

**RECORD OF PROCEEDINGS**Minutes of *COUNCIL*

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held *February 17*20 *03*

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, February 17, 2003, 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 530 with Mayor Sally Beals presiding. Scouts individually introduced themselves to the listening audience. 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

Finance Director Mark Schlagheck

Economic Development Administrator Chris Pozzuto

Public Works Director Robert James

Chief of Police Steve Walker

City Engineer Norbert Hoffman

Public Works Operations Manager Mary Lou Pence

Municipal Attorney Robert Farquhar

Assistant to the City Manager Jesse Lightle

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

Council Meeting - January 27, 2003.

Work Session Meetings - January 27, 2003.

- February 3, 2003.

- February 10, 2003.

Mr. Krass moved that the minutes of the foregoing meetings be approved, as distributed. Dr. Gresham seconded the motion. The motion passed unanimously.

Mayor Beals presented a check as Centerville's financial support to Americana Festival, Inc. representatives: Chairman Joseph Beyerle and President Robert Romond.

Chief Walker presented Citizen Awards to:

Bradley Pummell, a five year old boy who called his mother when his grandfather was having a medical emergency and turned off the burner on the stove where food was cooking.

Edward Galaska, followed a bank robber which enabled the police department to make an arrest.

Mayor Beals administered the Oath of Office to Personnel Appeals Board member Jim McIntyre, to Sister City Committee member Fredrick Hess, and to Centerville Arts Commission member Judy Davis.

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Mayor Beals announced the following events which took place during the past month and will take place during the coming weeks:

The City of Centerville received a plaque in appreciation from the Ohio River Road Runners Club for the 36<sup>th</sup> Annual Frostbite five mile race run in Centerville on February 9, 2003.

A ribbon cutting took place at Giovanni's Italian Restaurant, 298 North Main Street on January 24, 2003.

A ribbon cutting also took place at Piece by Piece Home and Office Outfitters, 890 South Main Street on February 6, 2003.

Appreciation was expressed to Public Works employees for their hard work and overtime during the continuing winter snow storm.

The 2003 NLC Annual Congressional City Conference will be held March 7 - 11, 2003 to which several members of City Council will be attending.

A Proclamation has been issued designating April 27 - May 4, 2003 as Days of Remembrance in the City of Centerville remembering the victims of the German Holocaust during World War II.

The electorate was reminded to vote on Tuesday, February 25, 2003.

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

Appreciation was expressed to the City street and waste crews for their hard work the past several days during the winter snow storm.

A meeting of representatives from various entities in Centerville and Washington Township was held on Friday, February 14, 2003 to review homeland security issues as part of the nationwide system. Procedures were discussed if a disaster would occur. Representatives are revisiting their Emergency Operation Center responsibilities.

Mr. Pozzuto outlined Bills and Resolutions being considered by the Ohio General Assembly and on the Federal level.

Miss Gilleland outlined code violations and resolutions for the month of January, 2003, as well as the community calendar for the coming month.

In answer to a question of Mr. Singer, Mr. Horn explained that the Emergency Operation Centers are the Centerville Police facility and the Washington Township Fire Headquarters on McEwen Road. These Centers are fully equipped with necessities in case of an emergency.

## ELC-SV-LLC APPEAL TO COUNCIL

Mr. Kingseed moved that 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, be removed from the table. Dr. Gresham seconded the motion. The motion passed unanimously. Mr. Cline moved that the 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, be

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tabled. Dr. Gresham seconded the motion. The motion passed by unanimous vote.

## ORDINANCE NUMBER 02-03 NATURAL GAS AGGREGATION

The Public Hearing was held concerning Ordinance Number 02-03. Miss Gilleland explained Ordinance Number 02-03 and Ordinance Number 04-03, legislation which provide for utility aggregation. Aggregation allows consumers to pool usage to form a buying group. The aggregator can be a small group, a local government or a group of local governments. Through aggregation there could be a reduction in costs to the consumer. In order for a government to serve as the aggregator, the question must be a ballot issue. These Ordinances place the question of natural gas and electricity on the May election ballot so that residents can decide whether the City should be an aggregator. Miss Gilleland advised that the City will not enact aggregation unless there is a significant savings to the residents. Placing these issues on the May election ballot puts the City in a pro-active position.

Tom Bellish, President of Buckeye Energy Brokers, explained the process which the City will go through after the May election if aggregation is approved. He outlined the success with deregulation which has been experienced in the northern part of the State of Ohio.

Kent Bristol, Executive Director of Miami Valley Communications Council, pointed out that the City, by becoming the aggregator, can protect the residents from adverse effects of a piece of legislation written without the people in the southern part of the State in mind. Aggregation in this area will probably not save the consumers a lot of money. Mr. Bristol supports regional cooperation in this endeavor, the larger the pool the better it will be for the consumer.

Bob Stallman, Dayton Power and Light Energy Resources, advised that aggregation has generally been used in the northern part of the State. Consumers are experiencing some reduction in costs. He believes that this action by City Council is the best for the community.

In answer to a question of Mr. Kingseed, Mr. Horn advised that several neighboring jurisdictions are placing aggregation on the May ballot. The City will only move forward if the market is right.

Mr. Singer sponsored 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 Electors; And Authorizing An Agreement With An Agent For Such Purposes, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed unanimously.

## ORDINANCE NUMBER 04-03 ELECTRIC AGGREGATION

The Public Hearing was held concerning Ordinance Number 04-03. Mr. Horn pointed out that Centerville is not severing its relationship with the Dayton Power and Light Company or Vectren with this action. This is merely enabling legislation. Dr. Gresham sponsored 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,

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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. Mr. Cline seconded the motion. The motion passed by unanimous vote.

### ORDINANCE NUMBER 05-03 DISPOSE OF UNCLAIMED PROPERTY

The Public Hearing was held concerning Ordinance Number 05-03. Mr. Horn reviewed this 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 a 501(c)(3) or (c)(19) organization rather than selling them at public auction. Mr. Krass sponsored 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, and moved that it be passed. Mr. Kingseed seconded the motion. The motion passed unanimously.

### ORDINANCE NUMBER 06-03 REVOKE STREET PRIVILEGES

The Public Hearing was held concerning Ordinance Number 06-03. Mr. James reviewed this proposed Ordinance which allows the City to issue a revocable privilege permit to an individual property owner and will serve as a tool to better manage public right-of-way. It will permit the installation of private improvements, such as fences, sprinkler systems, lighting systems, sheds, invisible dog fences, etc. within the public right-of-way on a controlled basis. The Ordinance 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 sponsored 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, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed by unanimous vote.

### ORDINANCE NUMBER 07-03 BENHAM'S GROVE RATES

The Public Hearing was held concerning Ordinance Number 07-03. Miss Lightle outlined proposed changes to rates charged for the rental of facilities at Benham's Grove. Rates were not increased in 2002. These increases will not impact the budget for Benham's Grove until the year 2004 and will only apply from May 1 to October 31. Miss Lightle pointed out that these increases are necessary to help offset costs each year. The rates proposed by this Ordinance are compatible with those of Polen Farm in Kettering. Mr. Cline sponsored 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, and moved that it be passed. Dr. Gresham seconded the motion. The motion passed unanimously.

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Rodney Miller, 320 South Village Drive, questioned whether contracts have been executed for the City's purchase of two properties in the center of town and whether title had been taken on them. Mr. Horn advised that title has been taken on the buildings owned by Charles Earley and James Patterson and a lease has also been assigned to the City for the parking lot located just west of the Earley building. Financial appraisals were completed prior to the purchase and the historical appraisal on the Patterson building will now be before the Board of Architectural Review for a recommendation. Environmental studies have been made. Mr. Pozzuto advised that the cost to purchase these two properties totaled \$633,302.00. Mr. Horn advised that there is a purchase option by Graeter's for the property located on the northeast corner at Main and Franklin Streets.

RESOLUTION NUMBER 06-03 EASEMENT TO MONTGOMERY COUNTY

Mr. Horn advised that in order for Great Traditions Land and Development Company to extend sanitary sewer and water to the residential areas east of Paragon Road in Yankee Trace, an easement needs to be granted to Montgomery County across land owned by the City of Centerville. He explained the location of said easement. Mr. Cline sponsored Resolution Number 06-03, A Resolution Authorizing The City Manager To Grant An Easement, On Behalf Of The City Of Centerville, To The Board Of County Commissioners Of Montgomery County, Ohio, For Sanitary Sewer Construction And The Extension Of A Water Line Through Property Owned By The City Of Centerville, and moved that it be passed. Mr. Krass seconded the motion. The motion passed by unanimous vote.

RESOLUTION NUMBER 07-03 STORM WATER CONTROL

Mr. James reviewed a proposed Resolution to authorize the City Manager to apply for National Pollutant Discharge Elimination System permit coverage for the City of Centerville. On December 8, 1999, the U.S. EPA issued its Phase II Storm Water regulations requiring Small Municipal Separate Storm Systems within urbanized areas to apply for this permit coverage by March 10, 2003. Angela Manuszak from The Miami Conservancy District gave a presentation explaining storm water management and outlined the services the District will and has provided in this Phase II storm water control system. Mr. Krass sponsored Resolution Number 07-03, A Resolution Authorizing The City Manager To Apply For National Pollutant Discharge Elimination System Permit Coverage To Reduce The Discharge Of Pollutants Into Surface Waters Of The State To The Maximum Extent Practicable, To Protect Water Quality, And To Satisfy The Appropriate Requirements Of The Clean Water Act, and moved that it be passed. Mr. Kingseed seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 08-03 MORAL OBLIGATION KYLE BAKER

Mr. Horn advised that an employee, Kyle Baker, was injured while working at The Golf Club at Yankee Trace. An amount less than \$150.00 was not covered by insurance. Dr. Gresham sponsored Resolution Number 08-03, A Resolution Recognizing A Moral Obligation To Reimburse Becky Baker, The Mother Of Centerville Employee Kyle Baker For Unreimbursed Medical Expenses Not To Exceed \$150.00 Incurred By Kyle Baker While Acting In The Scope

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Of His Employment For The City And Authorizing And Directing The City Manager To Take The Necessary Action To Cause Said Reimbursement To Be Made, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote.

In answer to a question of Mr. Krass, Mr. Pozzuto advised that the Patterson building in the center of town was purchased by the City of Centerville for the appraised value. The Earley building was purchased for a price higher than the appraised value to cover Mr. Earley's mortgage obligations which the City could not secure unless that purchase price was met.

There being no further business, the meeting was adjourned.

Approved: Sally D. Beak  
Mayor

ATTEST: [Signature]  
Clerk of Council