

RECORD OF PROCEEDINGS

Minutes of COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held March 1520 04

Girl's Swim Team - State Championship and individual placements:

Head Coach Mark Davis

Erin Forster, Jenny Forster, Jill Forster, Chelsea Perkins, Alissa Schriener, Allyson Kiracofe, Megan Browning, Stephanie Cox, Mandy Laneve, Colleen Burke, Kim Kern, Kara Schulkers and Lauren Johnson

Boy's Swim Team - State placements:

Chris Heaton, Peter Fromknecht, Brandon Ervin, Patrick Chalker, Matt Grubb, John Mullen, Drew Paddock

Ohio State Gymnastics placement:

Renee Boutilier

Ohio State Wrestling placement:

Vince Mauro

Mayor Kingseed also presented a Certificate of Congratulations to six grade Tower Heights Middle School student Alyna Ciaciuch who has been selected to be a Student Ambassador with the People to People Program based upon her school record and commitment to community service.

Mayor Kingseed administered the Oath of Office to Sister City Committee member Mary Stockmyer and to Centerville Arts Commission member Suzi Fischer.

James Foster, Director of Planning for the Greater Dayton Regional Transit Authority, gave an update on the activities of the RTA and introduced staff members by way of power point. He emphasized the fact that it is not just the bus goes here and the bus goes there. He identified the diverse responsibilities of senior staff members. Mr. Foster explained that their core business is managing the mobility of customers. There are 4,500 bus stops throughout Montgomery County. Ridership is mostly to and from work. The RTA has been a partner to economic development in the region. Mr. Foster explained their grant program to public entities. Mr. Compton complimented Mr. Foster for the building improvement at Third and Main Streets in downtown Dayton.

Mayor Kingseed announced the following events:

The Business Breakfast will be held March 16, 2004 to begin at 7:30 A.M. at Yankee Trace. The purpose of this breakfast is to show appreciation to the businesses in Centerville. He outlined how valuable businesses are to all residents and to the total community. It takes courage for people to begin their own business.

Some members of City Council attended the 2004 Annual Congressional City Conference in Washington, D.C. This Conference provides a great opportunity for people to network with officials from other Cities.

Mr. Singer advised that he was very impressed with security at the airport which he encountered during his entire trip to Washington. He listed the many workshops and topics addressed during the Conference as well as speakers. The motto of NLC is "Strong Cities United for a Strong America".

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Mrs. Lienesch outlined training sessions which she attended during the Conference. She reviewed meetings held by NOISE during which time the committee set policies. The NOISE Board of Trustees presented Congresswoman Ann Northorpe with the Legislator of the Year Award for her involvement with airport expansion.

Dr. Gresham reviewed meetings held by the Policy and Advocacy Committee and the Human Development Steering Committee of which he is a member. He also had the opportunity to serve as moderator for the panel on issues affecting head start for children of our Nation to get an adequate start in our schools. Dr. Gresham reported that he had the opportunity to speak with Congressman Michael Turner relative to coming to Centerville for a Town Meeting.

Mr. Cline read a Proclamation designating Thursday, April 15, 2004, as Arbor Day in the City of Centerville.

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

The City of Centerville is near finalizing the purchase of a five acre parcel of land south and adjacent to the City's Public Works facility.

Some City Staff have attended sessions concerning the Conceal and Carry Law.

The Golf Club at Yankee Trace is now open.

The City's Annual Report has been printed, copies will be mailed soon to residents of Centerville.

Miss Gilleland outlined code violations and resolutions for the month of February, 2004, as well as the community calendar for the coming month.

Mr. Cline gave an update on the Create the Vision Comprehensive Plan. Public Hearings have been held by the City Planning Commission and the Washington Township Zoning Commission relative to the land use portion of the plan. He brought attention to by-products resulting from eighteen months of hard work by the Steering Committee. It is hoped that implementation of the plan will remain on the schedule established previously. Brooks Compton and Thomas Zobrist will Co-Chair an Implementation Task Force. Mr. Compton outlined the charge of the Task Force and listed its members.

COMMONS AT YANKEE TRACE DEVELOPERS, INC. APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by the Commons at Yankee Trace Developers, Ltd. against a decision rendered by the Planning Commission during their meeting on January 13, 2004. Mr. Feverston reviewed the site plan submitted to the Planning Commission for the construction of a community building which was approved with conditions. He located the subject property on a map being situated at 1480 Bethany Commons Trail. One of the conditions placed on the construction of the community building is the subject of this Appeal. The condition appealed was that an easement shall be created subject to approval by the City Attorney for access through this parcel to the potential assisted living site. The easement must be designed to be constructed outside the parking lot to the community building and must be

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approved by the City Planner and City Engineer.

Michael Allen, 6430 Inner Mission Way, Vice President of Finance of the Facilities for Lutheran Social Services of Mid America which is headquartered in Centerville, explained how development has proceeded according to the overall Master Plan approved for this area. They are near completion with the first phase of development, and it is an appropriate time to construct the community building included in the original Master Plan. Mr. Allen identified the difficulty and hardship that the condition imposed upon them by the Planning Commission, will cause. Upon question of Mr. Singer, Mr. Allen advised that they do not have a plan at this time for the multi-assisted living facility.

George Oberer, Jr., explained that this site plan is in accordance with the approved Master Plan with the roadway traversing through the parking lot for the community building. If they had known of this condition sooner, a different land arrangement would have been made. In answer to a question of Mr. Corbin, Mr. Oberer explained that due to utility issues, stone wall; infrastructure already in place, and safety issues, it is impossible to comply with the condition imposed by the Planning Commission.

Mr. Feverston outlined why City Staff recommends that the Appeal be granted.

Paul Clark, 104 West Ridgeway Road and Chairman of the Planning Commission, advised that the Planning Commission placed this condition on approval of this site plan because they were concerned about the assisted living center; the assisted living center will cause increased traffic through the parking lot and four parking spaces could be moved to the east to provide enough room to construct the roadway outside the parking lot. Mr. Feverston explained that moving the parking spaces to the east would not provide enough space for the roadway.

Lorna Osborne, 1438 Bethany Commons Trail, stated her opposition to the roadway going through the parking lot which she believes is too small.

Upon question of Mrs. Lienesch, Mr. Feverston explained that there is not enough width to shift the parking lot to relocate four spaces.

In answer to a question of Mr. Corbin, Mr. Allen advised that there are no plans at the present time to construct the assisting living facility. Mr. Feverston pointed out that additional land would be necessary and the Master Plan amended in order to construct an assisted living facility to accommodate 50 units. If this becomes a reality, an access to and from the facility could be provided to Yankee Street at that location.

Mr. Corbin moved that the decision of the Planning Commission be modified, and that the following condition: "an easement shall be created subject to approval by the City Attorney for access through this parcel to the potential assisted living site. The easement must be designed to be constructed outside the parking lot to the community building and must be approved by the City Planner and City Engineer", be eliminated from the approval of the site plan for the construction of a community building at 1480 Bethany Commons Trail. Mr. Cline seconded the motion. A roll call vote resulted in four ayes in favor of the motion; Mrs. Lienesch, Dr. Gresham, and Mr. Singer voted no.

GEM CITY SIGNS, LLC APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by Gem City Signs, LLC, against a decision rendered by the Planning Commission during their meeting on February 10, 2004. Mr. Feverston reviewed this Appeal filed against the Planning Commission's denial of a Variance

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Application for the erection of a second wall sign to be mounted on the north side of Uno's Restaurant. He located the subject property on a map being situated at 9496 Dayton- Lebanon Pike in the City of Centerville. The Centerville Zoning Ordinance permits one wall sign on the frontage of the building as well as one ground sign. It also provides that, in lieu of the ground sign, a wall sign may be permitted on another frontage of the building, the same size as permitted for the ground sign. Mr. Feverston showed renderings of the wall sign, the ground sign, and the sign proposed for the north wall of the building. The Planning Commission, finding no hardship or unique circumstances in this case, denied the Variance for a sign on the north side.

Edward Klaben, 553 Yankee Trace Drive, recognizing this location as not being the most desirable for a Restaurant, found this request for additional signage logical. He encouraged the City to help small businesses succeed.

Frank Metro, Vice President of Operations for William's Food Group, pointed out that they do not have the ability to do a lot of advertising. He explained why they need signage on the north side of the building. The existing signs are blocked from visibility due to topography, landscaping and trees. In answer to a question of Mayor Kingseed, Mr. Metro advised that due to the cost involved, they do not wish to remove the ground sign and replace it with a wall sign on the north side of the building.

Paul Clark explained that a sign on the north side of the building would not be visible until a motorist gets close because of structures located to the north.

Mr. Cline suggested that the north sign be permitted and the ground sign be removed in one year. Mayor Kingseed pointed out that if this suggestion is included in a motion, it should be backed up by a written agreement with conditions. It was also pointed out that a precedence could be set in this case.

Mr. Compton moved that the decision of the Planning Commission relative to the Variance Application for the erection of a sign on the north side of the Uno's Restaurant located at 9496 Dayton-Lebanon Pike, be ratified, and the Appeal be denied. Mrs. Lienesch seconded the motion. A roll call vote resulted in six ayes in favor of the motion; Mr. Corbin voted no.

ORDINANCE NUMBER 2-04 OHIO POLICE AND FIRE PENSION FUND PICK-UP

The Public Hearing was held concerning Ordinance Number 2-04. Mr. Schlagheck reviewed this proposed Ordinance which reaffirms the City's pick-up of all ten percent mandatory contributions by the employees who are members of the Ohio Police and Fire Pension Fund through a payroll reduction. The OP&F has adopted new procedures for reporting picked-up contributions to conform to IRS requirements. Mr. Cline sponsored Ordinance Number 2-04, Ordinance Number 2-04, An Ordinance Amending, Reaffirming And Restating Ordinance 30-00 And Authorizing The City Of Centerville To Pick Up The Statutorily Required Contribution To The Ohio Police And Fire Pension Fund For The Employees Of The City Of Centerville, and moved that it be passed. Mr. Corbin seconded the motion. The motion passed unanimously.

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ORDINANCE NUMBER 4-04 MUNICIPAL CODE RECODIFICATION

The Public Hearing was held concerning Ordinance Number 4-04. Mr. Farquhar advised that in 2003 the General Assembly made a major reworking of the traffic and general offense sections of the Ohio Revised Code. This Ordinance incorporates said changes into the same sections of the Centerville Municipal Code. Dr. Gresham sponsored Ordinance Number 4-04, 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. Cline seconded the motion. The motion passed by unanimous vote.

Lee Falke, 1181 Yankee Trace Drive, presented to Council Petitions with 131 signatures plus 4 letters stating opposition to the development of The Woodlands at Yankee Trace; that area between the new 2nd and 3rd golf holes and along the 9th hole. A resident in Yankee Trace has obtained information from the Ohio Department of Natural Resources that this area is still designated as wetlands. Residents understand that Great Traditions Land and Development Company has proposed development of this area to the City of Centerville. Mr. Falke emphasized the value of trees, many homes in Yankee Trace look to this woods, and it provides a habitat for wildlife. He pointed out that buyers had never been told by Great Traditions that this area would be developed. Literature distributed prior to this time by Great Traditions has always shown this area as woods. Copies of this literature was distributed to City Council. Mr. Falke stated that the development of this wooded area is a betrayal to the property owners in Yankee Trace.

Mayor Kingseed explained that the initial plan for the area in question included 16 lots, it has been reduced to 10 lots. He explained the procedure to be followed and the fact that the plan will not come before Council any sooner than the May or June Council Meeting. The plan will first be presented to the Planning Commission for consideration and a recommendation made to City Council. It will then be considered by City Council. During this entire procedure, both sides will have the opportunity to express their views. He advised that the area is going to be staked so that City Council can physically determine where the proposed lots will be located.

Mr. Horn explained that in 1991-1992 there was an environmental review of the total acreage of Yankee Trace at which time potential wetland areas were identified. Since that time some of these areas have proven not to be wetlands and have become buildable areas. Mr. Horn pointed out that the Master Plan for the entire area was amended in 2000 which showed the subject area with 16 lots, provided the wetlands issue was resolved.

Connie Reid, 1112 Clubview Drive, stated her opposition to the destruction of the woods for homes. Residents in Yankee Trace were never told that homes would be built on the subject property nor did they ever see a plan for that area.

Pamela Terzian, 1291 Clubview Drive, explained that they were handed brochures from Great Traditions which showed the area as woods. She asked Council to protect the residents in Yankee Trace.

Edward Klaben, 553 Yankee Trace Drive, encouraged City Council and Great Traditions to be heroes, to leave the area as a nature preserve.

Mr. Feverston explained the preliminary plan for the subject property and defined the

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wooded area which will remain.

Greg Henderson, 1271 Clubview Drive, advised that the view he bought into and paid a premium for will disappear if the woods is destroyed and homes built.

ORDINANCE NUMBER 5-04 GAMBLING WINNINGS TAXABLE

Mr. Schlagheck reviewed a proposed Ordinance to amend the City's Income Tax Ordinance to include gambling winnings, to come under the same rules of the Internal Revenue Service. Mr. Cline moved that Ordinance Number 5-04, An Ordinance Amending Sections 880.02 And 880.03 Of The Centerville Municipal Code To Include Gambling Winnings As A Type Of Taxable Income Subject To The Municipal Income Tax, be set for Public Hearing on April 19, 2004. Mrs. Lienesch seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 7-04 ROAD IMPROVEMENT PROJECT CHANGE ORDERS

Mr. James reviewed two change orders payable to the Shelly Company for work performed under the City's 2003 Road Improvement Project, Concrete Repair and Asphalt Resurfacing. One change order is in the amount of \$60,695.00 for concrete pavement work that was inadvertently omitted from the original bid as well as total reconstruction of three large catch basins. The second change order in the amount of \$63,981.27 covers the cost difference from the original contract quantities to the final quantities. Mr. Singer sponsored Resolution Number 7-04, A Resolution Ratifying The Action Of The City Manager To Execute Change Orders Number One And Two To The Shelly Company, Relative To The 2003 Road Improvement Project, Concrete Repair And Asphalt Resurfacing In The City Of Centerville, and moved that it be passed. Mr. Cline seconded the motion. The motion passed with six votes in favor of the motion. Mr. Corbin voted no.

RESOLUTION NUMBER 8-04 PUBLIC DEPOSITORY LIBERTY SAVINGS

Mr. Schlagheck reviewed two Resolutions to designate Liberty Savings Bank and Oak Hill Banks as depositories for public monies. These Resolutions give the City the authority to use these financial institutions if so desired. Mr. Corbin sponsored Resolution Number 8-04, A Resolution Designating A Public Depository And Awarding Public Monies, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed by unanimous vote.

RESOLUTION NUMBER 9-04 PUBLIC DEPOSITORY OAK HILL BANKS

Dr. Gresham sponsored Resolution Number 9-04, A Resolution Designating A Public Depository And Awarding Public Monies, and moved that it be passed. Mr. Corbin seconded the motion. The motion passed unanimously.

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RESOLUTION NUMBER 10-04 RESURFACE SOCIAL ROW AND YANKEE

Mr. James advised that the Montgomery County Engineer's Office has included in their annual resurfacing program Social Row Road and Yankee Street. The County has offered to include the portions of the two roadways that are within the City of Centerville in this program. The City would then reimburse the County one hundred percent of the estimated cost of \$106,505.00. Mr. Singer sponsored Resolution Number 10-04, A Resolution Authorizing The City Manager To Enter Into An Agreement With The Montgomery County Engineer For The Resurfacing Of The Portions Of Social Row Road And Yankee Street Located In The City Of Centerville, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed unanimously.

YANKEE TRACE, SECTION THIRTY TWO BOND REDUCTION

Mr. Horn advised that with satisfactory completion of certain work in Yankee Trace, Section Thirty Two, and The Links at Yankee Trace, Section One, it is recommended that the Performance Bonds be reduced as requested by the developer. Mr. Cline moved that the Performance Bond posted on Yankee Trace, Section Thirty Two, be reduced from \$275,000.00 to \$75,000.00. Mr. Compton seconded the motion. The motion passed by unanimous vote.

THE LINKS AT YANKEE TRACE, SECTION ONE BOND REDUCTION

Dr. Gresham moved that the Performance Bond posted on The Links at Yankee Trace, Section One, be reduced from \$250,000.00 to \$45,000.00. Mr. Corbin seconded the motion. The motion passed by unanimous vote.

- PERSONNEL APPEALS BOARD REAPPOINT NORMAN PLAIR
- PLANNING COMMISSION REAPPOINT JAMES DURHAM
- SISTER CITY COMMITTEE REAPPOINT LINDA BAILEY
- CENTERVILLE PROPERTY REVIEW COMMISSION REAPPOINT JOHN DORKO

Mr. Singer moved that Norman Plair be reappointed as a member of the Personnel Appeals Board, that James Durham be reappointed as a member of the Planning Commission, that Linda Bailey be reappointed as a Member of the Sister City Committee, and that John Dorko be reappointed as a Member of the Centerville Property Review Commission. Dr. Gresham seconded the motion. The motion passed unanimously except for Mr. Durham; Mr. Corbin voted no for Mr. Durham as a member of the Planning Commission.

There being no further business the meeting was adjourned.

Approved: C. Mark Kenefeld
Mayor

ATTEST: Marilyn J. Slaughter
Clerk of Council