

# RECORD OF PROCEEDINGS

DAYTON LEGAL BLANK CO. 10144

Held August 21, 1989

The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session on Monday, August 21, 1989 at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Deputy-Mayor 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 James Singer
- Councilmembers J. V. Stone
  - Sally Beals
  - Brooks Compton
  - Bernard Samples
- City Manager Darryl Kenning
- City Planner Alan Schwab
- Municipal Attorney Robert Farquhar
- Administrative Assistant Michael Haverland

Mayor Heintz advised that Councilman Jeffrey Siler would not be present for this Meeting. Mr. Compton moved that Councilman Siler be excused from this Meeting. Mr. Singer seconded the motion. The motion passed unanimously.

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

- Council Meetings - July 17, 1989.
- July 31, 1989.
- Council Work Session Meetings - July 10, 1989.
- July 17, 1989.
- July 24, 1989.
- July 31, 1989.
- August 7, 1989.
- August 14, 1989.

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 Mr. Compton abstained from the Minutes of Meetings held July 24 and July 31, 1989, Mr. Stone abstained from the August 14, 1989 Meeting Minutes.

Mr. Dee Miller, representing the Veterans of Foreign Wars, Post 9550 in Centerville, expressed appreciation to the City of Centerville for the erection of a War Memorial in the Leonard E. Stubbs Memorial Park. He presented an American flag flown over the Nation's Capital on July 14, 1989 now to be flown over the War Memorial.

Ms. Cor Wilson, Executive Director of the Miami Valley Cable Council, was present at this Meeting to give the listening public and City Officials an overview of the nine City Cable Council of Governments, an update on activities and achievements of the Cable Council during the past year, and an outline of what can be expected in the future. Many volunteer hours have contributed to the success of Cable Council activities. The Cable Council will soon move into a new facility which will provide the opportunity

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to expand services to surrounding Communities.

Mrs. Constance Cooper, Acting Clerk of Council, announced the receipt of three letters of resignation from Board and Commission Members. Mr. Compton moved that the resignation of Mr. Scot Stone as a Member of the Board of Architectural Review, be accepted. Mr. Singer seconded the motion. The motion passed unanimously. Mayor Heintz advised that this resignation has come forth as a result of Mr. Stone's appointment as a Member of the Planning Commission.

Mrs. Beals moved that the resignation of Mr. Casimer K. Salys as a Member of the Board of Tax Appeals, be accepted with regret. Mr. Samples seconded the motion. The motion passed by unanimous vote of City Council.

Mr. Singer moved that the resignation of Mr. Alexander M. Pearl as a Member of the City Beautiful Commission, be accepted with regret. Mr. Compton seconded the motion. The motion passed unanimously.

Mayor Heintz reported the following during her Mayor's Report:

On August 11, 1989 Miss America was present at the Elder-Beerman Store in the City of Centerville; said day was proclaimed Gretchen Elizabeth Carlson Day in Centerville.

On August 10, 1989 the Tenth Annual Soaring Sounds competition was held in Centerville. This event was a great success attended by approximately 7,000 to 8,000 people.

The Washington Township Firemen's Ice Cream Social was held on Sunday, August 13, 1989 and again was a huge success.

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

Separation of grass clippings from the regular collection of waste has reduced total tonnage by approximately 28 percent from June 1 to the present date.

Flu shots will be made available by the Combined Health District Montgomery County on Thursday, November 2, 1989 in the Community Room at the Centerville Municipal building and at the St. Leonard's Senior Citizen Center on Thursday, November 9, 1989, both dates from 1:30 P.M. to 4:00 P.M. The cost for this service is \$5.00.

Mrs. Beals, Chairman of the Recycling Committee, advised that the Committee has met and is in the process of formulating a pilot program for recycling beginning in October. A questionnaire will be mailed to residents of Centerville to obtain input into the program.

Mr. Singer, Chairman of the Stormwater Drainage Task Force Steering Committee, reported that their first Meeting will be held within the next two weeks to review the draft "Request For Proposal" (RFP) to hire a professional outside consultant to



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develop a comprehensive stormwater drainage plan for the City of Centerville.

NATIONAL AMUSEMENTS, INC. SIGN APPEAL TO COUNCIL

The Public Hearing was held concerning an Appeal filed by National Amusements, Inc. against a decision rendered by the Planning Commission during their Meeting on May 30, 1989 to deny a Variance Application for signage on Loop Road. Mr. Schwab identified the sign and located the subject property on a map. Requested is a permit to erect a single, double-sided, free standing ground sign with a total of approximately 180 square feet of sign face area per side, with a height of 18 feet, 11 inches to be located at the entrance into Showcase Cinemas off Loop Road. The property is located north of the Cross Pointe Centre, south of I-675 and west of Loop Road. Permitted according to the Zoning Ordinance is a ground sign, maximum height 11 feet with a maximum size of 32 square feet per face. Mr. Schwab identified signage approved for Showcase Cinemas at the time when Cross Pointe Centre was approved. The Planning Commission, by a 4-3 vote, denied the Variance Request based upon the fact that requested is a sign much in excess of any sign permitted by Ordinance or Variance in the recent past. Since the Planning Commission decision, the Applicant has submitted a revised plan for the proposed sign to City Council for a sign 147 square feet per side at a height of 15 feet 8 inches.

Mr. Charles Atkins, Attorney representing Showcase Cinemas and National Amusements, Inc., explained the fact that National Amusements has determined that it is not economically feasible to deny itself an application for relief of adherence to the requirements of the Zoning Ordinance concerning signage at this location. They believe that the size of the sign proposed is a function of its distance from the perceiver and also the amount of information to be conveyed on the sign. Mr. Atkins pointed out the fact that marquee advertisements are necessary in order for this to be an economic investment. In an attempt to accommodate the statements and concerns of the Planning Commission they have submitted to the City Council a revised sign, smaller in size, lower in height, and of a different color in order to achieve the same effect of the sign denied by the Planning Commission. Mr. Atkins advised that a smaller sign that cannot be read safely and quickly by the motorist passing, would be ineffective to do the job and would not fit the needs of the land owner to use his property to the proper economical potential.

Mrs. Hilda Ryan, 88 Davis Road, believes that Showcase Cinemas is doing well right now, she does not believe it is hurting for a sign, a larger sign is not necessary.

Mr. Samples pointed out the fact that he has yet to find someone who has attended a movie based upon a marquee sign. Similar Variances have been denied for car dealers on Loop Road; Mr. Samples believes that if this sign is approved, car dealers will be requesting the same treatment; it is a basic premise of zoning principles that financial loss or gain should not be a



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consideration whether a Variance should be denied or granted.

Mr. Atkins advised that land owners have the right to make a proper economical use of their property, this use is judged by proper advertising and conduct of the business itself. Each Variance should be considered on its own merits and not based upon other requests.

Mr. Singer questioned why this sign wasn't requested previously, if it is so vital and essential now. Mr. Atkins advised that National Amusements tried it one way, it has now been determined that it is not a reasonable use.

Upon question of Mr. Compton, Mr. Charles Goldwater, Vice President of National Amusements, Inc., advised that attendance at this theatre has been compared with average weekly attendance records throughout the Country, and has been recorded as substantially less, the sign may or may not be a contributing factor.

Mayor Heintz pointed out the fact that people generally observe movie listings in newspapers, they do not rely upon what they may see on a marquee. It has always been crowded when she has attended Showcase Cinemas.

Upon question of Mr. Samples, Mr. Atkins advised that a sign would not be of effective service to I-675. The theatre is identified for motorists traveling this interstate.

Mrs. Beals moved that the decision of the Planning Commission be upheld and the Appeal be denied, Appeal having been submitted by National Amusements, Inc. to permit the erection of a sign at the entrance into Showcase Cinemas off Loop Road. Mr. Samples seconded the motion. The motion passed by unanimous vote.

#### ORDINANCE NUMBER 15-89 HISTORICAL COMMISSION

The Public Hearing was held concerning Ordinance Number 15-89. Mr. Kenning reviewed this proposed Ordinance to establish a Centerville Historical Commission composed of seven members - three appointed based upon nominations from the Centerville Historical Society, three appointed by City Council, and one recommended to City Council by the Commission. Membership is open to residents of Centerville and Washington Township. Following the effective date of this proposed Ordinance a Lease and Agreement will be signed between the City of Centerville and the Centerville Historical Society which will provide the City the opportunity to assist in the care and preservation of Centerville's historical heritage.

Mr. Robert Thobaben, son of Janet Thobaben, 201 Gershwin Drive, congratulated the City of Centerville and the Historical Society on this unity of purpose. Positive plans for the future can now be finalized.

Mrs. Joann Treffinger, 251 Glenburn Drive and President of the Centerville Historical Society, recognized this as an outstanding historic occasion. On behalf of the Society she thanked the City for this mutually agreed partnership. She invited the listening public to visit the Walton House at 89 West Franklin Street.



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Mrs. Beals congratulated the Centerville Historical Society for the work and cooperation they have provided during previous years.

Mr. Samples sponsored Ordinance Number 15-89, An Ordinance Creating A Centerville Historical Commission; Providing For Duties For Said Commission; Providing For Members Of Said Commission And Setting Terms, and moved that it be passed. Mrs. Beals seconded the motion. The motion passed unanimously.

CENTERVILLE HISTORICAL COMMISSION COUNCIL LIAISON

Mayor Heintz recommended that Councilman Samples be appointed as the Council Liaison to the Centerville Historical Commission. Mr. Singer moved that Mr. Samples be appointed as the Council Liaison to the Centerville Historical Commission. Mr. Compton seconded the motion. The motion passed unanimously.

Mr. Robert Ryan, 88 Davis Road, questioned the increase in siren activity in the Centerville area. Mayor Heintz explained the fact that volunteers travel to the fire house and then to the scene with emergency warnings activated. Mr. Kenning attributes this to population increase over the past several years.

STONE LAKE RECORD PLAN

Mr. Schwab reviewed a proposed revision to the Record Plan for Stone Lake, a single family development proposed to be constructed north of Whipp Road and east of Marshall Road. The zoning of this land is R-1c. The revision provides for no increase in the number of lots; changes in lot lines have been made in order to include the lot upon which the present home is built so that this structure may be used for recreation. The size of the home will only permit gatherings of small groups of people.

Mr. Robert Archdeacon, Woolpert Consultants representing developer Dale Smith, views this as a good addition to an excellent development in Centerville. Upon question of Mayor Heintz, Mr. Archdeacon explained how the tennis courts will be down lighted to avoid annoyance to property owners.

Mr. Samples moved that the Revised Record Plan for Stone Lake be approved subject to the following conditions as recommended by Mr. Schwab:

1. A Subdividers Agreement.
2. A Performance Bond in the amount of \$342,700.00 to cover the costs to construct the private streets, storm sewer, sidewalks and detention facility.
3. Establishment of an escrow amount of \$84,090.00 for full lane widening, storm sewer, curb and sidewalk along Marshall Road frontage.
4. Inspection fee in the amount of \$2,042.00.
5. Park land fee in lieu of dedication.

A Maintenance Bond for the duration of one year shall be posted after completion of the private streets, sidewalks and detention facilities. Amount of Bond will be determined when improvements



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are in place.

Mrs. Beals seconded the motion. The motion passed five ayes in favor of the motion; Mr. Stone abstained.

## RESOLUTION NUMBER 49-89 SPRING VALLEY/SR48

Mr. Kenning reviewed a proposed Resolution to authorize the City Manager to purchase real estate necessary for right-of-way in the Spring Valley/State Route 48 Improvement Project. Mr. Compton sponsored Resolution Number 49-89, A Resolution Authorizing And Directing The City Manager To Enter Into A Contract With David Lee And Elizabeth McDowell For The Purchase Of Real Property For Road Right Of Way Purposes And Authorizing The Payment Therefore, and moved that it be passed. Mr. Stone seconded the motion. The motion passed unanimously.

## RESOLUTION NUMBER 50-89 LOCAL GOVERNMENT FUND

Mr. Kenning reviewed a proposed Resolution adopting a formula for the distribution of new monies available in the Local Government Fund. This is an alternate formula which will be replaced in 1990. The formula provides for the City of Centerville to receive 1.40873 percent of the total Local Government Revenue Assistance Fund available for Montgomery County governments which should amount to approximately \$8,000 for Centerville. Mrs. Beals sponsored Resolution Number 50-89, A Resolution Approving An Alternative Method Of Apportioning The Undivided Local Government Revenue Assistance Funds Of Montgomery County, And Requesting The Montgomery County Budget Commission To Provide For The Approved Alternative Method Of Apportioning Said Funds, And Declaring An Emergency, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote.

## STATION HOUSE ACRES PERFORMANCE BOND RELEASE

Mr. Kenning reviewed a recommendation received from the City Engineer that the Performance Bond posted on Station House Acres be released. All work has been completed to the satisfaction of the City of Centerville. This development is located south of Centerville Station Road, east of Black Oak South and west of the Forest Field Park. Mr. Samples moved that the Performance Bond posted on Station House Acres be released subject to the receipt of a Maintenance Bond in the amount of \$10,000 for the duration of one year. Mr. Singer seconded the motion. The motion passed by unanimous vote of City Council.

## PARK PLACE

Mr. Kenning reviewed a request of developer Richard Pavlak, P.R.D. Corporation, for reduction of the Letter of Credit of \$21,500 posted on Park Place to \$6,700. This development is located south of Centerville Station Road just west of Forest Field Park. Many of the public improvements have been completed

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except for the final course of asphalt, the installation of walks on 5 lots and some other miscellaneous work. \$6,700 will cover that work yet to be completed. All work completed thus far meets City specifications and should not require major corrective reconstruction. Mr. Singer moved that the Letter of Credit posted on Park Place be reduced from \$21,500 to \$6,700 as requested by the developer. Mr. Compton seconded the motion. The motion passed unanimously.

## BOARD OF ARCHITECTURAL REVIEW B. SCOTT FELDMAIER

Mayor Heintz advised that the term of Mr. B. Scott Feldmaier will soon expire as a Member of the Board of Architectural Review. Mrs. Beals moved that B. Scott Feldmaier be reappointed as a Member of the Board of Architectural Review for a term of three years. Mr. Singer seconded the motion. The motion passed unanimously.

## BOARD OF ARCHITECTURAL REVIEW B. SCOTT FELDMAIER CHAIRMAN

Mr. Singer moved that B. Scott Feldmaier be reappointed as Chairman of the Board of Architectural Review for a term of one year. Mr. Stone seconded the motion. The motion passed by unanimous vote.

## BLACK OAK DRIVE STORM SEWER IMPROVEMENTS 1989

Mr. Kenning reviewed the following two Bids received for Black Oak Drive Storm Sewer Improvements 1989:

Pyper Construction Company Centerville, Ohio	\$42,150.00
TdM Construction Company, Inc. Centerville, Ohio	43,000.00

Based upon the fact that these construction Bids are considerably higher than the Engineer's estimate, Mr. Kenning recommended that these Bids be rejected and the City go to Bid immediately for unit costs. Mr. Samples moved that Bids received for the Black Oak Storm Sewer Improvements 1989 be rejected as recommended by the City Manager. Mr. Compton seconded the motion. The motion passed unanimously.

## RESOLUTION NUMBER 51-89 CENTERVILLE-TRAFFIC SIGNAL IMPROVEMENTS 1989

Mr. Kenning reviewed the following one Bid received for the rebuilding, modernization and upgrading of certain traffic signals in the City of Centerville:

The Wagner-Smith Company	\$91,685.00
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This project includes

1. Reconstruction and modernization - Franklin Street at the Centerville High School.
2. Reconstruction and modernization - Franklin Street at North Johanna Drive.
3. Reconstruction and modernization - Main Street and



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Williamsburg Lane.

4. New light - Alexandersville-Bellbrook Road and Loop Road.

Mr. Kenning advised that this Bid is within 3 percent of the engineer's estimate, he recommended acceptance of said Bid. Money has been budgeted and is available.

Mr. Compton sponsored Resolution Number 51-89, A Resolution Accepting The Bid Of The Wagner-Smith Company For Centerville-Traffic Signal Improvements 1989, For 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. Samples seconded the motion. The motion passed by unanimous vote.

RESOLUTION NUMBER 52-89  
CENTERVILLE ROAD IMPROVEMENTS 1989

Mr. Kenning reviewed the following Bids received for Centerville Road Improvements 1989:

Spring Valley Asphalt Company, Inc.  
Spring Valley, Ohio

Asphalt	\$285,514.50
Concrete	94,166.00
Slurry Seal	51,260.00
<b>Total Bid</b>	<b>430,940.50</b>

TdM Construction Company, Inc.  
Centerville, Ohio

Asphalt	272,715.00
Concrete	90,000.00
Slurry Seal	49,130.00
<b>Total Bid</b>	<b>411,845.00</b>

L. P. Cavett Company  
Lockland, Ohio

Asphalt	257,850.10
Concrete	No Bid
Slurry Seal	No Bid
<b>Total Bid</b>	<b>257,850.10</b>

Benedict Slurry Seal, Inc.  
Xenia, Ohio

Asphalt	No Bid
Concrete	No Bid
Slurry Seal	48,331.00
<b>Total Bid</b>	<b>48,331.00</b>

Don S.Cisle Contractor, Inc.  
Hamilton, Ohio

Asphalt	279,703.40
Concrete	No Bid
Slurry Seal	No Bid
<b>Total Bid</b>	<b>279,703.40</b>

Trojan Asphalt, Inc.  
Piqua, Ohio

Asphalt	287,174.10
Concrete	90,990.00
Slurry Seal	49,141.00
<b>Total Bid</b>	<b>427,305.10</b>



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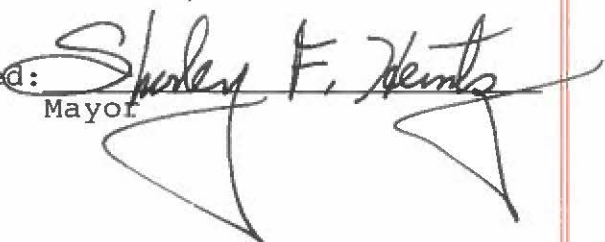
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John R. Jurgensen Company  
Cincinnati, Ohio

Asphalt	260,744.95
Concrete	98,004.00
Slurry Seal	50,761.00
Total Bid	409,509.95

Mr. Kenning recommended that this Bid be split and the asphalt Contract in the amount of \$257,850.10 be awarded to L. P. Cavett Company, the concrete Contract in the amount of \$90,000.00 be awarded to TdM Construction Company, Inc. and the slurry seal Contract in the amount of \$48,331.00 be awarded to Benedict Slurry Seal, Inc. Mr. Kenning listed the approximate 5 1/2 miles of streets to be improved in this project. Upon question of Mayor Heintz, Mr. Kenning explained the fact that slurry seal is a surface treatment designed to rejuvenate the asphalt, to fill cracks and to prolong the life of the existing pavement. This treatment is very cost effective to asphalt streets if applied at the proper time. Mr. Stone sponsored Resolution Number 52-89, A Resolution Accepting The Bids Of L. P. Cavett Company, TDM Construction Company, Inc., And Benedict Slurry Seal, Inc., For Centerville Road Improvements 1989, For 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. Singer seconded the motion. The motion passed unanimously.

There being no further business, the Meeting was adjourned.

Approved:   
Mayor

ATTEST:

  
Clerk of Council