

## RECORD OF PROCEEDINGS

Minutes of

REGULAR COUNCIL

Meeting

DAYTON LEGAL BLANK CO. 10144

Held

June 18,

19 90

The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session on Monday, June 18, 1990 at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Councilman James Singer, 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 J. V. Stone

Sally Beals

James Singer

C. Mark Kingseed

Mark Beasley

Clerk of Council Marilyn McLaughlin

City Manager Darryl Kenning

City Planner Alan Schwab

Municipal Attorney Robert Farquhar

Administrative Assistant Michael Haverland

Administrative Assistant Judith Gilleland

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

Council Meeting - May 21, 1990.

June 4, 1990.

Council Work Session Meetings - May 21, 1990.

June 4, 1990.

June 11, 1990.

Mr. Compton moved that the Minutes of the foregoing Meetings be approved as distributed. Mrs. Beals seconded the motion. The motion passed by unanimous vote; however, Mr. Singer abstained from the June 11, 1990 Work Session Meeting Minutes.

Mayor Heintz advised that the Incarnation School has been honored as a "1989-1990 National Elementary School of Recognition" selected by a national board and the Secretary of Education. Mayor Heintz presented a Certificate of Congratulations, read by Mr. Compton, to School Principal Frank Mattia. Mr. Mattia thanked teachers, parents, students and the Community for this award.

Mrs. McLaughlin announced the receipt of a letter of resignation from City Beautiful Commission Member Virginia Siler. Mr. Singer moved that the resignation of Virginia Siler as a Member of the City Beautiful Commission be accepted with regret. Mrs. Beals seconded the motion. The motion passed unanimously.

Mrs. McLaughlin read a letter received from Veterans of Foreign Wars of the United States, Post 9550, Centerville, Ohio, Post Commander Dee Miller, presenting to the City a United States Flag to be flown at the Veterans Memorial in Stubbs Park in memory of their departed comrade, Olan Lee Moore.

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Mayor Heintz reported the following during her Report:

A Proclamation has been issued designating July 4, 1990 as "Go Right For Sirens & Lights" Day in Centerville.

Tribute was paid to Sister City Committee Member Ted van Ruiten for his many years of volunteer service to the City of Centerville. Sympathy was extended to the van Ruiten family.

July 4, 1990 Americana Festival activities were outlined.

Centerville Arts Commission Applicants are being interviewed; Applications are still be accepted.

The Ohio Mayor Conference was held the weekend of June 15, 1990. The main topics of discussion were recycling and solid waste.

Visitors from Centerville's Sister City, Waterloo, Ontario Canada, will be in Centerville for the Americana Festival. They will arrive July 3 and depart on July 6, 1990.

Mr. Kenning advised that a special issue of the Town Crier will be mailed within the next several days outlining events and activities during the Americana Festival. He encouraged all citizens to participate in this celebration.

Upon question of Mayor Heintz, Mr. Kenning will review the possibility of a ceremony being held at the Veterans Memorial in the Leonard E. Stubbs Memorial Park sometime during the 4th of July festivities.

#### H & W PROPERTIES APPEAL TO COUNCIL

Mr. Kenning reviewed the Planning Commission Meetings held May 8 and May 26, 1990.

The Public Hearing was held concerning an Appeal filed by H & W Properties against a decision rendered by the Planning Commission during their Meeting on May 8, 1990. Mr. Schwab located the subject property on a map being situated at the northwest corner of West Franklin Street and Hampton Road, more particularly known as 201 West Franklin Street. The subject property is located in the Architectural Preservation District. The Applicant requested a Variance from the requirements of the Zoning Ordinance to waive the requirement for the installation of brick sidewalk along the east side of the property for a length of approximately 200 feet. The installation of brick sidewalk is required with approval of a Site Plan in the AP District. Mr. Schwab outlined attempts by the Applicant to omit the construction of this sidewalk since the construction of the building in 1987. Recent attempts by the City Staff for the installation of this brick sidewalk have lead to this Variance Application and Appeal to City Council. Mr. Schwab identified this sidewalk as a walkway for pedestrians from the plat north of this property to the school on West Franklin Street. This sidewalk requirement is in keeping with the City's Policy that there be sidewalk on both sides of all streets in Centerville. The Planning Commission, finding nothing unique with this request to warrant elimination of the sidewalk, voted unanimously to deny the Variance Application.

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Mr. Ernest Weidemann, co-owner of the property, stated their reasoning for elimination of the construction of this sidewalk. He believes the sidewalk would serve no practical purpose and would not be in the best interest of property owners in the area; school children are bused, the plat to the north does not lend itself to sidewalks, and construction of this sidewalk would cause the loss of picturesque trees which offer much to the landscaping of the property in question.

Upon question of Mr. Singer, Mr. Weidemann could identify nothing different between this Variance Application and one submitted in 1987 for this same purpose.

Mr. Michael Hayde, co-owner of the property, advised that new issues to consider are that the building has been constructed, landscaping is in place, there is little or no pedestrian traffic. He believes the sidewalk will detract from the appearance of the property.

Mayor Heintz pointed out that sidewalks have been curved around trees in other areas. She emphasized the fact that the sidewalk along West Franklin Street in front of this property was put in place during an improvement project and was at no cost to the property owner.

Mrs. Beals advised that she was a Member of the Board of Architectural Review at the time the plan for the building was considered and the sidewalk question was addressed. The only difference between then and now is that some scrub trees have been removed.

Mr. Kingseed brought attention to the fact that the City provides the bricks when sidewalk is placed in the right-of-way. The only cost to the property owner is labor and concrete base.

Mrs. Beals stressed the need for sidewalks in Centerville. When sidewalks are put in place, they are used. She believes a sidewalk from Ridgeway Road to Franklin Street is valuable and will be used by school children.

Mr. Stone, seeing no grounds for granting this Variance, moved that the decision of the Planning Commission be confirmed and that the brick sidewalk be put in place. Mrs. Beals seconded the motion. The motion passed unanimously.

#### FRED WEIR/D'AMICO & MANZO'S APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by Fred W. Weir Construction against a decision rendered by the Planning Commission during their Meeting on May 29, 1990 concerning property located at 79 South Main Street, owned by D'Amico & Manzo's Resterante. The Planning Commission denied a Variance Application to permit a side yard minimum of 5 feet to provide for the construction of a 12 foot addition to the kitchen area. Required by the Zoning Ordinance is a side yard setback of 10 feet. Mr. Schwab located the property on a map and reviewed the Appeal. This property located on the west side of South Main Street is just north of Cranston Court. The proposed location of the addition is onto the south side of the building. Mr. Schwab identified owners of narrow strips of property between Cranston Court and the subject property line. The Planning Commission,

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seeing no unique situation to warrant this Variance, denied the request by unanimous vote.

Mr. Fred Weir, Contractor, reviewed the proposed layout for the kitchen. This addition is necessary in order to conform to new County and State standards effective July 1, 1990. He defined outside traffic flow problems and inside employee flow problems if the addition was placed to the north or west of the building. Projection into the parking area would decrease parking spaces and thus would not meet City requirements. He advised that perhaps the building could be reduced by 1 foot.

Upon question of Mayor Heintz, Mr. Weir identified difficulties with narrowing the building and extending it further to the west.

Mr. Ralph Sanderson, 41 Winchester Place, Member of the Board of Managers, Village Square Condominiums, stated their objection to the addition as proposed. It will detract from the entrance into the condominium development, add to the already cluttered appearance of the area, and will prevent any future widening of a very narrow street namely Cranston Court. Petitions were filed with the City Council stating objections by the Village Square condominium owners.

Mr. David Weir identified on a slide exactly how far to the south the proposed addition will project and explained why the equipment should be placed in this location.

Mr. Beasley proposed moving the addition further to the rear of the building, along the south side of the building, thus satisfying the side setback required by the Zoning Ordinance.

Mrs. Reva Minton, 61 Winchester Place, believes that additions make Cranston Court look like an alley.

Mr. Kingseed believes that a unique factor exists in this case; the alley to the south serves as a green space; the addition does not impinge upon a neighboring building.

Mr. Stone does not believe the addition will adversely affect the neighborhood. The entrance into the condominium development will be maintained.

Mayor Heintz suggested that needed square footage be obtained staying within the requirements of the Zoning Ordinance.

Mrs. Beals, also endorsing a different configuration, moved that this Appeal to Council be denied. Mr. Compton seconded the motion.

Upon question of Mr. Singer, Mr. Farquhar advised that the Applicant, being compelled by action taken by other government entities, certainly is a basis for favorable consideration in this case.

Following discussion relative to a redesign for the addition, Mrs. Beals withdrew her motion and Mr. Compton withdrew his second to the motion. Mr. Compton moved that this matter be tabled. Mr. Singer seconded the motion. The motion passed unanimously.

Mrs. Beals, Chairman of the Streets and Highways Council Committee, advised that the Committee is developing a plan to bring streets to standards and complete the sidewalk network in Centerville over a five year period. The plan should be ready

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for Budget consideration and implementation in 1991.

#### B. P. OIL COMPANY APPEAL TO COUNCIL

Mr. Kenning advised that the B. P. Oil Company has requested that their Appeal filed against a decision rendered by the Planning Commission concerning rights-of-way on Wilmington Pike and proposed Clys Road be tabled until the next Council Meeting. Mrs. Beals moved that the Appeal filed by B. P. Oil Company be tabled until the July 16, 1990 Council Meeting. Mr. Beasley seconded the motion. The motion passed by unanimous vote.

#### 1991 TAX BUDGET

The Public Hearing was held concerning the Tax Budget for the City of Centerville for fiscal year 1991. Mr. Kenning advised that submission of this Tax Budget to the County Auditor is required by State Statute. The Budget projects a decline in property tax in the City of Centerville for 1991. Mrs. Beals moved that the 1991 Tax Budget for the City of Centerville be approved for submission to the Montgomery County Budget Commission. Mr. Compton seconded the motion. The motion passed unanimously.

#### ORDINANCE NUMBER 9-90 ADJUST BOUNDARY LINES

The Public Hearing was held concerning an Ordinance to adjust boundary lines between the City of Kettering and the City of Centerville. Mr. Kenning located the four small parcels of land which are the subjects of this proposal and identified existing problems. Through this exchange, Kettering will receive 6.6 acres from Centerville, and Centerville 8.3 acres from Kettering. A part of this Ordinance is also an Agreement for the City of Centerville to meet their commitment to put in place sidewalk along Rahn Road, paying for that portion becoming Kettering. Mr. Singer sponsored Ordinance Number 9-90, An Ordinance To Provide For The Adjustment Of The Boundary Lines Between The City of Centerville And The City Of Kettering And Authorizing A Contract Regarding Sidewalk Improvements, and moved that it be passed. Mrs. Beals seconded the motion. The motion passed unanimously.

#### RESOLUTION NUMBER 16-90 INCOME TAX ALLOCATION

Mr. Kenning reviewed a proposed Resolution to readjust allocation of income tax receipts received on and after June 1, 1990. Mr. Singer sponsored Resolution Number 16-90, A Resolution To Amend Resolution 61-89 In Its Entirety And To Authorize And Direct The Allocation of Income Tax Receipts Received On And After June 1, 1990 Between The General Fund, Street Construction And Maintenance Fund, Capital Improvements Fund, Central Vehicle Purchase Fund, General Insurance Deductible Trust Fund, Capital Investments Trust Fund, And Equipment Reserve Fund of The City Of Centerville, and moved that it be passed. Mrs. Beals seconded

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the motion. The motion passed unanimously.

## RESOLUTION NUMBER 17-90 SPRING VALLEY/SR 48 IMPROVEMENT

Mr. Kenning reviewed a proposed Resolution to acquire necessary right of way along the north side of Spring Valley Road to provide for the installation of sidewalk and roadway widening in the future. The sidewalk will extend from State Route 48 west into the Leonard E. Stubbs Memorial Park. Sidewalk construction should begin within the next two weeks. Mrs. Beals sponsored Resolution Number 17-90, A Resolution Authorizing And Directing The City Manager To Enter Into A Contract With Celine Percy For The Purchase Of Real Property For Right Of Way Purposes And Authorizing The Payment Therefore, and moved that it be passed. Mrs. Beals seconded the motion. The motion passed by unanimous vote.

## RESOLUTION NUMBER 18-90 SPRING VALLEY/SR 48 IMPROVEMENT

Mr. Kenning reviewed proposed Resolution Number 18-90 which serves the same purpose as Resolution Number 17-90. Mr. Kingseed sponsored Resolution Number 18-90, A Resolution Authorizing And Directing The City Manager To Enter Into A Contract With Joan F. Williams For The Purchase Of Real Property For Right Of Way Purposes And Authorizing The Payment Therefore, and moved that it be passed. Mr. Beasley seconded the motion. The motion passed by unanimous vote of City Council.

## RESOLUTION NUMBER 19-90 CLYO ROAD RESURFACING

Mr. Kenning reviewed a proposed Resolution to provide for the resurfacing of Clyo Road from Centerville Station Road north to Alexandersville-Bellbrook Road. This is a joint project between Centerville and the State of Ohio. Costs will be paid by 75% federal and 25% local dollars. Centerville's share will be approximately \$60,000.00. The State of Ohio will let Bids the end of July with anticipated completion in 1990. Mr. Beasley sponsored Resolution Number 19-90, Final Resolution, Adopting Plans; Proposing To Co-operate; Requesting Director To Proceed, and moved that it be passed. Mrs. Beals seconded the motion. The motion passed unanimously.

## RESOLUTION NUMBER 20-90 STREET IMPROVEMENTS

Mr. Kenning reviewed the following Bids received for 1990 Road Improvements Part II in the City of Centerville:

TdM Construction Company, Inc.	\$119,885.00
John R. Jurgensen Company	125,142.00
Republic Asphalt Paving Company	135,956.00

Mr. Kenning recommended acceptance of the low and best Bid submitted by TdM Construction Company with authorization to spend up to \$150,000.00. He outlined those streets which will be improved under this expenditure. This project will be folded into the present Road Improvement Project for 1990. Mr. Beasley

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sponsored Resolution Number 20-90, A Resolution Accepting The Bid Of The TdM Construction Company For 1990 Road Improvements Part Two For The City Of Centerville, Ohio, And To Authorize The City Manager To Enter Into A Contract In Connection Therewith, and moved that it be passed. Mr. Compton seconded the motion. The motion passed unanimously. Mr. Stone expressed concern with TdM Construction Company placing barrels in residential areas with no lights. Mr. Kenning will examine this matter.

## ORDINANCE NUMBER 10-90 WHIPP ROAD REALIGNMENT

Mr. Kenning reviewed a proposed Ordinance to levy special assessments upon one property owner to pay part of the cost for the realignment of East Whipp Road. The project has been completed and final costs established. Mr. Compton sponsored Ordinance Number 10-90, Ordinance Levying Special Assessments For Paying Part Of The Cost Of Relocating And Improving Whipp Road In The City And Paying Certain Other Lawful Costs, And Declaring An Emergency, and moved that it be passed. Mr. Stone seconded the motion. The motion passed six in favor; Mrs. Beals abstained.

## ORDINANCE NUMBER 11-90 WHIPP ROAD REALIGNMENT

Mr. Compton moved that Ordinance Number 11-90, Ordinance Levying Special Assessments For Paying Part Of The Cost Of Relocating And Improving Whipp Road In The City And Paying Certain Other Lawful Costs, be set for Public Hearing on July 16, 1990. Mr. Beasley seconded the motion. The motion passed six in favor; Mrs. Beals abstained.

## DEER RUN PHASE II BOND RELEASE

Mr. Kenning reviewed a recommendation submitted by City Engineer Norbert Hoffman that the Performance Bond posted on Deer Run Phase II be released. All public streets have been completed according to Centerville Subdivision Standards and the storm water detention basin located behind the condo units east of the Deer Run/Hartcrest Lane intersection has been completed. Upon question of Mr. Singer, Mr. Kenning advised that detention and retention ponds have been completed as specified. Mr. Compton moved that the Performance Bond of \$53,006.00 posted on Deer Run Phase II be released, subject to receipt of a Maintenance Bond in the amount of \$3,000 for the duration of one year. Mr. Kingseed seconded the motion. The motion passed unanimously.

## CENTERVILLE BUSINESS PARK SECTIONS ONE &amp; TWO BOND RELEASES

Mr. Kenning reviewed the City Engineer's recommendation for release of the Performance Bonds posted on Sections One and Two of Centerville Business Park. Public improvements have been completed including sidewalk on both sides of the street. Mr. Stone moved that the balance of the Performance Bond for Section One in the amount of \$14,000.00 and the Performance Bond for Section Two of \$239,863.00 be released, subject to the receipt of

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a Maintenance Bond of \$18,000.00 for the duration of one year. Mr. Compton seconded the motion. The motion passed by unanimous vote.

## CITY BEAUTIFUL COMMISSION APPOINT DEGER

Mayor Heintz advised that Dr. Ralph W. Deger is interested in serving as a Member of the City Beautiful Commission. Mr. Singer moved that Dr. Ralph W. Deger be appointed to a three year term as a Member of the City Beautiful Commission. Mr. Compton seconded the motion. The motion passed unanimously.

## BOARD OF ARCHITECTURAL REVIEW REAPPOINT GRAHAM & PRESBAUGH

Mayor Heintz advised that the terms of Mr. Charles Graham and Mr. James Presbaugh will soon expire on the Board of Architectural Review. They have indicated a desire to serve another term. Mrs. Beals moved that Charles Graham and James Presbaugh be reappointed as Members of the Board of Architectural Review. Mr. Singer seconded the motion. The motion passed by unanimous vote.

## CENTERVILLE HISTORICAL COMMISSION CHAIRMAN

Mr. Beasley moved that Mr. James Teske be appointed as Chairman of the Centerville Historical Commission for a period of one year. Mr. Kingseed seconded the motion. The motion passed unanimously.

Upon question of Mr. Singer, Mr. Kenning advised that equipment for the drug hot line is being reviewed; the phone line has been installed. The program should be operational in approximately 30 days.

There being no further business, the Meeting was adjourned.

Approved:   
Mayor

ATTEST:

  
Clerk of Council