

# RECORD OF PROCEEDINGS

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Minutes of

REGULAR COUNCIL

Meeting

DAYTON LEGAL BLANK CO. FORM NO. 1014B

Held February 15, 19 93

The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session on Monday, February 15, 1993 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 Shirley Heintz presiding. Councilmembers and City Staff present were as follows:

Deputy-Mayor Brooks Compton

Councilmembers C. Mark Kingseed

J. V. Stone

Mark Beasley

Sally Beals

James Singer

Clerk of Council Marilyn McLaughlin

City Manager Gregory Horn

City Planner Alan Schwab

City Engineer Norbert Hoffman

Chief of Police William Lickert

Acting Municipal Attorney Dave Eubank

Assistant City Manager Michael Haverland

Administrator Assistant to the City Manager Judith Gilleland

The Minutes of the following Meetings had been distributed prior to this Meeting:

Council Meetings - January 18, 1993.

- February 8, 1993.

Council Work Session Meetings - January 18, 1993

- January 25, 1993.

- February 1, 1993.

- February 8, 1993.

Mr. Compton moved that the Minutes of the foregoing Meetings be approved as distributed. Mr. Kingseed seconded the motion. The motion passed by unanimous vote.

Mrs. McLaughlin announced the receipt of three Appeals filed by Charles V. Simms and Elizabeth Ann Simms against decisions rendered by the Planning Commission during their meeting on January 12, 1993. The Planning Commission recommended approval of a Rezoning Request submitted by Frisch's Restaurants, Inc., and approved a Variance Application and a Special Approval Application for the construction of a building at 9496 Dayton-Lebanon Pike. A Public Hearing on these three Appeals has been set for March 1, 1993.

Mayor Heintz advised that a Proclamation was issued during the past month designating February, 1993 as American Heart Month in the City of Centerville.

Mayor Heintz reminded the audience of the Sister City trip planned for Bad Zwischenahn in West Germany and other Cities in East Germany June 15 to the 29th of this year.



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

Ray Hannah, Service Department and David Coffey, Police Department have retired recently.

Two new appointments have been made in the Police Department. This Department is now at full strength.

Departmental goals are being set in house by City Staff; these goals will be before Council soon.

At a meeting recently held with Golf Course Architect Gene Bates, change orders were agreed to relative to the Yankee Trace Golf Course. Construction is going well in consideration of weather conditions.

EDGE applications have been received and are due no later than April 1, 1993 in the Montgomery County Community & Economic Development Office. Applications will be completed by City Staff and submitted to Council for review.

Mrs. Beals brought attention to a Sister City trip being planned August 5, 1993 for a long weekend in Waterloo, Ontario Canada.

#### CENTERVILLE UNITED METHODIST CHURCH APPEAL

Mr. Kingseed outlined a conflict which he has with the next agenda item. He is a member of the Administrative Board for the Centerville United Methodist Church and has had many discussions concerning this matter with Board members. Believing that he cannot exercise an independent judgement on this matter, he asked to be excused from the Meeting at this time. Mr. Singer moved that Mr. Kingseed be excused from the meeting during this agenda item. Mr. Compton seconded the motion. The motion passed by unanimous vote.

Mr. Stone identified a perception of conflict that he may have on either side of this issue. He has been a member of the Centerville United Methodist Church since 1965 during which time he has served on many Boards including the Board of Trustees. He sponsored the Architectural Preservation District Ordinance and has supported it since passage. Mr. Stone asked to be excused from the meeting at this time. Mr. Singer moved that Mr. Stone be excused from this item on the agenda. Mrs. Beals seconded the motion. The motion passed unanimously.

The Public Hearing was held concerning an Appeal filed by the Centerville United Methodist Church, against a decision rendered by the Planning Commission during their meeting on November 10, 1992. Requested was a Special Application to demolish the primary building and attached garage at 59 East Franklin Street in the Architectural Preservation District.

Mr. Horn explained the fact that this matter has been denied by both the Board of Architectural Review and the Planning Commission.

Mr. Schwab reviewed the application for demolition and located the subject property on a map while identifying land uses of adjacent properties. This is a lot of record according to the Deed Records of Montgomery County, thus can be bought or sold



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separately. He pointed out the oldest part of the church built in the 1920's and the newer addition constructed in the 1970's. Mr. Schwab identified changes which have been made to the house at 59 East Franklin Street through the years. He pointed out the fact that in 1985 the Church applied for demolition of three structures at the northeast corner of East Franklin Street and Maple Avenue, which included this house; said application was denied. Mr. Schwab reviewed elevations of the house in question from all four sides. Reference was made to the preamble and purpose of the Architectural Preservation District. Mr. Schwab pointed out the fact that this Appeal is a result of action taken regarding the standards and requirements of the Zoning Ordinance, not the Property Maintenance Ordinance nor the Landmark Preservation Ordinance. Attention was brought to the four criteria outlined in the Zoning Ordinance, one of which must be satisfied by the Board of Architectural Review in order to approve the demolition of a structure in the Architectural Preservation District. Mr. Schwab advised that after consideration of all issues, the Board of Architectural Review denied the application for demolition by a 5-0 vote. On an Appeal to the Planning Commission, the Commission denied the application by a vote of 4-0, thus this Appeal to City Council. Mr. Schwab pointed out the fact that a vote of four members of City Council is required to modify or reverse a decision of the Planning Commission upon Appeal. Mr. Schwab, giving a brief history of this house, relayed the following information:

- according to history the primary house was built in 1838,
- it is one of the oldest wooden structures in Centerville,
- a stitchery sampler is in the possession of the Centerville Historical Society which depicts the house in 1840,
- major changes and additions have been made to the house through the years,
- the Church bought the house in 1970,
- the Architectural Preservation District Ordinance was passed by City Council two years after the house was purchased,
- in 1985 an application for demolition was submitted by the Church for three corner properties,
- this application was triggered by property maintenance in the spring of 1992,
- following discussions between the City and property owner, action was filed in Court concerning the maintenance of the property,
- action was stayed in the Court upon the filing of the current application for demolition,
- there is no pending case in Court at the present time,
- the basis by which the Church filed this application was that rehabilitation was not economically feasible,
- before this case was heard by the Board of Architectural Review, the City hired Tom Dues, Landmarks Architecture, to perform an analysis of the economics for the rehabilitation of this structure.

Mr. Schwab defined three arguments the Centerville United Methodist Church made during their presentation to the Planning



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Commission. He outlined the expansion of the Church over previous years.

Mr. Tom Dues explained his economic analysis of the property in question. He explained the fact that a building is deemed historic when the architecture is significant, an occupant was significant, or a significant event took place in the structure. He advised that his analysis includes economics to bring the structure to meet minimum code requirements. Mr. Dues made the following observations: the front portion of the building is structurally sound, the connecting portion between the house and garage should be demolished, the restoration of the garage is not feasible, and a residence or business in the building is viable. Mr. Dues outlined costs related to land values, demolition costs, and the renovation and use of the building as a residence and as a business.

Mr. Scott Rubuertus, 9415 Bonnie Ann Place, Chairperson of the Centerville United Methodist Church Administrative Board, outlined five key messages to City Council for consideration in making a decision relative to this Appeal case. While expanding on these messages he asked Council to apply tests of reasonableness, fairness and common sense; to consider the interest of the community as a whole; to consider the Church not as a homeowner, a business or an investor; to acknowledge the fact that economic feasibility is not immune to debate; and recognize that historical and architectural significance are debatable.

Mr. Ed Royer, 5428 Mad River Road, Chairman of the Board of Trustees, Centerville United Methodist Church, gave a brief history of the Church and outlined their position in this application for demolition at 59 East Franklin Street. The house was purchased by the Church in 1970 for the purpose of expanding the west Church building or to serve as a buffer area. It was never viewed as an investment or an attempt to make an economic return from the use of the property. Mr. Royer outlined cost estimates to restore the building to use as a residence or as an office, both exterior and interior. He listed possible rental return if the structure was modernized for office use. The fact that the house was purchased by the Church prior to the passage of the Architectural Preservation District Ordinance was emphasized. The Church used the building through the 1970's into the 1980's until utilities became too overbearing. Mr. Royer brought attention to major re-design and re-building that would be necessary to make the house reasonably livable. He cited other problems with the location of this property being ingress/egress to the driveway off East Franklin Street and the noise factor caused by the volume of traffic. If this building was used as an office, the required parking spaces would eliminate the green space presently being used as a play area for children. In conclusion, the Church requested that they be allowed to remove the building at 59 East Franklin Street, or to give the building to the City of Centerville or any other interested party, who in turn would move it to an appropriate site.

Mr. Roburtus reiterated the five key messages spoken to



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earlier during this Public Hearing.

Ms. Claudia Watson, Director of Preservation Services, Montgomery County Historical Society, stressed the importance of preserving the heritage of Centerville; Centerville needs to protect its identity. She offered congratulations to Centerville for the passage of Architectural Preservation legislation in the 1970's and emphasized the enforcement of such regulations. Zoning has been used to protect the needs of the community and to guard against plans for anew that might threaten the theme of an area. The McCracken house is not only a significant example of an old frame house, it is also a very important piece, a connector within a valuable group of historic resources. Ms. Watson asked Council to protect the needs of the community as a whole, not the needs of a single person or an organization, in this Appeal case. She asked Council to uphold the Architectural Preservation District Ordinance.

Mr. James Teske, 5837 Hithergreen Drive, stressed the importance of preserving the history of Centerville. He brought attention to losses in history already taken place in the Architectural Preservation District. The demolition of this structure alone will not give the church adequate visibility; visibility could be the preservation of this historic structure.

Mr. Buford Shipley, 10042 Simms Station Road, a member of the Centerville United Methodist Church, offered his support for the Church in their request to demolish or relocate the structure at 59 East Franklin Street.

Mr. Glen Harper, 2315 Alpine Way, Regional Coordinator for the Ohio Historic Office in Southwest Ohio, encouraged Council to deny the application for demolition of the McCracken house. Speaking as a representative of the State agency that administers the National Register of Historic Places program, advised that the McCracken house is eligible for the National Register of Historic Places as a contributing structure for possibly creating a larger historic boundary in Centerville. He stressed the importance of making the boundary of the National Register in Centerville correspond with the boundary of the Architectural Preservation District. Mr. Harper identified the significance of this structure through its architecture, its construction and for its recordation on an early Ohio sampler. He suggested that moving the building is the very last option for the salvation of the structure, it should not be moved from its historic environment.

Attorney Thomas Hansen, 1047 Green Timber Trail, a member of the Centerville United Methodist Church, stated his displeasure with the requirement of a majority vote of the entire membership of Council to modify or reverse a decision of the Planning Commission when two members of Council remove themselves from debate on the issue. He brought attention to alternatives previously discussed for the preservation of the structure in question, the Church would like to save the house if it can be moved to another location. He asked members of Council to view the interior of the house before a final decision is made on this issue.

Mrs. Sue Studebaker, 281 West Whipp Road, stressed the



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importance of early American needlework and the value of the sampler done of the McCracken house. Back in the 1800's this sampler hung in the McCracken house; it is considered one of the very best Ohio samplers. She asked Council to consider all aspects before permitting the house to be demolished or moved to another location.

Mrs. Martha Boice, 7712 Eagle Creek Drive, Chairman of the Landmark Committee for the Centerville Historical Society, congratulated City officials for a wonderful record of preservation of historic structures in Centerville. Every building in a historic district is a contributor. She urged Council to continue the preservation of historic buildings in the center of Centerville.

Reverend George Phillips, Senior Minister of the Centerville United Methodist Church, outlined how the Church has upheld the laws of the State, the County and the City; he asked Council to uphold the laws of the City in this case and to enforce the Ordinance.

Mr. Bernard Samples, 1810 Hibiscus Court, President of the Centerville Historical Society, believes that nothing has changed since a request for demolition of the McCracken house was denied in 1985. Some of the arguments used for this request could have been used to rationalize the demolition of the house at the corner of East Franklin Street and Maple Avenue, but instead this structure has become a jewel in the center city.

Mr. Singer expressed concern with the enforcement of the Property Maintenance Ordinance in respect to this property. Mr. Haverland outlined the history of violations of the Property Maintenance Ordinance concerning the McCracken house and how some of them have been satisfied.

Various questions were raised by Mr. Compton relative to the economic analysis for the renovation of this building given by Mr. Dues. Mr. Dues clarified particular estimates and explained how they were derived. Estimates do not include the renovation of the garage or the connecting portion of the house. Comparisons were made between the renovation of the house at the corner and the structure in question.

Upon question of Mr. Beasley, Mr. Schwab explained how the amount for tax abatement for this property would be determined.

Mayor Heintz questioned the need for additional green space to the west of the present Centerville United Methodist Church. Mr. Royer identified the need for green space to serve as a buffer between two buildings and to satisfy the needs of children belonging to the Church. He stated the fact that the possibility of moving the building to another location is a viable option.

Upon question of Mr. Compton, Mrs. Boice advised that between 1985 and 1992 no contact was made between the Centerville Historical Society and the Centerville United Methodist Church in reference to what could or could not be done with the McCracken house.

Recognizing extenuating circumstances in this case and understanding the fact that the church has no use for the house, and knowing that the Church will give the house to someone willing to move it and will assist financially, Mayor Heintz



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encouraged the relocation of the structure with the last resort being demolition.

Mrs. Beals, recognizing the value of preserving historic identity, stated her opposition to the demolition of the McCracken house.

Mr. Compton outlined his belief that the Centerville United Methodist Church has demonstrated that it is not economically feasible to rehabilitate nor make the structure at 59 East Franklin Street economically feasible to maintain. The Architectural Preservation District Ordinance was created to preserve structures that were economically feasible, it was not intended to keep a structure under any case, the Ordinance provides this specific exception.

Mrs. Beals moved that the decision of the Planning Commission be upheld denying the Special Approval Application of the Centerville United Methodist Church to demolish the primary house and garage at 59 East Franklin Street. Mr. Beasley seconded the motion. A roll call vote resulted in three ayes in favor of the motion; Mr. Compton and Mayor Heintz voted no.

Mr. Beasley moved that Mr. Stone and Mr. Kingseed re-enter the meeting at this time. Mr. Singer seconded the motion. The motion passed unanimously.

### ORDINANCE NUMBER 3-93 CLYO ROAD EXTENSION

The Public Hearing was held concerning Ordinance Number 3-93. Mr. Horn reviewed this proposed Ordinance determining to proceed with the extension of Clyo Road from Bigger Road north-eastwardly to Wilmington Pike and providing for the taking of bids for said improvement.

Mr. David Ciaciuch, 6756 Winding Cove, questioned lots in Nestle Creek I being the same price as lots in Nestle Creek II, considering the fact that residents in Nestle Creek I are being assessed for Clyo Road. Mr. Schwab explained the fact that the cost of improving Alexandersville-Bellbrook Road will be born by owners of property in Nestle Creek II. Mr. Beasley sponsored Ordinance Number 3-93, An Ordinance Determining To Proceed With The Improvement Of Real Estate Owned By And Within The Corporate Limits Of The City Of Centerville, Ohio, For The Purpose Of Extending Clyo Road, Such Real Estate Being Situated East Of And Bounded By Bigger Road At The Terminus Of Clyo Road And Extending In An Easterly Direction To A Point Approximately 1,589.75 Feet And Also Situated West Of And Bounded By Wilmington Pike At The Terminus Of Clyo Road And Extending In A Westerly Direction To A Point Approximately 2,493.59 Feet, Such Improvements To Include Grading, Curbing, Paving, Sidewalks, Stormwater Drainage System, Sanitary Sewer System, Water Mains, Traffic Control, Landscaping, And Other Facilities And Appurtenances That Are Necessary And Proper Therefor, And Providing For The Taking Of Bids For Such Improvement, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote.

### RESOLUTION NUMBER 4-93 I-675 RE-FORESTATION



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Mr. Horn reviewed a proposed Resolution authorizing an application to acquire funds through the Transportation Enhancement Program. Federal money has been made available through the Ohio Department of Transportation for enhancement programs on specific roadways in the State of Ohio. Interstate 675 is eligible for funding. Provided would be re-forestation along the I-675 corridor at a total cost of \$691,000.00 of which 80% would be Federal share and 20% local share. Washington Township has agreed to pay a proportionate share of local dollars. If the State of Ohio shares in this project, their share would be 10%, thus reducing Centerville's and Washington Township's share in the project. Mr. Kingseed views this as an excellent way to provide a sound barrier for residents along the I-675 corridor. Mr. Stone sponsored Resolution Number 4-93, A Resolution Authorizing The City Of Centerville, Ohio To File An Application And Enter Into An Agreement With The Ohio Department of Transportation For The Purpose of Acquiring Funds Through The Transportation Enhancement Program As Created By the Internodal Surface Transportation Efficiency Act of 1991, and moved that it be passed. Mr. Singer seconded the motion. The motion passed unanimously.

Mrs. Beals asked to be excused from the Meeting at this time due to the fact that her husband is part owner of the Company which is the subject of the next agenda item. Mr. Singer moved that Mrs. Beals be excused from the Meeting at this time. Mr. Beasley seconded the motion. The motion passed by unanimous vote.

#### RESOLUTION NUMBER 5-93 SOUTH MAIN STREET IMPROVEMENT

Mr. Horn advised that in 1985 the City of Centerville took bids for the engineering of the South Main Street widening project. At that time City Council authorized a contract with Lockwood, Jones & Beals, Inc. to prepare said engineering. Mrs. Beals was not a Member of Council when the Contract for engineering was executed. Since the completion of the engineering plans several years ago, it now appears necessary for some plan updates. Mr. Horn outlined these plan updates. A proposal for said updates has been received from Lockwood, Jones & Beals, Inc. in the total amount of \$46,004.00. Mr. Horn recommended that an Agreement be executed with LJB for these engineering services.

Upon question of Mr. Singer, Mr. Horn advised that bids will be taken late this year with obvious construction beginning in 1994.

Mayor Heintz emphasized the importance of coordinating this project with businesses which will be affected by this improvement.

Mr. Beasley sponsored Resolution Number 5-93, A Resolution Authorizing And Directing The City Manager To Enter Into An Agreement With Lockwood, Jones & Beals, Inc. For Supplemental Engineering Services For The State Route 48 Spring Valley Road



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Project, and moved that it be passed. Mr. Compton seconded the motion. The motion passed by unanimous vote.

Mr. Singer moved that Mrs. Beals re-enter the Meeting at this time. Mr. Compton seconded the motion. The motion passed unanimously.

### RESOLUTION NUMBER 6-93 LOWERING OF POINCIANA DRIVE

Mr. Horn reviewed the following bids received for the Poinciana Drive Reconstruction Project in the City of Centerville:

Joel Lehmkuhl, Inc.	\$41,837.40
Excel Contractors	29,382.00
W. G. Stang, Inc.	29,140.40
Butler Asphalt	31,788.07
TdM Construction Company, Inc.	26,416.84

Mr. Horn recommended that the bid submitted by TdM Construction Company, Inc. be accepted. Mr. Singer pointed out the fact that this project was a high priority item determined by the Drainage Task Force. Mr. Singer moved that Resolution Number 6-93, A Resolution Accepting The Bid Of TdM Construction Company Inc. For The 1993 Poinciana Drive Reconstruction Project In The City Of Centerville And To Authorize The City Manager To Enter Into A Contract In Connection Therewith, and moved that it be passed. Mr. Beasley seconded the motion. The motion passed unanimously.

There being no further business, the Meeting was adjourned.

Approved: Shirley F. Heintz  
Mayor

ATTEST:

Marie McLaughlin  
Clerk of Council