

RECORD OF PROCEEDINGS

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Minutes of

REGULAR COUNCIL

Meeting

DAYTON LEGAL BLANK CO. 10144

Held December 21, 1992

The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session on Monday, December 21, 1992 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

Municipal Attorney Robert Farquhar

Assistant City Manager Michael Haverland

City Planner Steve Feverston

City Engineer Norbert Hoffman

Director of Finance William Bettcher

Administrator Assistant to the City Manager Judith Gilleland

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

Council Meetings - November 16, 1992.

- December 7, 1992.

Council Work Session Meetings - November 9, 1992.

- November 16, 1992.

- November 23, 1992.

- December 7, 1992.

- December 14, 1992.

Mr. Compton moved that the Minutes of the foregoing Meetings be approved as distributed. Mr. Singer seconded the motion. The motion passed by unanimous vote, however Councilmember Sally Beals abstained from the Minutes of the meeting held November 23, 1992.

Mrs. McLaughlin announced the receipt of a letter of resignation from City Beautiful Commission Member Priscilla H. Stapleton.

Mrs. McLaughlin advised that the Centerville United Methodist Church has filed a Notice of Appeal against a decision rendered by the Planning Commission denying their Variance Application for the demolition of the building located at 59 East Franklin Street. They have requested that the Public Hearing on this Appeal be held on Monday, February 15, 1993.

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Mayor Heintz announced the issuance of the following Proclamations:

Howard R. Houser Day in Centerville - December 6, 1992.
Seniors, Inc. Day in the City of Centerville - December 12, 1992.

Human Rights Day in Centerville - December 13, 1992.

Mayor Heintz thanked all who participated in the Christmas Walk in the Centerville Architectural Preservation District. This successful event took place on Sunday, December 6, 1992.

Mayor Heintz announced the favorable unanimous decision on December 16, 1992 by the Ohio Supreme Court regarding the annexation of 466 acres to the City of Centerville. The City now looks forward to proceeding with this positive addition of a golf course providing green space, recreation, and housing for the benefit of the entire community as well as all of Montgomery County.

Mr. Horn thanked Director of Finance William Bettcher and Assistant City Planner Steve Feverston for their assistance in the preparation of the 1993 appropriations and the Capital Improvement Program for 1993-1997.

Mr. Horn reported the following action being taken relative to drainage projects in the City of Centerville:

The stormwater basin is operational in the Iron Horse Park.

Final specifications are being prepared for the lowering of Poinciana Drive. Bids will be let during the winter months in order to be ready for improvements to take place in the spring of 1993, weather permitting.

The stormwater detention basin at Benham's Grove is under construction. Improvement to this basin will provide for the acceptance of water runoff from the Pleasant Hill area.

The City is requesting proposals from engineering firms for private engineering assistance to determine necessary improvements in the Terrace Villa Plat.

Proposals are also being requested from engineering firms for a more detailed study regarding improvements needed in the Chardennay/Ambridge water shed area.

Mr. Horn brought attention to the Christmas Luncheon and Employees Recognition Ceremony held Wednesday, December 16, 1992 for all employees of the City of Centerville.

JACK & BEVERLY LIGHTCAP APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by Jack and Beverly Lightcap, against a decision rendered by the Planning Commission during their meeting on November 24, 1992. Requested was a Variance to permit a side yard setback of 3.5

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feet to provide for the installation of a carport off the east side of the garage located at 65 Laura Avenue. Mr. Feverston located the subject property on a map and defined the zone classification as R-1d, Single Family Residential. Required by the Centerville Zoning Ordinance is a side yard of 10 feet. Mr. Feverston pointed out the fact that this lot is only 60 feet wide and is located in the older part of Centerville, the part of the City having smaller lots than now permitted in the R-1d zone classification. He defined on a plot plan for this property the location of the house, the garage and the proposed addition and the approximate 20 feet separating this home from the adjacent home. The Planning Commission seeing no uniqueness or hardship with this property from a layout point of view, denied the Variance Application by a vote of 3-1. Mr. Feverston pointed out the fact that some variances have been granted in this neighborhood during the past fourteen years, all having been granted under provisions of older Zoning Ordinances.

Mrs. Beverly Lightcap, 65 Laura Avenue, Applicant, submitted to Council a letter signed by adjacent property owners supporting their request for variance and finding no reason for it to be denied. She identified the need for this carport due to health problems of her husband and self to keep the weather off the car during winter months. Mrs. Lightcap pointed out other properties in the neighborhood having small side yards.

Mr. Singer questioned why a zoning classification was not created for the 7500 square foot lots which are located in this area, to provide for different setback requirements than that required in R-1d. Mr. Feverston advised that this matter was considered by the Zoning Task Force at which time R-1d was presumed to be adequate.

Mrs. Beals expressed concern with the small amount of space between the homes of Lightcaps and the Keifers in future years when ownership changes.

Upon question of Mr. Stone, Mr. Farquhar listed the criteria considered by the Planning Commission in rendering their decision to deny the Variance Application. He identified a possible hardship created in this case when the area was platted with small lots; a hardship not created by the property owner.

Mr. Beasley moved that the decision of the Planning Commission rendered during their meeting of November 24, 1992 denying a Variance Application for Jack and Beverly Lightcap, 65 Laura Avenue, be reversed and the Variance Application be granted as requested. Mr. Kingseed seconded the motion. A roll call vote resulted in seven ayes in favor of the motion.

Mr. Stephen Lake, 1230 Brainard Woods Drive, representing the Dayton Power and Light Company, explained to Council two audit programs conducted by DP&L called "Way To Go, Energy Smart Money Wise": one for home energy audit and the other for business energy audit. This is a free service offered by DP&L to assist users in saving money and energy month after month.

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ORDINANCE NUMBER 14-92 1992 APPROPRIATIONS

Mr. Horn reviewed a proposed Ordinance to adjust appropriations for 1992. Total appropriations of \$20,374,500 are lower than appropriations made early in the year in the amount of \$24,303,500. He explained the fact that this differential is due to moneys for the extension of Clyo Road and the Yankee Trace Golf Course not being utilized during this calendar year. Mr. Stone sponsored Ordinance Number 14-92, An Emergency Ordinance To Repeal Ordinance 26-91 In Its Entirety And To Make Appropriations For The Current Expenses And Other Expenditures Of The City Of Centerville, State Of Ohio, During The Fiscal Year Ending December 31, 1992, and moved that it be passed. Mr. Compton seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 15-92 1992 APPROPRIATIONS

Mr. Singer moved that Ordinance Number 15-92, An Ordinance To Repeal Ordinance 26-91 In Its Entirety And To Make Appropriations For The Current Expenses And Other Expenditures Of The City Of Centerville, State Of Ohio, During The Fiscal Year Ending December 31, 1992, be set for Public Hearing on January 18, 1993. Mr. Stone seconded the motion. The motion passed unanimously.

CAPITAL IMPROVEMENT PROGRAM 1993-1997

Mr. Horn reviewed the Capital Improvement Program prepared for 1993 through 1997. The 1993 portion is included in the appropriations for 1993, while the remaining four years are planning tools. He outlined some of the major projects included for 1993:

The completion of the Yankee Trace Golf Course and the construction of related facilities.

Continued improvements at the Leonard E. Stubbs Memorial Park and Benham's Grove.

Maintain an aggressive drainage commitment.

Continue an aggressive street resurfacing program, plus three large street construction projects.

Continue to purchase necessary capital equipment.

The grand total of funds included in the capital program for 1993 is \$22,497,072.

Mr. Singer, speaking as Chairman of the Council Finance Committee, thanked City Staff for their work on the preparation of this Capital Improvement Program. Mr. Singer moved that the 1993-1997 Capital Improvement Program for the City of Centerville be approved. Mrs. Beals seconded the motion. The motion passed by unanimous vote.

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RESOLUTION NUMBER 31-92 INCOME TAX ALLOCATIONS

Mr. Horn reviewed a proposed Resolution to allocate income tax receipts among various funds beginning January 1, 1993. Mrs. Beals sponsored Resolution Number 31-92, A Resolution Authorizing And Directing The Allocation Of Income Tax Receipts Received On And After January 1, 1993 Between The General Fund, Capital Improvements Fund, Street Construction And Maintenance Fund, Recreational Projects Fund And Unvoted Debt Retirement Fund Of The City Of Centerville, and moved that it be passed. Mr. Compton seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 16-92 1993 APPROPRIATIONS

Mr. Horn reviewed a proposed Ordinance to appropriate funds for 1993. It includes all items included in the Capital Improvement Program and holds City services at the same or near level as in 1992. It reflects no increase in waste collection rates for the coming year. Mr. Beasley sponsored Ordinance Number 16-92, 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 Ending December 31, 1993, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote of City Council.

ORDINANCE NUMBER 17-92 1993 APPROPRIATIONS

Mrs. Beals moved that Ordinance Number 17-92, An Ordinance To Make Appropriations For The Current Expenses And Other Expenditures Of The City Of Centerville, State Of Ohio, During The Fiscal Year Ending December 31, 1993, be set for Public Hearing on January 18, 1993. Mr. Singer seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 18-92 PERSONNEL

Mr. Horn reviewed a proposed Ordinance to provide for a 3.9 wage increase across the board for City employees. New positions have been created for personnel needed for the operation of the Yankee Trace Golf Course. All benefits remain the same as 1992 for full-time employees. Changes have been made relative to benefits for part-time employees hired after January 1, 1993. Mr. Compton sponsored Ordinance Number 18-92, An Emergency Ordinance To Repeal Ordinances Number 28-91 And Number 8-92 In Their Entirety, To Establish Class Titles, Pay Grades, Rates Of Pay, And Regulations For Employees Of The City Of Centerville, Ohio, and moved that it be passed. Mr. Beasley seconded the motion. The motion passed unanimously.

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ORDINANCE NUMBER 19-92 PERSONNEL

Mr. Kingseed moved that Ordinance Number 19-92, An Ordinance To Repeal Ordinances Number 28-91 And Number 8-92 In Their Entirety, To Establish Class Titles, Pay Grades, Rates Of Pay, And Regulations For Employees Of The City Of Centerville, Ohio, be set for Public Hearing on January 18, 1993. Mr. Beasley seconded the motion. The motion passed by unanimous vote, with Mr. Stone abstaining.

RESOLUTION NUMBER 32-92 GRANT TO CENTERVILLE HISTORICAL SOCIETY BUILDING IMPROVEMENT FUND

Mr. Horn reviewed a proposed Resolution to grant \$15,000 to the Centerville Historical Society Building Improvement Fund to assist in making necessary improvements at the Walton House. Mr. Beasley sponsored Resolution Number 32-92, A Resolution Approving A Contribution Of \$15,000 To The Centerville Historical Society Building Improvement Fund, and moved that it be passed. Mr. Kingseed seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 33-92 URBAN FORESTRY ASSISTANCE PROGRAM

Mr. Horn advised that a grant application is being developed to apply for funds through the Division of Forestry's Urban Forestry Assistance Program for a tree planting program on public property in Centerville. This grant application is being coordinated with the City Beautiful Commission. This is a 50-50 match program; grants available are in the amount of \$40,000. Mrs. Beals sponsored Resolution Number 33-92, A Resolution Authorizing The City Of Centerville, Ohio To File An Application And Enter Into An Agreement With The Ohio Department Of Natural Resources For The Purpose Of Acquiring Funds Through The Division Of Forestry's Urban Forestry Assistance Program, And Declaring An Emergency, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote of City Council.

RESOLUTION NUMBER 34-92 ICMA DEFERRED COMPENSATION

Mr. Horn reviewed a proposed Resolution authorizing the execution of an administrative services agreement with the International City Management Association Retirement Corporation for a deferred compensation program for City employees. This agreement is a supplement to a Resolution passed for this same purpose in 1984. Upon question of Mr. Beasley, Mr. Farquhar explained the fact that this agreement is merely a clean-up of the original agreement, it includes no changes. Mr. Stone sponsored Resolution Number 34-92, A Resolution Supplementing Resolution No. 37-84 By Authorizing And Directing The City Manager To Enter Into An Administrative Services Agreement With The International City Management Association Retirement Corporation, and moved that it be passed. Mrs. Beals seconded the motion. The motion passed unanimously.

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RESOLUTION NUMBER 35-92 ALEXANDERSVILLE-BELLBROOK ROAD

Mr. Horn reviewed a proposed Resolution authorizing a request to the Miami Valley Regional Planning Commission for Federal-Aid Highway Funds for the reconstruction of Alexandersville-Bellbrook Road from Loop Road to Wilmington Pike. This is a project that may take place in seven to ten years if funds are awarded; this is the first step in a long process. Mrs. Beals sponsored Resolution Number 35-92, A Resolution Authorizing And Directing The City Manager To Submit A Request To The Miami Valley Regional Planning Commission (MVRPC) For Federal-Aid Highway Funds To Be Programmed For The Reconstruction And Widening Of Alexandersville-Bellbrook Road From Loop Road Eastward To Wilmington Pike, and moved that it be passed. Mr. Kingseed seconded the motion. The motion passed by unanimous vote of City Council.

RESOLUTION NUMBER 36-92 CLYO ROAD

Mr. Horn explained the fact that due to traffic volume on Clyo Road between Alexandersville-Bellbrook Road and Bigger Road resurfacing of this roadway is eligible for Federal Highway Funds. The City has been experiencing pavement problems on this portion of Clyo Road. This is an eighty percent federal/twenty percent local match project. Widening would not take place until 1994. Mr. Singer sponsored Resolution Number 36-92, A Resolution Authorizing And Directing The City Manager To Submit A Request To The Miami Valley Regional Planning Commission (MVRPC) For Federal-Aid Highways Funds To Be Programmed For the Repair And Resurfacing Of Clyo Road From Alexandersville-Bellbrook Road North And Eastward To Bigger Road, and moved that it be passed. Mr. Stone seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 37-92 VIRGINIA AVENUE

Mr. Horn advised that monies have been included in the 1993 Budget for engineering services for the future extension of Virginia Avenue to Spring Valley Road. Proposals were obtained from five firms and reviewed by the Engineering Department. It was determined that the proposal submitted by McCrate Consultants was the most satisfactory in consideration of cost and meeting the criteria established. Mayor Heintz stressed the importance of affected residents being informed of plans when the engineering is complete. Mr. Horn identified one of the major factors in this project, that of linking the new library with the neighborhood now being served by the library on Virginia Avenue. Options will be considered in an attempt to avoid this roadway being used as a cut through for traffic. Mrs. Beals sponsored Resolution Number 37-92, A Resolution Authorizing And Directing The City Manager To Execute A Contract With McCrate Consultants To Provide Professional Engineering Services For The Extension Of Virginia Avenue In The City Of Centerville, and moved that it be passed. Mr. Stone seconded the motion. The motion passed unanimously.

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RESOLUTION NUMBER 38-92 PUBLIC DEFENDER

Mr. Horn reviewed a proposed Contract with the Montgomery County Public Defender Commission to provide legal services to indigent persons charged with violating the Centerville Municipal Code. This Contract includes a slight adjustment of costs from that executed for 1992. Mr. Beasley sponsored Resolution Number 38-92, A Resolution Authorizing And Directing The City Manager To Enter Into A Contract With The Montgomery County Public Defender Commission Providing For Legal Counsel To Indigent Persons Charged With Violations Of The City's Municipal Ordinances, The Outcome Of Which Could Result In The Loss Of Liberty Of Said Persons; Providing For The Payment For Said Services And Providing For A Term Commencing January 1, 1993 And Terminating On December 31, 1993, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote.

CROSS POINTE CENTRE BOND RELEASE

Mr. Hoffman advised that a Performance Bond was posted by the Linclay Corporation to cover public improvements along Alexandersville-Bellbrook Road at the time the Cross Pointe Centre development was approved. This Bond was later increased and the work included as part of the IR-675 construction. The Ohio Department of Transportation charged \$65,403.82 against Centerville's account for the work performed to Alexandersville-Bellbrook Road. Since all work has been completed, Mr. Hoffman recommended that the Performance Bond be released subject to the receipt of \$65,403.82 from Aetna who issued the Bond to the Linclay Corporation who has since gone out of business. Mr. Singer moved that the Performance Bond of \$119,216.42 posted on Cross Pointe Centre by the Linclay Corporation be released subject to the receipt of payment in the amount of \$65,403.82 from Aetna to the City of Centerville. Mr. Stone seconded the motion. The motion passed by unanimous vote of City Council.

NESTLE CREEK SECTIONS ONE, TWO, THREE, FOUR, FIVE, SIX, SEVEN, EIGHT PERFORMANCE BOND RELEASES AND REDUCTIONS

Mr. Horn reviewed a recommendation of Mr. Hoffman that the following actions be taken relative to Performance Bonds posted on Sections in Nestle Creek:

- Section One - release of reduced Bond of \$13,100.
- Section Two - release of reduced Bond of \$26,000.
- Section Three - release of reduced Bond of \$24,000.
- Section Four - release of Bond of \$121,820.
- Section Five - release of Bond of \$64,660.

These releases subject to the receipt of a Maintenance Bond in the amount of \$24,000 covering Sections One through Five for the duration of one year. The developer will post a \$2,000 cash Bond for remaining sidewalks on Lot 38 and 66.

Section Six - Performance Bond of \$129,040 be reduced to \$18,000.

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Section Seven - Performance Bond of \$53,994 be reduced to \$7,000.

Section Eight - Performance Bond of \$98,150 be reduced to \$15,000.

Sidewalk installation in these Sections is covered by separate Performance Bonds.

Mrs. Beals moved that Performance Bonds be released and/or reduced on Sections One, Two, Three, Four, Five, Six, Seven and Eight in Nestle Creek as recommended by the City Engineer and outlined by the City Manager. Mr. Stone seconded the motion. The motion passed unanimously.

THOMAS PAINE SETTLEMENT NUMBER THREE CLYO ROAD

Mr. Horn reviewed a request received from Attorney Barry Mancz on behalf of John G. Black Enterprises, Inc. for an extension of the Subdivider's Agreement posted on Thomas Paine Settlement Number Three - Clyo Road, for a six month period, from December 10, 1992 to June 10, 1993. This portion of Clyo Road will be constructed in conjunction with the City's assessment program for the extension of Clyo Road from Bigger Road east to Wilmington Pike. Upon question of Mr. Beasley, Mr. Farquhar advised that this extension is necessary to provide for an orderly connection between these projects. Mr. Compton moved that the Subdivider's Agreement for Thomas Paine Settlement Number Three - Clyo Road, be extended from December 10, 1992 to June 10, 1993 as requested. Mr. Kingseed seconded the motion. The motion passed unanimously.

BOARD OF TAX APPEALS REAPPOINT MIKULA AND HENSLEY

Mayor Heintz advised that the terms of Stephen Mikula and Robert Hensley will soon expire as members of the Board of Tax Appeals. Both have indicated a desire to continue to serve the City in this capacity. Mrs. Beals moved that Stephen Mikula and Robert Hensley be reappointed as members of the Board of Tax Appeals for an additional term of three years. Mr. Beasley seconded the motion. The motion passed by unanimous vote of City Council.

Mayor Heintz, on behalf of City Council, bid farewell to Centerville Times reporter Heather Campbell and wished her good luck in future endeavors.

Mr. Stone recognized the outstanding legal service and judgement of Mr. Farquhar as confirmed by the Ohio Supreme Court relative to the recent annexation of 466 acres of City owned property to the City of Centerville.

Mayor Heintz wished the listening audience a Merry Christmas and a Happy New Year.

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There being no further business, the Meeting was adjourned.,

Approved:

Shirley F. Wentz
Mayor

ATTEST:

Maile J. Saufel
Clerk of Council