

# RECORD OF PROCEEDINGS

Minutes of

COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held December 620<sup>04</sup>

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, December 6, 2004, at 9:00 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        Susan Lienesch  
                                  Paul Gresham  
                                  James Singer  
                                  Robert Corbin  
                                  Brooks Compton

Clerk of Council Marilyn McLaughlin  
 Assistant Clerk of Council Debra James  
 City Manager Gregory Horn  
 Public Works Director Robert James  
 Finance Director Mark Schlagheck  
 Assistant to the City Manager Jesse Lightle  
 Assistant to the City Manager Jennifer Wilder  
 Municipal Attorney Scott Liberman

## ORDINANCE NUMBER 20-04 SMOKING BAN

Mr. Compton moved that Ordinance Number 20-04, An Ordinance Prohibiting Smoking In Public Places And Places Of Employment In The City Of Centerville, Ohio, be set for Public Hearing on December 20, 2004. Mr. Cline seconded the motion. The motion passed with six ayes in favor of the motion; Dr. Gresham voted no.

There being no further business, the meeting was adjourned.

Approved: C. Mark Kingseed

Mayor

ATTEST:

Marilyn McLaughlin  
 Clerk of Council

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DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held December 2020 04

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, December 20, 2004, 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 led by Boy Scout Troop 299, 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

Clerk of Council Marilyn McLaughlin  
 Assistant Clerk of Council Debra James  
 City Manager Gregory Horn  
 Public Works Director Robert James  
 Finance Director Mark Schlagheck  
 Economic Development Administrator William Covell  
 Assistant to the City Manager Jesse Lightle  
 Assistant to the City Manager Jennifer Wilder  
 Municipal Attorney Scott Liberman

The Boy Scouts introduced themselves and Scout Master Bill Mathies outlined some of the boys' activities in scouting.

Mr. Singer moved that Councilmember Paul Gresham be excused from this meeting. Mr. Cline seconded the motion. The motion passed unanimously.

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

Council Meetings - November 15, 2004.  
 - December 6, 2004.  
 Work Session Meetings - November 15, 2004.  
 - November 16, 2004.  
 - November 22, 2004.  
 - December 6, 2004.  
 - December 13, 2004.

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

Mayor Kingseed wished all a happy and safe holiday season.

He cut the ribbon for a new restaurant, the Eclipse at 79 South Main Street in Centerville on December 2, 2004.

Mr. Horn announced the Service Awards Holiday Luncheon held for all City employees. He thanked City Staff for all their support in preparing financial legislation for this meeting and expressed appreciation to all Staff for a quality year.

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Mrs. Wilder reviewed code violations and resolutions for the month of November, 2004.

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. He brought attention to the appointments and reappointments to be made by passage of the Consent Agenda.

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

1. The 2005 - 2009 Capital Improvement Program, be approved.
2. Ordinance Number 22-04, An Ordinance 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, 2005, be set for Public Hearing on January 24, 2005.
3. Ordinance Number 24-04, An Ordinance Amending The Personnel Manuals Of The City Of Centerville, be set for Public Hearing on January 24, 2005.
4. Ordinance Number 26-04, An Ordinance To Repeal Ordinance Number 28-03 In Its Entirety And To Establish Class Titles, Pay Ranges, Grades, Rates Of Pay, And Regulations For Employees Of The City Of Centerville, be set for Public Hearing on January 24, 2005.
5. Ordinance Number 28-04, An Ordinance To Repeal Ordinance Number 30-03 In Its Entirety And To Establish Class Titles, Pay Ranges, Grades, Rates Of Pay, And Regulations For Employees Associated With The Food Service, Maintenance And/Or Golf Operations Of The Golf Club At Yankee Trace, City Of Centerville, Ohio, be set for Public Hearing on January 24, 2005.
6. Resolution Number 45-04, A Resolution Requesting An Advance Of Two Million Dollars (\$2,000,000.00) Out Of The Current Collection Of Real Estate, Personal Property and Estate Taxes Assessed And Collected On Behalf Of The City Of Centerville, be passed.
7. Resolution Number 46-04, A Resolution Authorizing The City Manager, On Behalf Of The City Of Centerville, To Execute An Agreement with Refco Securities, LLC and Multi-Bank Securities, Inc., be passed.
8. Resolution Number 47-04, 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, be passed.
9. Resolution Number 48-04, A Resolution Authorizing And Directing The City Manager To Take All Steps And Execute All Documents Necessary In Order To Effect The Purchase of .057 Acres Out Of An Original 1.899 Acre Tract Of The Real Property Located at 9505 Yankee Street, Centerville, Ohio, be passed.
10. Resolution Number 49-04, 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 Ingress And Egress Over Real Property Owned By W. Richard And Debra Teeters, be passed.

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11. Resolution Number 50-04, A Resolution Endorsing An Application To The Miami Valley Regional Planning Commission For Federal CMAQ Funds For The Upgrading Of The Intersection Of Alexandersville-Bellbrook Road (SR 725) And Main Street (SR 48) In The City Of Centerville, be passed.
12. Resolution Number 51-04, A Resolution Endorsing An Application To The Miami Valley Regional Planning Commission For Federal STP Funds For The Resurfacing Of Whipp Road Eastward From Far Hills Avenue To The City Of Kettering Corporation Limits, be passed.
13. Resolution Number 52-04, A Resolution Endorsing An Application To The Miami Valley Regional Planning Commission For Federal STP Funds For The Resurfacing Of Bigger Road From Alexandersville-Bellbrook Road Northward To The City Of Centerville/Kettering Corporation Limits, be passed.
14. Resolution Number 53-04, A Resolution To Authorize The City Manager To Extend The Contract With Altick & Corwin Co., L.P.A. For Legal Services, be passed.
15. Performance Bonds and Letters of Credit on the Following Sections in Yankee Trace, be released:
  - Yankee Trace, Section 4, subject to the receipt of a Maintenance Bond in the amount of \$1,000.00.
  - Yankee Trace, Section 20, subject to the receipt of a Maintenance Bond in the amount of \$7,000.00.
  - Yankee Trace, Section 22, subject to the receipt of a Maintenance Bond in the amount of \$4,000.00.
  - Yankee Trace, Section 23, subject to the receipt of a Maintenance Bond in the amount of \$3,000.00.
  - Yankee Trace, Section 24, subject to the receipt of a Maintenance Bond in the amount of \$16,000.00.
  - Yankee Trace, Section 30, subject to the receipt of a Maintenance Bond in the amount of \$10,000.00.
16. Christine Allen and Mark T. Taylor be appointed as members of the Centerville Arts Commission.
17. Patty Kraft and Mary Stockmyer be appointed as members of the City Beautiful Commission.
18. Sandra Baver be appointed as Chairman of the Sister City Committee for a period of one year.
19. Reappointments be made as follows:
  - Stephen Mikula to the Board of Tax Appeals.
  - Gina Tollefson to the Board of Tax Appeals.
  - Suzanne Holloway to the Sister City Committee.
  - John Spoor to the Sister City Committee.
  - James Wasson to the Centerville Property Review Commission.
  - Herbert Jacobs to the Centerville City School District Personnel Appeals Board.

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

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Jeffrey Stoneking, 94 Hampton Road, was present to bring Council's attention to school buses speeding on Davis Road and not stopping at stop signs; to the absence of hand rails along the front steps at Magsig Middle School; and to the type of videos available at the Centerville Library.

ORDINANCE NUMBER 20-04 SMOKE FREE

The Public Hearing was held concerning Ordinance Number 20-04. Mrs. Wilder gave a historical background relative to this proposed Ordinance to prohibit smoking in public places and places of employment. She outlined prohibitions, exemptions, posting of signs, enforcement, and penalties. The effective date of this Ordinance is April 4, 2005. Mrs. Wilder explained events which will take place during the next 90 days.

Mayor Kingseed explained the procedure to be followed during this Public Hearing.

Tom Kronauge, 1158 Sessions Drive, asked Council to protect everyone from second hand smoke.

John Cloud, 1834 Quail Hollow Road, representing the American Lung Association, believes that the proposed Ordinance does not send the correct message to neighboring Municipalities. He asked that Centerville pass an Ordinance such as the one passed in Columbus and approved by the electorate, which has also been passed by neighboring communities to Columbus. He asked for a much broader clean air Ordinance. Mr. Cloud cited legal problems which he foresees if this proposed Ordinance, as written, is passed.

Bob Troxell, 124 Virginia Avenue, spoke in opposition to the ban on smoking. It is freedom and choice; people should not have to be in adverse conditions in order to smoke. A smoke free environment should be the decision of the establishment.

Michelle Palmer, 10085 Atchison Road, does not believe smoking should be permitted in any type restaurant or the bowling alley. She is a bowler and would like a smoke free environment.

Patricia Reisinger Hale, 3815 Walnut Grove Lane, read a letter written by Alisa French, 361 South Village Drive, complimenting Dr. Gresham for leading City Council to promote good health for all citizens and children. She asked where the revisions to the original Ordinance came from. Ms. French believes that the proposed Ordinance is not a compromise, it is confusing, unfair and ineffective.

Ron Rentz, 911 South Main Street, expressed appreciation to City Council and Staff for all the time spent and work done to prepare this proposed Ordinance. They have listened to citizens and business owners.

Mary Ann Dodaro, 2056 Oak Tree Drive East, read a letter from Diane Butler-Hughes in which she asked Council to protect the lives of all citizens from second hand smoke and not to satisfy a small minority.

Adrian Rose, 104 Cushwa Drive, suggested that smoking be prohibited during the summer concert series at the Leonard E. Stubbs Memorial Park as well as at the Centerville Lanes bowling alley. He asked that the Ordinance, as it is currently written, not be passed.

Romila King, 2740 Sutton Avenue, representing the Public Health Professionals, Miami Valley Health Improvement Council and speaking as an advisor for the Montgomery County Stand Team, explained that Stand is a grass roots youth marketing campaign that helps the Ohio Stand Team spread awareness of the deadly effects of second hand smoke. She offered statistics

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relative to deaths each year caused by second hand smoke. Ms. King read comments received from youths of Stand. She asked that an Ordinance be passed such as the one passed in Columbus.

Paula Reed, 2268 Capistrano Drive, representing the American Cancer Society, advised that they cannot support the proposed Ordinance now being considered. She questioned who City Council is protecting, they have made the wrong choice.

Eric Finch, 1500 Thomas Farm Court, explained how he went to the bowling alley for a school project, and was exposed to second hand smoke.

Greg Wise, 4300 Delco Dell Road, a Board Member of the American Cancer Society and of the Metro YMCA, believes the proposed Ordinance is wrong, it protects the bars rather than residents of Centerville. Smoke Free Centerville opposes the Ordinance in its present form.

William Hemmert, 6421 Kings Grant Passage, owner of Elsa's Restaurant in Centerville, pointed out that the City of Columbus first acted on this type of legislation and suburbs followed through; the City of Dayton chose not to take this subject on; Centerville, after considering all aspects, has prepared an Ordinance which is fair to all. Mr. Hemmert explained what they intend to do in the restaurant to respond to the community.

Christian Brill, representing the American Heart Association, believes the proposed Ordinance does not protect the people of Centerville. He offered statistics relative to deaths caused by second hand smoke. They cannot and will not support a status quo.

John Bradosky, 388 Yankee Trace Drive, hopes that some of the good reasoning brought forth has not gone up in smoke. He does not believe that there should be exemptions.

Pete Flaherty, 30 Bradstreet Road, sees this as a prohibition law. He asked Council to stand up for the rights of businesses to operate as they see fit, give people freedom of choice, and vote no on any kind of a smoking ban.

David Ganim, 40 S. Perry Street, with the American Cancer Society, questioned why Centerville, Ohio, can't go smoke free. He asked for a stronger policy.

Tracy Carson, 24 N. Jefferson Street, Tobacco Free Ohio, stated their disappointment with the outcome of a smoke free Ordinance. She recommended that the 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> Whereases be deleted from the Ordinance since they no longer apply. She listed reasons why this proposed Ordinance will be impossible to enforce. The Ordinance does not protect people's health.

Mr. Corbin pointed out that Council has responded to just 1 percent of businesses in Centerville. He stated his reluctance to pass an Ordinance to put establishments out of business or even injure them badly. City Council is concerned for the children, the residents and businesses in the City of Centerville.

In answer to questions of Mrs. Lienesch, Mr. Liberman advised that the subject of smoke free legislation can come up at any time in the future. If it is determined that a business does not qualify for an exemption, an investigation will take place by the Police Department and information will be requested to determine whether a violation has occurred.

Mayor Kingseed explained the process which has taken place over the past nine or ten months relative to this issue. Council has answered E-mails and phone calls; they have been responsive to citizens as well as to establishments which could be put out of business with a 100% ban on smoking. He pointed out that 99% of the establishments in this community will be affected by the passage of the proposed Ordinance; this is not a weak Ordinance. Mayor Kingseed encouraged organizations to focus on a statewide ban on second hand smoke.

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Mr. Cline pointed out that Centerville is in a unique situation being surrounded by urban Townships where smoking is permitted. He expressed appreciation for comments made on both sides of the issue. Mr. Cline believes passage of the proposed Ordinance is the most appropriate step for Council to take at this time.

Mr. Singer stated his support for this compromise; he questioned why people are unhappy with a 99% ban on smoking. He pointed out that this compromise protects the vast majority of Centerville residents, and emphasized the fact that no new business will come to Centerville with a smoking environment.

Mr. Compton stated his willingness to take the chance that information on the affidavit is the truth. Municipalities differ; he believes that the legislation being considered for Centerville is in the best interest of everyone.

Mr. Cline sponsored Ordinance Number 20-04, An Ordinance Prohibiting Smoking In Public Places And Places Of Employment In The City Of Centerville, Ohio, be amended as follows:

Section 6 (A): Add after place of employment, "other than a vehicle".

Section 6 (B): Add after place of employment, "other than a vehicle".

Section 6 (C): Add after prohibited by this Ordinance, "other than a vehicle".

Section 9 (A) (2): Remove "no portion of which may be suspended".

Section 9 (A) (3): Remove "no portion of which may be suspended".

Section 9 (B) (1): Remove "no portion of which may be suspended".

Section 9 (B) (3): Remove "no portion of which may be suspended".

Section 7 Enforcement: Change to read "This Ordinance shall be enforced by the Centerville Police Department."

Mr. Corbin seconded the motion on the amendment. A roll call vote resulted in six ayes in favor of the motion. Mr. Cline moved that the Ordinance be passed as amended. Mr. Corbin seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

## ORDINANCE NUMBER 13-04 ADOPT ELECTRIC CODE

The Public Hearing was held concerning Ordinance Number 13-04. Mr. James reviewed three Ordinances to amend Part Fourteen, Building and Housing Code, of the Centerville Municipal Code. Ordinance Number 13-04 and Ordinance Number 14-04 are updates to the Building and Housing Code to keep Centerville consistent with Building Departments in the surrounding area. The Building and Housing Code is updated every three years. Ordinance Number 16-04 eliminates the requirement that a surety bond be filed with the City and increases the registration fee to \$100.00. Contractors are required to post a surety bond with the State of Ohio. Mr. Corbin sponsored Ordinance Number 13-04, An Ordinance Amending The Centerville Municipal Code, Part 14 Building And Housing Code, Chapter 1424 National Electrical Code, And Adopting The 2005 Electric Code-NFPA 70-2005 By Reference, and moved that it be passed. Mr. Cline seconded the motion. The motion passed by unanimous vote.

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## ORDINANCE NUMBER 14-04, AMEND RESIDENTIAL CODE

The Public Hearing was held concerning Ordinance Number 14-04. Mr. Cline sponsored Ordinance Number 14-04, An Ordinance Amending The Centerville Municipal Code, Chapter 1422 To Adopt The Residential Code Of Ohio For One, Two And Three Family Dwellings 2004 Edition, Including Appendix J And Local Amendments, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote.

## ORDINANCE NUMBER 16-04 ELIMINATE BOND, INCREASE REGISTRATION FEE

The Public Hearing was held concerning Ordinance Number 16-04. Mr. Compton questioned how the State of Ohio tracts their bond requirement. Mr. James explained that contractors are required to be licensed with the State. Plans would not be approved if the contractor was not licensed. Mr. Compton expressed concern whether the City would be aware if a contractor was not licensed or the license had been revoked, and how the City would obtain information if a contractor did not have a current license. Mr. Liberman will review to determine why the City requires a bond and whether the City could draw on the bond if that became necessary on behalf of a property owner. For at least twenty-five years, the City has not drawn on a bond. Mr. Corbin sponsored Ordinance Number 16-04, An Ordinance Amending Chapter 1444 Of The Centerville Municipal Code To Eliminate The Bond Requirement, To Adjust The Registration Fee And To Make Other Administrative Changes, and moved that it be passed. Mr. Cline seconded the motion. The motion passed unanimously.

## ORDINANCE NUMBER 18-04 GOLF FEES

The Public Hearing was held concerning Ordinance Number 18-04. Mr. Cline sponsored Ordinance Number 18-04, An Ordinance To Amend Ordinance Number 23-03, Adopting All Fees Associated With The Golf Club At Yankee Trace And Providing Compensation For Golf Professionals, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote.

Joseph Koussa, 1537 Beaver creek Lane, asked that troops come home safely and that motorists save on the use of gasoline. He congratulated City Council for being the leader on a smoking ban.

## ORDINANCE NUMBER 21-04 2004 APPROPRIATIONS

Mr. Horn explained an Ordinance to amend Appropriations for 2004 from a grand total of \$26,712,169 to \$25,677,999. Mrs. Lienesch sponsored Ordinance Number 21-04, An Emergency Ordinance To Amend Ordinance 26-03 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, 2004, and moved that it be passed. Mr. Corbin seconded the motion. The motion passed unanimously.



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## ORDINANCE NUMBER 23-04 2005 APPROPRIATIONS

Mr. Horn reviewed Appropriations for 2005 with a grand total of \$30,454,978. Mr. Singer sponsored Ordinance Number 21-04, An Emergency Ordinance To Make Appropriations For The Current Expenses And Other Expenditures Of The City Of Centerville, State Of Ohio, During The Fiscal Year Ended December, 2005, and moved that it be passed. Mr. Cline seconded the motion. The motion passed unanimously.

## ORDINANCE NUMBER 25-04 AMEND PERSONNEL MANUALS

Mr. Horn explained an Ordinance to make changes to the Personnel Manuals for employees of the City of Centerville relating to benefits. Mr. Corbin sponsored Ordinance Number 25-04, An Emergency Ordinance Amending The Personnel Manuals Of The City Of Centerville, and moved that it be passed. Mr. Cline seconded the motion. The motion passed by unanimous vote.

## ORDINANCE NUMBER 27-04 CITY PERSONNEL

Mr. Horn reviewed an Ordinance to establish rates of pay and regulations for employees of the City of Centerville. Mrs. Lienesch sponsored Ordinance Number 27-04, An Emergency Ordinance To Repeal Ordinance Number 28-03 In Its Entirety And To Establish Class Titles, Pay Ranges, Grades, Rates Of Pay, And Regulations For Employees Of The City Of Centerville, and moved that it be passed. Mr. Cline seconded the motion. The motion passed by unanimous vote.

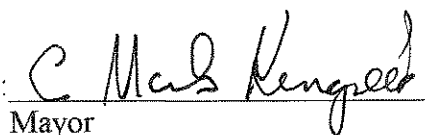
## ORDINANCE NUMBER 29-04 YANKEE TRACE PERSONNEL

Mr. Horn reviewed an Ordinance to establish rates of pay and regulations for employees at Yankee Trace. Mr. Cline sponsored Ordinance Number 29-04, An Emergency Ordinance To Repeal Ordinance Number 30-03 In Its Entirety And To Establish Class Titles, Pay Ranges, Grades, Rates Of Pay, And Regulations For Employees Associated With The Food Service, Maintenance And/Or Golf Operations Of The Golf Club At Yankee Trace, City Of Centerville, Ohio, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed unanimously.

There being no further business, the meeting was adjourned.

Approved:

Mayor



ATTEST:


  
Clerk of Council