

RECORD OF PROCEEDINGS

Minutes of *COUNCIL*

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held *January 27,*20 *03*

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, January 27, 2003, 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 Sally Beals presiding. Councilmembers and City Staff present were as follows:

Deputy-Mayor C. Mark Kingseed

Councilmembers James Singer

Roger Krass

Susan Lienesch

Paul Gresham

Douglas Cline

Clerk of Council Marilyn McLaughlin

Assistant Clerk of Council Debra James

City Manager Gregory Horn

Assistant City Manager Judith Gilleland

City Planner Steve Feverston

Finance Director Mark Schlagheck

Economic Development Administrator Chris Pozzuto

Public Works Director Robert James

Assistant to the City Manager Jesse Lightle

Acting Municipal Attorney Scott Liberman

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

Council Meetings - December 16, 2002.

- December 23, 2002.

Work Session Meetings - December 16, 2002

- January 6, 2003.

- January 13, 2003.

Joint Centerville/Kettering Meeting - January 20, 2003.

Mr. Kingseed moved that the minutes of the foregoing meetings be approved, as distributed. Dr. Gresham seconded the motion. The motion passed unanimously; however, Mr. Singer abstained from the minutes of the meetings held January 6 and January 20, 2003, and Mayor Beals abstained from the minutes of meetings held December 23, 2002 and January 20, 2003.

Mrs. McLaughlin announced the receipt of a letter of resignation from Centerville Arts Commission member Karrie Parrett. Mr. Cline moved that the resignation of Karrie Parrett be accepted, with regret. Mr. Krass seconded the motion. The motion passed by unanimous vote.

Mayor Beals administered the Oath of Office to Centerville Arts Commission member Judy Harris-Wright.

Mayor Beals sent condolences to the family of Peggy Gabbard, a deceased City employee in the Finance Department.

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Mayor Beals also sent condolences to the City of Miamisburg upon the loss of historic Peerless Mill.

Mayor Beals gave the "State Of The City" address outlining events which took place in the year 2002, the many accomplishments made by the City of Centerville, awards given to City employees, new businesses that opened their doors in the City of Centerville, and outlined on-going projects by the City.

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

Sympathy was expressed to the family of Peggy Gabbard.

Appreciation was expressed to the City of Centerville street crews for their extraordinary work during recent snow falls.

The Mayor's Business Breakfast will be held on Wednesday, February 12, 2003 at 7:30 A.M. at Yankee Trace.

The Annual Report for the City of Centerville is near completion and will be mailed to residents soon.

Mr. Horn asked residents and businesses to keep sidewalks open and clear when clearing driveways and other areas from snow.

Miss Gilleland outlined code violations and resolutions for the month of December, 2002, as well as the community calendar for the coming month.

Mr. Cline gave an update on the activity of the Joint Long Range Comprehensive Plan Steering Committee. They are currently gathering technical data from specialists on various aspects to set goals in February, 2003 for presentation to Public Officials in March and then to the public. Mr. Cline encouraged all to stay involved in this process. The target date for completion is Thanksgiving of 2003.

ELC-SV-LLC APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by ELC-SV-LLC for property located at the southeast corner of Far Hills Avenue and Fireside Drive, against a decision rendered by the Planning Commission during their meeting on Tuesday, December 10, 2002, to deny a Variance Application for the erection of an off premise sign. Mr. Horn explained that the owners of the apartment complex in the area have asked for an off premise sign. However, at this time, the managers of the apartments have asked that this matter be tabled until the February 17, 2003 Council Meeting. Mr. Singer moved that the Appeal filed by ELC-SV-LLC against a decision rendered by the Planning Commission to deny a Variance Application for the erection of an off premise sign at the southeast corner of Far Hills Avenue and Fireside Drive be tabled until February 17, 2003. Mr. Kingseed seconded the motion. The motion passed by unanimous vote.

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ORDINANCE NUMBER 17-02 ZONING ORDINANCE AMENDMENT
MICHAEL LEMASTER REZONING

The Public Hearing was held concerning a Rezoning Request filed by Michael LeMaster for property owned by RETS Tech Center Company, Inc., located at 595 East Alexandersville-Bellbrook Road. Requested is a change in zoning for 1.567 acres of land from B-PD, Business-Planned Development to R-PD, Residential-Planned Development. Mr. Feverston reviewed this Rezoning Request and located the subject property on a map. The residence on this property has been designated as a Landmark. Mr. Feverston identified adjacent zone classifications and land uses. The Planning Commission, by unanimous vote, recommended approval of this Rezoning Request to City Council subject to approval of a Variance to allow the building, and parking and paving setbacks of Interstate Executive Center created by the rezoning to be legal. The Variances for the building, parking and paving setbacks were approved by the Planning Commission in January, 2003.

Charles Allbery, Attorney representing Michael LeMaster, outlined how the residence has been remodeled to be used as a residential home. A residence is not a permitted use according to the present zone classification. The use as a residence is the highest and best use of the property in question. Access to this property is off Versailles Drive.

In answer to questions of Mrs. Lienesch, Mr. Feverston identified adjacent zone classifications and explained why this zoning change provides for a better use of this historic structure considering the fact that this structure has been a residence; it is a designated landmark and can be better maintained as a residence. The highest and best use is determined by the location of the land in question. Mr. Feverston identified the location of the access to the property off Versailles Drive. Mr. Kingseed pointed out that the R-PD zone designation is the same as properties to the north and east and will have less impact upon those properties with R-PD zoning.

Mr. Kingseed sponsored Ordinance Number 17-02, An Ordinance Amending Ordinance Number 11-86 Dated July 21, 1986, The Zoning Ordinance By Rezoning 1.567 Acres, More Or Less, From Centerville B-PD, Business-Planned Development Classification To R-PD, Residential-Planned Development, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed with six ayes in favor of the motion; Mrs. Lienesch voted no.

ORDINANCE NUMBER 20-02 2003 APPROPRIATIONS

The Public Hearing was held concerning Ordinance Number 20-02. Mr. Horn reviewed the proposed budget for the year 2003 with an estimated beginning balance of \$15,233,231 and an ending balance of \$12,590,031. Mr. Schlagheck outlined the different revenue sources for the City. Mr. Horn explained expenditures for the coming fiscal year in the various categories and Capital Improvement items for 2003.

Upon questions of Christine Nystrom, 6581 Atterbury Court, Mr. Horn explained that medical and dental coverage as well as life insurance is paid 100 percent for employees in the traditional functions of government while a different plan has been designed for employees at Yankee Trace. Mr. Schlagheck clarified the increase in expenditures for the City Beautiful Commission as contained in the 2003 budget, having been designated for the Arbor Day celebration and the Heritage Tree Program which is part of the 2003 Centennial of Flight

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celebration. He explained that monies in the Legal Department Fund are for costs incurred by the use of the Kettering Municipal Court, prosecution services and any other legal services required during the year. Mr. Krass sponsored Ordinance Number 20-02, 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, 2003, and moved that it be passed. Mr. Kingseed seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 22-02 CITY PERSONNEL

The Public Hearing was held concerning Ordinance Number 22-02. Miss Gilleland reviewed proposed changes to pay ranges, grades, rates of pay and regulations for employees of the City of Centerville and employees at Yankee Trace. Minor pay revisions have been made in certain categories. Increases have also been made in the Employee Merit and Longevity Program, and a 3.5 percent cost of living increase is included in the Personnel Ordinances for certain employees. Some minor changes are proposed to be made in the Personnel Manuals for both classes of employees. Mr. Cline sponsored Ordinance Number 22-02, An Ordinance To Repeal Ordinance Number 37-01 In Its Entirety And To Establish Class Titles, Pay Ranges, Grades, Rates Of Pay, And Regulations For Employees Of The City Of Centerville, Ohio, and moved that it be passed. Mr. Krass seconded the motion. The motion passed by unanimous vote of City Council.

ORDINANCE NUMBER 24-02 YANKEE TRACE PERSONNEL

The Public Hearing was held concerning Ordinance Number 24-02. Mr. Kingseed sponsored Ordinance Number 24-02, An Ordinance To Repeal Ordinance Number 39-01 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. Dr. Gresham seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 26-02 PERSONNEL MANUALS

The Public Hearing was held concerning Ordinance Number 26-02. Mrs. Lienesch sponsored Ordinance Number 26-02, An ~~Emergency~~ Ordinance Amending The Personnel Manuals Of The City Of Centerville, and moved that it be passed. Mr. Krass seconded the motion. The motion passed by unanimous vote.

John McIntire, McIntire Corporation, 70 West Franklin Street, stated his impression that City Council has lost focus on basic services; the City is competing with businesses. He outlined services which he believes the City could be providing their residents. Mr. Horn listed the many services that are provided to residents of Centerville and current projects which are underway. He stated the reasons for these projects and the reasons the City of Centerville does not provide certain services.

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Robert Corbin, 6388 Pebble Court, reviewed how well, in his opinion, Mayor Beals conducted the Council Meeting held on June 24, 2002 and pointed out that Council followed the law in making their decision relative to the Voss auto body facility on Loop Road.

Madeline Breslin, 178 Poinciana Drive, asked Council to consider the passage of a Resolution against an unprovoked and pre-emptive war on Iraq. She furnished Council with a copy of a Resolution passed by the City of Chicago, Illinois, and numerous other Municipalities across the United States.

Rodney Miller, 320 South Village Drive, stated opposition to comments made by Mr. Corbin.

Jack Kindler, 9791 Greenside Court, brought attention to Section 4.05 in the Centerville Charter which cites reasons for the forfeiture of office.

ORDINANCE NUMBER 01-03 NATURAL GAS AGGREGATION

Mr. Horn explained that voters can now choose utility aggregation for their Municipalities as a way to perhaps save money on their utility bills. Miss Gilleland advised that Ordinances have been prepared for electric and natural gas aggregation to cause the question to be placed on the May, 2003 election ballot. Aggregation allows consumers to pool usage and to form a buying group. Local governments can become aggregators for their residents by the passage of a ballot initiative in their Municipality. Passage of this legislation puts the City of Centerville in a proactive position. Miss Gilleland explained that the City of Centerville does not plan to enact the aggregation rights unless there is significant savings to the residents. Even if the City enacts aggregation, citizens may opt-out and purchase service on their own. Mr. Horn reported that residents will receive additional information concerning the Municipal Aggregation of utilities and the choice they will have on May 6, 2003. Mr. Singer sponsored Ordinance Number 01-03, An Emergency Ordinance To Facilitate Competitive Retail Natural Gas Service To Promote Natural Gas Savings, Lower Cost Natural Gas Supplies And Other Benefits For Certain Natural Gas Consumers, Authorizing All Actions Necessary To Effect An Opt-Out Natural Gas Aggregation Program Pursuant To Section 4929.26 Of The Ohio Revised Code And Article XVIII Section 4 Of The Ohio Constitution; Directing The Montgomery County Board of Elections To Submit A Ballot Question To The Electors; And Authorizing An Agreement With An Agent For Such Purposes, and moved that it be passed. Mr. Cline seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 02-03 NATURAL GAS AGGREGATION

Mr. Kingseed moved that Ordinance Number 02-03, An Ordinance To Facilitate Competitive Retail Natural Gas Service To Promote Natural Gas Savings, Lower Cost Natural Gas Supplies And Other Benefits For Certain Natural Gas Consumers, Authorizing All Actions Necessary To Effect An Opt-Out Natural Gas Aggregation Program Pursuant To Section 4929.26 Of The Ohio Revised Code And Article XVIII Section 4 Of The Ohio Constitution; Directing The Montgomery County Board of Elections To Submit A Ballot Question To The

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Electors; And Authorizing An Agreement With An Agent For Such Purposes, be set for Public Hearing on February 17, 2003. Mr. Cline seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 03-03 ELECTRIC AGGREGATION

Mr. Singer sponsored Ordinance Number 03-03, An Emergency Ordinance To Facilitate Competitive Retail Electric Service To Promote Electrical Savings, Lower Cost Electricity Supplies And Other Benefits For Certain Electricity Consumers, Authorizing All Actions Necessary To Effect An Electric Aggregation Program Pursuant To Section 4928.20 Of The Ohio Revised Code And Article XVIII Section 4 Of The Ohio Constitution; Directing The Montgomery County Board of Elections To Submit A Ballot Question To The Electors; And Authorizing An Agreement With An Agent For Such Purposes, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 04-03 ELECTRIC AGGREGATION

Mr. Cline emphasized the fact that this puts the City of Centerville in a pro-active position, so that if prices rise, aggregation legislation is in place. He explained that there are positive measures Municipal Aggregation of utilities can provide customers and that passage of these Ordinances is the first step in the process. Mayor Beals pointed out that these Ordinances are enabling legislation to be in place if and when aggregation would be of an advantage to the residents. Dr. Gresham moved that Ordinance Number 04-03, An Ordinance To Facilitate Competitive Retail Electric Service To Promote Electrical Savings, Lower Cost Electricity Supplies And Other Benefits For Certain Electricity Consumers, Authorizing All Actions Necessary To Effect An Electric Aggregation Program Pursuant To Section 4928.20 Of The Ohio Revised Code And Article XVIII Section 4 Of The Ohio Constitution; Directing The Montgomery County Board of Elections To Submit A Ballot Question To The Electors; And Authorizing An Agreement With An Agent For Such Purposes, be set for Public Hearing on February 17, 2003. Mr. Kingseed seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 05-03 DISPOSE OF UNCLAIMED PROPERTY

Mr. Horn reviewed a proposed Ordinance to provide for the disposition of unclaimed bicycles and bicycle parts that have been in the possession of the Centerville Police Department for ninety days or more by contributing them to an agency rather than selling them at public auction. Mrs. Lienesch moved that Ordinance Number 05-03, An Ordinance Permitting The Chief Of Police To Contribute Certain Property That Is Unclaimed For Ninety Days Or More To One Or More Public Agencies, To One Or More Nonprofit Organizations Or To One Or More Organizations Satisfying Section 501(c)(3) Or (C)(19) Of The Internal Revenue Code of 1986 All As Permitted By Section 737.32 Ohio Revised Code, be set for Public Hearing on February 17, 2003. Mr. Cline seconded the motion. The motion passed unanimously.

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ORDINANCE NUMBER 06-03 REVOKE STREET PRIVILEGES

Mr. James reviewed a proposed Ordinance to provide better control of the supervision, inspection and revocable street privileges. This Ordinance allows the City to permit private improvements such as fences, sprinkler systems, lighting systems, sheds, invisible dog fences, etc. to be constructed within the public right-of-way on a controlled basis. It also provides the City Manager the authority to revoke a street privilege if such action becomes necessary for the public interest, safety and welfare. Mr. Krass moved that Ordinance Number 06-03, An Ordinance Enacting Sections 1020.03 Through 1020.08 Of The Centerville Municipal Code To Permit The Issuing And Control Of Revocable Street Privileges, be set for Public Hearing on February 17, 2003. Mr. Cline seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 07-03 BENHAM'S GROVE RATES

Mr. Kingseed moved that Ordinance Number 07-03, An Ordinance To Amend Ordinance Number 23-93, To Establish Fees And Charges For The Rental Of Facilities At Benham's Grove, be set for Public Hearing on February 17, 2003. Dr. Gresham seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 01-03 PUBLIC DEFENDER

Mr. Horn reviewed a proposed Resolution, annually passed, to provide for legal services by the Law Office of the Montgomery County Public Defender for indigent persons charged with offences against Centerville Ordinances. The cost to the City of Centerville for these services are based upon a per case basis. Mr. Singer sponsored Resolution Number 01-03, A Resolution Authorizing And Directing The City Manager To Enter Into A Contract 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, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote of City Council.

RESOLUTION NUMBER 02-03 ELECTRICAL INSPECTION SERVICES

Mr. James reviewed a proposed Resolution to update the Agreement and to adjust the fees paid to Henry K. Schindler for electrical inspection services. The City has utilized Mr. Schindler's services as back-up since 1997. Mr. Krass sponsored Resolution Number 02-03, A Resolution Authorizing The City Manager, On Behalf Of The City Of Centerville, To Enter Into An Agreement With Henry K. Schindler For Electrical Inspection Services, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 03-03 PLAN EXAMINATION SERVICES

Mr. James reviewed a proposed Resolution to provide for the updating of the Agreement and to adjust fees paid to Philip Wertz for the review and examination of commercial building plans for the City of Centerville. Mr. Wertz has provided these services when the need arises

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since 2001. Dr. Gresham sponsored Resolution Number 03-03, A Resolution Authorizing The City Manager, On Behalf Of The City Of Centerville, To Enter Into An Agreement With Philip Wertz For Plan Examination, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote.

RESOLUTION NUMBER 04-03 INTERGOVERNMENTAL AGREEMENT AUSTIN ROAD INTERCHANGE AREA

Mr. Pozzuto explained a proposed Resolution to authorize the City Manager to execute an Intergovernmental Agreement to provide for the hiring of a consultant to do Land Use Planning in and around the proposed Austin Road Interchange area. This project is being coordinated by the Montgomery County Transportation Improvement District. It has three component parts: Comprehensive Land Use, Infrastructure, and Financing. This project will be fully funded through a Montgomery County ED/GE grant. Mr. Cline sponsored Ordinance Number 04-03, A Resolution Authorizing The City Manager To Execute An Intergovernmental Agreement, Between The City Of Centerville, City Of Miamisburg, Miami Township, City Of Springboro, Washington Township And The Montgomery County Transportation Improvement District For The Austin Road Interchange Land Use And Development Plan, and moved that it be passed. Mr. Krass seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 05-03 PUBLIC WORKS UNIFORMS

Mr. James advised that the Public Works Department is at the end of a two year contract with Aramark Uniform Services to provide uniforms for employees in the street, refuse, vehicle maintenance and horticulture divisions. Bids were received from three companies with Aramark being the low bidder with a bid price of \$13,776.88 for a two year period. Based upon the low bid submitted by Aramark and the quality of service they have provided for the past two years, Mr. James recommended acceptance of said bid. Mr. Cline sponsored Resolution Number 05-03, A Resolution Accepting The Bid Submitted By Aramark Uniform Services For Uniforms For The City Of Centerville Public Works Department And To Authorize The City Manager To Enter Into A Contract In Connection Therewith, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote.

CENTERVILLE ARTS COMMISSION APPOINT JUDY DAVIS

Mrs. Lienesch moved that Judy Davis be appointed as a member of the Centerville Arts Commission. Dr. Gresham seconded the motion. The motion passed unanimously.

SISTER CITY COMMITTEE APPOINT LINDA BAILEY

Dr. Gresham moved that Linda Bailey be appointed as a member of the Sister City Committee for the City of Centerville. Mr. Cline seconded the motion. The motion passed by unanimous vote.

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SISTER CITY COMMITTEE APPOINT FREDRICK HESS

Mr. Kingseed moved that Fredrick Hess be appointed as a member of the Sister City Committee for the City of Centerville. Mr. Cline seconded the motion. The motion passed unanimously.

PERSONNEL APPEALS BOARD APPOINT JIM MCINTYRE

Mr. Cline moved that Jim McIntyre be appointed as a member of the Personnel Appeals Board for the City of Centerville. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote.

Mrs. Lienesch brought attention to the lack of proper identification on a recent telecast by the Miami Valley Communications Council. Mr. Horn will follow through on this concern.

There being no further business, the meeting was adjourned.

Approved: *Billy D. Beals*
Mayor

ATTEST: *Maile J. ...*
Clerk of Council