

RECORD OF PROCEEDINGS

Minutes of

COUNCIL MEETING

Meeting

DAYTON LEGAL BLANK CO. FORM NO. 10248

Held August 18, 199719

The Council of the City of Centerville, County of Montgomery, State of Ohio, met on Monday, August 18, 1997, at 8:00 p.m. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Reverend Thomas Kuhn, Pastor of the Church of the Incarnation and City Chaplain, 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	Brooks Compton
	James Singer
	Susan Lienesch
	James Reppert
	J. V. Stone

Clerk of Council Marilyn McLaughlin
 Assistant Clerk of Council Peggy Whisman
 City Manager Gregory Horn
 Assistant City Manager Judith Gilleland
 Public Works Director Steve Weaver
 City Planner Steve Feverston
 Municipal Attorney Robert Farquhar
 Assistant to the City Manager Kelly Fackel

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

Council Meeting - July 21, 1997.

Council Work Session Meetings:

- July 21, 1997.

- July 28, 1997.

- August 4, 1997.

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

Mayor Beals administered the Oath of Office to Centerville Arts Commission member Carla M. Bleil.

Mayor Beals presented to Mary Higgins a Certificate of Congratulations for being named Master Gardener of the Year by the Ohio Association of Garden Clubs. This is the highest honor a single gardener in the State of Ohio can receive in gardening from this organization.

Mayor Beals highlighted the following events which took place during the past month:

- Mystery Night Out, coordinated by the Centerville Police Department, was held August 5, 1997 with approximately 1,000 searchers looking for Ronald McDonald's shoes. Ronald was found at Yankee Trace.
- Forty-five ambassadors traveled to Sister City Waterloo, Ontario, Canada, August 14-17, 1997, representing the City of Centerville.
- A trip is being planned to visit Sister City Bad Zwischenahn, Germany, in 1998.

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- The Church of the Incarnation opened a new wing to the school on Sunday, August 17, 1997.
- Spring Valley Academy will break ground on Sunday, August 24, 1997, for a new wing to the school.

Mayor Beals, representing residents of the City of Centerville, expressed sympathy to the family of Bernard Samples upon his untimely death. She outlined his many contributions to the City of Centerville and community organizations over the past several years.

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

- The 1997 concert series continues in the Amphitheater in the Leonard E. Stubbs Memorial Park.
- The City continues to deal with noise emanating from performances in Stubbs Park relative to a complaint received from an adjoining neighbor.
- The City's procedure for Public Hearing notifications on rezonings is as thorough as other entities. However, the City will erect signs on sight to keep the public informed.
- A meeting has been scheduled for Tuesday, August 19, 1997, to receive information from the Board of County Commissioners, Montgomery County, relative to sanitary sewer issues in the Village South subdivision. The meeting will begin at 9:00 A.M. at the County Administration Building.
- Work continues to develop a loan package between the City of Centerville and Washington Township through the Centerville Community Improvement Corporation and the owners of property at the southwest corner of Main and Franklin Streets.

Mr. Weaver gave an improvement/resurfacing update on various street programs in the City of Centerville:

- Paving and grinding on Sheehan Road will begin during the current week. This is high on the contractor's priority list in consideration of school opening and its affect upon the school's bus transportation.
- Resurfacing on East Franklin Street should continue during the current week, weather permitting. Every effort is being made for the completion of this project prior to school opening August 26, 1997.

Mayor Beals recognized Washington Township Trustee Roger Krass and Centerville Councilmember Susan Lienesch, Co-chairs of the Aircraft Noise Task Force, present at this time.

Mrs. Lienesch reviewed the establishment of this joint Task Force and identified their charge to find and review facts, to conduct investigations, and to make recommendations for corrective action to resolve noise disturbances resulting from commercial air traffic affecting the Centerville/Washington Township community. Mrs. Lienesch and Mr. Krass outlined activities of this Task Force as well as facts found and reviewed in depth.

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Mrs. Lienesch outlined the following "Near Term Recommendations" developed by the Aircraft Noise Task Force:

1. FAA and Airborne removed 8-10 overflights and rerouted them via Cincinnati, Ohio (Accomplished 12/96). We encourage Airborne to continue to review and monitor nightly flights and to redirect all those flights which they can to the established Cincinnati route.
2. Allow unlimited climb profile for aircraft departures from Wilmington on the Midwest VOR 305 radial (Accomplished 4/97).
3. The FAA could increase airspace control for Dayton sector Traffic Control (FAA) to higher altitudes, at least 15,000 feet MSL for nighttime operations from 12:00 PM to 7:00 AM (Accomplished 4/97).
4. We recommend that Airborne require pilots to use noise mitigation procedures when they are departing from the Wilmington facility as they approach our community by leveling their ascent until they are past our region, and then continuing their ascent.
5. We recommend the return to the former, less controversial, 316 degree radial. Also, the 316 radial may be considered as one of the multiple departure route possibilities later mentioned.
6. We recommend the refinement of present Airborne (ABX) traffic departing Wilmington on the 305 radial to a heading of 298/300 degrees from Midwest VOR of Wilmington. This was proposed by ABX in conjunction with 15,000 foot altitude control space. We believe this alternative to be a very viable recommendation. Many of our citizens stated they do not feel it goes far enough. According to current FAA practices this 5-7 degree change will require additional FAA Environmental Assessments. The 11 degree change which occurred in our community had environmental impacts categorically excluded.
7. We recommend the rerouting of Emery departures from Dayton (DAY), which currently heads directly to Wilmington over our community, to the Springfield VOR (SGH) and on to Wilmington. Dayton Air Traffic Management advised this action could significantly alter initial departure paths and impact noise mitigation measures already in place at the Dayton Airport.
8. We recommend the creation of multiple radial routes which can be staggered daily, weekly or monthly to ease the anticipation of daily overflights. The FAA has acknowledged that this alternative's purpose is understandable but that the application would be difficult to incorporate as a procedure. Fanning departures usually occur close to airports for the purpose of dispersing noise. However, in this case, the carriers would have to agree to file different flight routes to accommodate the intent of the proposal. Favorable comments from the citizens concerning this alternative have been received. This recommendation asks FAA and ABX to work out routes which will disperse departure traffic via paths which will vary from month-to-month, week-to-week, or day-to-day. Safety concerns about the day-to-day or week-to-week departure path variations make the month-to-month scenario the most probable.

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9. We recommend the development of a departure corridor between Centerville and already affected Springboro that minimizes the impact on both communities. A yet-to-be-identified radial to the Dayton VOR is approximately between the two communities. Again, this radial may be considered as one of the multiple departure routes as recommended previously.
 10. We recommend that personnel of the midnight operation at the Indianapolis Air Traffic Control Center, which controls our airspace, be increased to more accurately reflect the demand of the ever increasing nighttime air cargo activity within our region. We believe staffing increases are necessary and we understand that this issue is already being internally reviewed by the FAA.
- Mr. Krass outlined the following "Long Term Recommendations":
1. We recommend that the various government jurisdictions within our region create a forum to establish an air authority to be our region's proper venue for concerns of this type. This community has the good fortune to have the services of the Miami Valley Regional Planning Commission. The MVRPC should be encouraged to evaluate, monitor and facilitate regional planning efforts in order to provide for adequate air space over less densely populated areas.
 2. We recommend that Centerville and/or Washington Township continue membership in networks like the National Organization to Insure a Sound Controlled Environment (NOISE) in order to stay abreast of the technical research and relevant information that continues to be produced regarding aircraft noise.
 3. We recommend that Congress reexamine the establishment of noise footprints and decibel limitations for air cargo operations affecting the nighttime noise levels across our nation as established more than a generation ago. Current research indicates that a 3-5 db noise level increase is far too controversial to be categorically excluded, which was the case when flights in our area were relocated without our advanced knowledge on June 20, 1996.
 4. We recommend that our local government representatives petition Congress to develop new funding sources like an equivalent PFC/cargo charge to generate aircraft improvement funds to accelerate the recertification of Phase II commercial aircraft to Phase III standards prior to the current 12/31/99 federal compliance deadline. Airborne concurs with the Federal Aviation Regulations (FAR's), in that aircraft noise levels can be cut in half after hushkit installation and recertification processes are completed. We again stress that although perhaps difficult, air carriers in our nation need to be pushed to accelerate this timetable.
 5. We recommend that our Centerville/Washington Township community enjoin the efforts of the air cargo carriers and the aviation experts in developing an Aircraft Noise Measurement Test Plan to reestablish nighttime low and high frequency ambient noise levels in a quiet residential setting. If decibel readings are calculated to reflect night operations, a partnership with the FAA and air cargo carriers with regards to noise disturbances must occur. Our community is outside of the noise footprint as established by federal regulations. The higher number of

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complaints and continuing concerns that are being voiced in our community since the impacting June 20, 1996 aircraft route change directly addresses the need for different nighttime noise level standards in the aircraft industry.

6. We recommend that the Centerville/Washington Township community evaluate and explore the need to review and revise Zoning and Building Code Regulations that require homes to be built under known flight paths and surrounding areas which are subject to flight path variations to higher noise abatement standards. We make these recommendations while understanding that cost considerations must be taken into account in keeping our region's housing market competitive.

Mr. Krass stressed the importance of this Task Force remaining cohesive to ensure that the recommendations prepared are monitored as they progress through the federal system.

Dick Petersen, Federal Aviation Administration, advised that he recognizes some of the issues contained in the recommendations as doable while others could be controversial and difficult to resolve. He will work with the communities and the Task Force to attain goals set forth in the document presented at this meeting.

David Lee, 9073 Academy View Court, commended the Aircraft Noise Task Force for their dedicated work and openness to listen to concerned citizens. He asked that the joint Task Force remain in existence. He suggested that a professional air traffic consultant be engaged to review and evaluate some of the short term recommendations. Mr. Lee also suggested that the City and Township legal advisors evaluate the categorical exclusion. He asked the City and the Township officials to consider using the services of Congressman Tony Hall's office to expedite the recommendations outlined earlier by Mrs. Lienesch and Mr. Krass.

James Vangrov, District Director for Congressman Hall, advised that the Congressman has kept a close eye on this aircraft noise problem during the past year. He advised that the City and Township must decide which are short term and which are long term recommendations before any action can be taken. Congressman Hall's office will then attempt to implement recommendations commercially and safety wise, regardless whether they believe in them or not, in an effort to satisfy the needs of the residents of the community. Mr. Vangrov supported the continuation of the Task Force to monitor all agencies involved to make sure those things that can be done are accomplished.

Mayor Beals brought attention to the need for air freight, to provide services which are demanded by our residents, while at the same time the impact of noise must be minimized.

Robert Gray, Airborne Express, complimented the Task Force for their work with this complex issue, and committed to working with the Task Force and FAA to accomplish these goals while at the same time not negatively affecting service to customers.

Howard Steenbergen, member of the Task Force, identified on a map flights leaving Wilmington to the Dayton VOR and then on to Cleveland and Detroit. He explained how if these flights flew from Wilmington direct to Cleveland and Detroit they would utilize a different pattern. Mr. Petersen explained how at times flight patterns differ. He outlined the process followed when the flight paths were changed in June, 1996 and requirements now in place for changes to be made.

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RESOLUTION NUMBER 52-97 AIRCRAFT NOISE TASK FORCE RECOMMENDATIONS

Mrs. Lienesch asked that the work of the Aircraft Noise Task Force be recognized as a reasonable approach to a regional concern of many in the Centerville/Washington Township area as well as other areas in the State of Ohio, Indiana and Kentucky who share the experience of nighttime aircraft noise. She moved that Council resolve in support of the recommendations of the Aircraft Noise Task Force, order the transmittal of the Task Force report to the appropriate public officials, and commend the citizen volunteers of the Task Force, the FAA and officials of Airborne Express as well as other appointed Citizens for their assistance in developing this comprehensive approach to help mitigate the environmental impacts associated with the nighttime industries in this region. Mrs. Lienesch sponsored Resolution Number 52-97, A Resolution In Support Of The Recommendations Of The Aircraft Noise Task Force And Ordering The Transmittal Of The Task Force Report To The Appropriate Public Officials And Commending The Citizens, The FAA-DIA, And The Officials Of Airborne Express, As Well As The Appointed Citizens Of The Aircraft Noise Task Force For Their Assistance In Developing This Comprehensive Approach To Help Mitigate Environmental Impacts Associated With The Nighttime Air Freight Industries Operating In Our Region, and moved that it be passed. Mr. Reppert seconded the motion. Mayor Beals and members of Council expressed appreciation to the Task Force and other agencies involved in the development of these recommendations and supported the continuation of the Aircraft Noise Task Force. The motion passed unanimously.

**ORDINANCE NUMBER 13-97 ZONING ORDINANCE AMENDMENT TEXT
LANDSCAPE, SCREENING AND BUFFERYARD REQUIREMENTS**

Mr. Feverston reviewed a proposed Ordinance to amend and increase requirements for landscape, screening and bufferyard requirements in all zone districts in the City of Centerville. Mr. Reppert moved that Ordinance Number 13-97, An Ordinance Amending Ordinance Number 11-86, The Zoning Ordinance Of The City Of Centerville, Ohio To Establish Regulations And Procedures For The Creation Of Landscape, Screening And Bufferyard Requirements Within The City Of Centerville, Ohio, be set for Public Hearing on October 20, 1997. Mr. Stone seconded the motion. The motion passed by unanimous vote.

**ORDINANCE NUMBER 14-97 ZONING ORDINANCE AMENDMENT TEXT
COMMERCIAL RECREATION/COMMERCIAL ENTERTAINMENT**

Mr. Feverston reviewed a proposed Ordinance to modify requirements in the B-2 General Business, and B-PD, Business Planned Development, sections of the Zoning Ordinance. Mr. Kingseed moved that Ordinance Number 14-97, An Ordinance Amending Ordinance Number 11-86, The Zoning Ordinance Of The City Of Centerville, Ohio, be set for Public Hearing on October 20, 1997. Mr. Compton seconded the motion. The motion passed by unanimous vote of City Council.

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**ORDINANCE NUMBER 15-97 ZONING ORDINANCE AMENDMENT
H.R. INVESTMENTS COMPANY REZONING REQUEST**

Mr. Feverston reviewed a Rezoning Request submitted by H.R. Investments Company for a zone change of 8.222 acres recently annexed to the City of Centerville from Washington Township PUD-O to Centerville B-1 zone classification. The zoning classifications are very similar with the exception that B-1 will permit neighborhood business uses. Mr. Reppert moved that Ordinance Number 15-97, An Ordinance Amending Ordinance Number 11-86 Dated July 21, 1986, The Zoning Ordinance By Rezoning 8.222 Acres More Or Less, From Washington Township PUD-O Classification To Centerville B-1 Classification, be set for Public Hearing on October 20, 1997. Mr. Stone seconded the motion. The motion passed unanimously.

WRAPSODY SIGN APPROVAL

Mr. Feverston reviewed a Variance Request submitted by Wrapsody for the erection of a permanent ground sign at 298 North Main Street. Due to the fact that the proposed location of the sign would be in the public right-of-way, approval for a temporary sign was granted by City Council for a period of ninety days to give the City time to research the ownership of the right-of-way and the possibility of vacating the excess right-of-way that might exist. Conclusions of the City's research were as follows: the public right-of-way through the property is owned by the State of Ohio; vacation of any portion of the right-of-way would be extremely difficult to accomplish; the sign proposed replaces a larger and taller sign that was located within this right-of-way, which has lost its non-conforming status and was required to be removed; and the location of the sign does not block, obstruct or otherwise impede traffic flow or sight distance. Mr. Feverston recommended that the erection of a permanent ground sign be approved for Wrapsody as requested and installed on a temporary basis with the following condition:

The City recognizes this sign is located within the public right-of-way of North Main Street and this right-of-way is owned by the State of Ohio. The State of Ohio has the authority and ability to remove or cause this sign to be removed at the owners expense.

Mr. Stone moved that the Variance Request submitted by Wrapsody for the erection of a permanent ground sign at 298 North Main Street be approved as recommended by Mr. Feverston. Mr. Reppert seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 12-97 REGULATIONS FOR BUILDINGS

The Public Hearing was held concerning Ordinance Number 12-97. Mr. Farquhar reviewed this proposed Ordinance which sets lighting standards in live entertainment establishments to assure the safety of attendees. These standards are in concurrence with existing building code requirements. Mr. Kingseed sponsored Ordinance Number 12-97, An Ordinance Amending The Centerville Municipal Code By Providing Additional Regulations Relating To Buildings, and moved that it be passed. Mrs. Lienesch seconded the motion. The motion passed by unanimous vote of City Council.

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Kay and Jim Smith, 7150 Tamarind Trail, were present at this meeting to express concern with a notice received from the City of Centerville for violation of the weed control section of the Centerville Municipal Code. They identified the area of their yard in question as a wild flower/nature area. Mr. Horn outlined the process used in this particular case and in other cases for the enforcement of weed control in the City of Centerville. He suggested that the Smiths work with City Staff so that a particular portion of their yard can be designated as a wild flower area.

ORDINANCE NUMBER 16-97 ADOPT 1996 OHIO BUILDING OFFICIALS CODE

Mr. Weaver reviewed a proposed Ordinance to amend the current building code being used by the City of Centerville. This Ordinance adopts the 1996 Ohio Building Officials Association One, Two and Three Family Dwelling Code to keep the City's code current and consistent with other local jurisdictions. Mr. Reppert moved that Ordinance Number 16-97, An Ordinance Amending The Centerville Municipal Code, Chapter 1422 To Adopt The 1996 OBOA (Ohio Building Officials Association) One Two And Three Family Dwelling Code, be set for Public Hearing on September 15, 1997. Mr. Singer seconded the motion. The motion passed by unanimous vote.

RESOLUTION NUMBER 53-97 AGREEMENT/YANKEE TRACE CLUBHOUSE

Mr. Horn reviewed a Mutual Full and Final Release Agreement executed between the City of Centerville, Architects Associates, Inc., and Barge, Waggoner, Sumner & Cannon Engineers, Architects & Planners relative to the Clubhouse at Yankee Trace. In order to resolve differences without litigation a compromise has been reached by all parties which is less than the architects and planners requested but more than the City expected. The Agreement provides that the City pay to Architects Associates \$20,000.00, to Barge, Waggoner, Sumner & Cannon \$10,000.00 and to both firms jointly the sum of \$10,000.00. Mr. Stone sponsored Resolution Number 53-97, A Resolution Ratifying The Action Taken By The City Manager To Execute An Agreement Of Release Between The City Of Centerville, Architects Associates, Inc. and Barge, Waggoner, Sumner & Cannon Engineers, Architects & Planners, and moved that it be passed. Mr. Singer seconded the motion. The motion passed unanimously.

**RESOLUTION NUMBER 54-97 DESIGNATE PUBLIC DEPOSITORY
NATIONAL CITY BANK OF DAYTON, OHIO**

Mr. Horn explained the fact that the Ohio Revised Code requires that municipalities execute depository agreements with financial institutions for the deposit of public monies in the form of active deposits, interim deposits and inactive deposits for a period of two years. Proposals have been received from four local financial institutions. Mr. Singer sponsored Resolution Number 54-97, A Resolution Designating A Public Depository And Awarding Public Monies, and moved that it be passed. Mr. Reppert seconded the motion. The motion passed by unanimous vote of City Council.

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**RESOLUTION NUMBER 55-97 DESIGNATE PUBLIC DEPOSITORY
STAR BANK, NA OF MONTGOMERY COUNTY, OHIO**

Mrs. Lienesch sponsored Resolution Number 55-97, A Resolution Designating A Public Depository And Awarding Public Monies, and moved that it be passed. Mr. Reppert seconded the motion. The motion passed by unanimous vote.

**RESOLUTION NUMBER 56-97 DESIGNATE PUBLIC DEPOSITORY
PNC BANK, OHIO, NA OF HAMILTON COUNTY, OHIO**

Mr. Reppert sponsored Resolution Number 56-97, A Resolution Designation A Public Depository And Awarding Public Monies, and moved that it be passed. Mr. Singer seconded the motion. The motion passed unanimously.

**RESOLUTION NUMBER 57-97 DESIGNATE PUBLIC DEPOSITORY
BANK ONE, NA OF DAYTON, OHIO**

Mr. Kingseed sponsored Resolution Number 57-97, A Resolution Designating A Public Depository And Awarding Public Monies, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote of City Council

CENTERVILLE ARTS COMMISSION REAPPOINT JERI NEIDHARD

Mayor Beals advised that the term of Jeri Neidhard will soon expire on the Centerville Arts Commission. Mr. Reppert moved that Jeri Neidhard be reappointed as a member of the Centerville Arts Commission. Mrs. Lienesch seconded the motion. The motion passed unanimously.

Approved:

Sally D. Beals

Mayor

ATTEST:

Marie J. McLaughlin

Clerk of Council