction - Yankee Trace, Section 25.
8. Performance Bond Reduction - Yankee Trace, Section 28.
9. Performance Bond Reduction - Yankee Trace, Section 29.
10. Appoint Deborah Dyer as a Member of the Arts Commission.

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11. Appoint Jaime Garrett as a Member of the Board of Architectural Review.
12. Reappoint Sandra Baver as Chairman of the Sister City Committee.

Dr. Gresham seconded the motion. The motion passed unanimously.

### ORDINANCE NUMBER 12-05 ZONING ORDINANCE AMENDMENT JKW DEVELOPMENT, LLC - PARAGON POINTE

The Public Hearing was held concerning the Rezoning Request submitted by JKW Development, LLC, for property located north of Social Row Road, west of Sheehan Road and east of Paragon Road. JKW Development, LLC is seeking the rezoning of a 68.345 acre parcel; which is currently zoned Washington Township Agriculture. The Applicant is requesting to rezone this parcel to R-1c, Single Family Residential. It matches all of the zoning within this area - that is within the City of Centerville. The Planning Commission, by unanimous vote, recommended approval of this Rezoning Request to City Council. Mrs. Lienesch moved to approve Ordinance Number 12-05 An Ordinance Amending Ordinance Number 11-86 Dated July 21, 1986, The Zoning Ordinance By Rezoning 68.345 Acres, More Or Less, From WT-A, Washington Township-Agricultural to R-1C , Single Family Residential Zone Classification. Mr. Cline seconded the motion. The motion passed by unanimous vote.

### SPECIAL APPROVAL APPLICATION - JKW DEVELOPMENT, LLC PARAGON POINTE

The Public Hearing was held concerning a request for review filed by City Council regarding a Special Approval Application submitted by JKW Development, LLC, which is the same property that was heard in the Public Hearing before this regarding the rezoning. It is a residential cluster development to construct 114 single family lots. Mr. Feverston located the subject property on a map; which is north of Social Row Road, west of Sheehan Road and east of Paragon Road. Council had several concerns when discussing this plan and there were several issues. One related to the side yard setbacks. One of the conditions of approval by the Planning Commission was seven and one-half (7.5) foot side yard setbacks. Council concurred that one side yard setback be five (5) feet and ten (10) feet on the other side to provide fifteen (15) feet between houses. Second - Location of the amenity swim and tennis courts; and third - landscaping along the perimeter of the property.

Mr. Jonathan Zinn, representing JKW Development, stated that in regards to the preliminary plat, JKW Development is more than happy to work with staff in addressing these issues.

Mr. Corbin moved that the Special Approval Application submitted by JKW Development LLC, be approved with the amendments to the Planning Commission's Conditions. 1) Building setbacks are approved with a thirty (30) foot front yard, five (5) foot side yard, with a minimum separation of fifteen (15) feet between houses and a thirty (30) foot rear yard. 2) Relocate the swimming pool and tennis courts directly south to Lots 14 and 15 subject to approval by the Planning Department. 3) Deed Restrictions or covenants on the Plan

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include 6-8 foot high mounding subject to approval by the Planning Department. Mr. Cline seconded the motion. The motion passed by unanimous vote.

City Council approved the Planning Commission Special Approval Application, as recommended by the Planning Commission, subject to the following conditions:

1. Paragon Road and Sheehan Road shall be widened to include an additional lane of pavement, curb, gutter, storm sewer, and sidewalk subject to approval by the City Engineer.
2. Social Row Road shall be widened to include an additional lane of pavement, curb, gutter, storm sewer, and a hiker/biker path subject to approval by the City Engineer. In lieu of constructing these improvements, the applicant may place an amount of money in escrow with the City approved by the City Engineer to be used for the future improvement of Social Row Road. The City Engineer may require the developer to make temporary improvements to Social Row Road, which at this time is expected to include an eight (8) foot wide hiker/biker path. The estimated cost of any temporary improvements shall be subtracted from the required escrow amount.
3. Building setbacks are approved with a thirty (30) foot front yard, five (5) foot side yard, with a minimum separation of fifteen (15) feet between houses and a thirty (30) foot rear yard.
4. The final design of the recreation lot shall be subject to approval by the Planning Department.
5. The property owner shall dedicate sixty (60) feet of right-of-way from centerline along Social Row Road and thirty-five (35) feet of right-of-way along both Paragon and Sheehan Roads.
6. All open space and reserve areas shall be maintained by a homeowners association. All landscape islands within the cul-de-sacs of public streets shall be established as private reserve areas.
7. The developer shall pay a fee-in-lieu of parkland dedication in accordance with the provisions of City Ordinance 15-86, The City Parkland Dedication Ordinance.
8. The final design and materials for the proposed walking trail shall be subject to approval by the Planning Department. Additional linkages shall be established from Street "B" and Street "C" to Social Row Road and from the cul-de-sac end of Street "B" north through the swim and tennis area for better connectivity. All private walks shall be constructed of either four (4) inch thick concrete or asphalt, and have a minimum width of four (4) feet. Access must be provided to the open space area surrounded by lots 41 through 51.
9. A stormwater drainage plan shall be approved by the City Engineering Department

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showing stormwater drainage calculations and incorporating retention and/or detention and erosion control during construction in accordance with the provisions of the City Stormwater Drainage Control Ordinance.

- 10. A performance bond or other construction guarantee shall be posted by the developer for all landscape, screening, or bufferyard improvements required by the Zoning Ordinance subject to approval by the City Engineer. This bond or guarantee shall be in accordance to the Guarantee of Construction and Installation of Improvements; Inspections Section of Part Twelve, Title Four of the Code of Ordinances.
- 11. The treatment of the edge along the retention pond shall be subject to approval by the Planning Department.
- 12. All street names shall be subject to approval by the City Planning Department. Street "B" shall be divided into three (3) separate street names.
- 13. No signs are being approved as part of this application.
- 14. There exists a barn on this site. Although it is not eligible for landmark status, materials from the barn could be preserved for use by the Centerville-Washington Historical Society, Montgomery County Historical Society or other agency. The applicant shall make the barn available to the Centerville-Washington Historical Society or the Montgomery County Historical Society.
- 15. Relocate the swimming pool and tennis courts directly south to Lots 14 and 15 subject to approval by the Planning Department.
- 16. Deed Restrictions or covenants on the Plan include 6-8 foot high mounding subject to approval by the Planning Department.

ORDINANCE NUMBER 14-05 GOLF FEES

The Public Hearing was held concerning Ordinance Number 14-05. Dr. Gresham sponsored Ordinance Number 14-05 An Ordinance To Amend Ordinance Number 18-04, Adopting All Fees Associated With The Golf Club At Yankee Trace And Providing Compensation For Golf Professionals, and moved that it be passed. Mr. Compton seconded the motion. The motion passed by unanimous vote.

Joseph Koussa, 1557 Beaver creek Lane, asked for the troops to come home safely and that motorists save on the use of gasoline. Also wished everyone a Happy Thanksgiving.

ORDINANCE NUMBER 15-05 ALLOW CITY'S CODE OFFICIAL TO SERVE NOTICES OF VIOLATIONS

Mrs. Wilder stated that this Ordinance was drafted to allow the City's Code Official to



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serve notices of violations to a resident involving a junk vehicle instead of having to go through certified mail or by notification through a City Police Officer. Mrs. Lienesch moved that Ordinance Number 15-05, An Ordinance Amending Section 660.07 Of The Centerville Municipal Code To Allow The City's Code Official To Serve Notices of Violations, be set for Public Hearing on December 19, 2005. Dr. Gresham seconded the motion. The motion passed unanimously.

Mr. Singer moved that Council convene into Executive Session after the Council Meeting to discuss personnel. Mr. Cline seconded the motion. A roll call vote resulted in seven ayes in favor of the motion.

There being no further business, the meeting was adjourned.

Approved: *C. Mark Kenzler*  
Mayor

ATTEST: *Debra A. James*  
Clerk of Council