

RECORD OF PROCEEDINGS

477

Minutes of

REGULAR COUNCIL MEETING

Meeting

DAYTON LEGAL BLANK CO. 10111

Held May 18, 19 87

The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session on Monday, May 18, 1987 at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with an Invocation given by Reverend Preston Dawes, 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 J. V. Stone
 - Bernard Samples
 - Jeffrey Siler
 - James Singer
 - Charles Taylor
- Acting Clerk of Council Constance Cooper
- City Manager Darryl Kenning
- City Planner Alan Schwab
- Service Director Richard Bishop
- Municipal Attorney Robert Farquhar
- Administrative Assistant Stephen King

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

- Council Meeting - April 20, 1987.
- Council Work Session Meetings - April 20, 1987.
- April 27, 1987.
- May 4, 1987.

Mr. Compton moved that the Minutes of the foregoing Meetings be approved, as distributed. Mr. Samples seconded the motion. The motion passed by unanimous vote of City Council; however, Mr. Siler abstained from the Minutes of the April 27 and May 4 Council Work Session Meetings.

Mrs. Cooper announced the receipt of a letter of resignation from Board of Architectural Review Member Denise Siler. Mr. Taylor moved that the resignation of Denise Siler from the Board of Architectural Review be accepted, with regret. Mr. Singer seconded the motion. The motion passed unanimously.

Mayor Heintz outlined a Certificate and Proclamations recently issued:

- Certificate of Appreciation to Seniors, Inc.
- Proclamation designating May 3, 1987 as Drug Awareness Day in Centerville.
- Proclamation designating May 5, 1987 as National Teacher Day in Centerville.
- Proclamation designating the week of May 10, 1987 as Small Business Week in Centerville.
- Proclamation designating the week of May 10, 1987 as Clean-Up Week in Centerville.
- Proclamation designating the week of May 11, 1987 as Optimist Bike Safety Week in Centerville.

During his City Manager's Report, Mr. Kenning advised that the Street Improvement Program for 1987 is well underway.

Held May 18, 1987 continued 19

Sidewalk repair and construction is near complete. Work should begin on North Main Street between Ridgeway Road and Elmwood Drive during the current week. Weather permitting, the Contract Street Improvement Program for 1987 should be complete near the end of July.

Mr. Kenning expressed appreciation to the City Beautiful Commission for the many volunteer hours recently spent on flower bed planting throughout the City of Centerville.

Mayor Heintz announced extended business hours on Thursday, May 28, 1987 by Merchants of Historic Centerville. A guided walking tour will begin at 6:30 P.M. featuring past and present Centerville in the Historical District.

Mayor Heintz informed the listening audience that a trip is being planned for a Centerville delegation to attend the Sounds of Summer Music Festival in Centerville's Sister City, Waterloo, Ontario Canada. Visitors will leave Centerville on Friday, June 19, 1987 and will return on Sunday, June 21, 1987. Many plans are being made by our Waterloo friends. Anyone interested in joining the delegation should contact the City of Centerville or Sister City Chairman Linda Hall for further details.

CENTERVILLE BUSINESS PARK SECTION ONE

Mr. Kenning reported on the Planning Commission Meeting held May 12, 1987. He reviewed a Record Plan submitted for Centerville Business Park, Section One, located north of Clyo Road, south of I-675 and west of Bigger Road. This Record Plan consists of two lots and thoroughfare improvements for the construction of a collector street to be named Centerville Business Parkway. Mr. Schwab located the subject property on a map and reviewed Planning Commission's 6-1 vote recommending approval of this Record Plan to City Council. The Planning Commission's recommendation included the following two conditions:

1. Sidewalks, five feet in width, shall be constructed on both sides of Centerville Business Parkway.
2. Receipt of a Performance Bond and Inspection Fees in amounts to be determined by City Council.

Mr. Schwab located this Section One on the overall Plan previously approved for this subject property.

Mr. Kenning reviewed the recommendation of the City Engineer that a Performance Bond in the amount of \$115,000.00 be required to cover necessary improvements for the construction of the 650 feet of Centerville Business Parkway included in this Record Plan. Mr. Kenning pointed out the fact that maintenance of the drainage area for this plat will be the responsibility of the owner of lot number 1.

Mr. Singer moved that the Record Plan for Centerville Business Park, Section One, be approved in accordance with the recommendation of the Planning Commission including their recommended conditions and the receipt of a Subdividers Agreement, a Performance Bond in the amount of \$115,000.00 and

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK CO. 10111

Held May 18, 1987 continued 19

Inspection Fees of \$260.00. Mr. Compton seconded the motion. The motion passed by unanimous vote.

Mr. Singer, speaking on behalf of the Architectural Preservation District Task Force, advised that their Report will be presented to City Council within 30 days.

DAYTON CELLULAR TELEPHONE

The Public Hearing was held concerning an Appeal filed by Dayton Cellular Telephone, against a decision rendered by the Planning Commission during their Meeting held March 31, 1987 to deny a Planning Commission Special Approval Application to install a 12 foot by 30 foot equipment enclosure building and a 290 foot self-supporting antenna tower on a 100 foot by 100 foot leased lot at 1690 Thomas Paine Parkway in the City of Centerville.

Mr. Schwab located the subject property on a map and outlined its zoning as well as the zoning of adjacent properties. The proposed location for the antenna and equipment building is on the northern portion of that I-1 zoned land owned by Stuttgart Automotive. Zoning of adjacent land is Industrial Planned Development and Residential Planned Development. Mr. Schwab shared a photo of a similar antenna located in Kettering with a height of 180 feet comparing it with the proposed antenna on Thomas Paine Parkway. Mr. Schwab reviewed an approximate radius in which the antenna could fall.

Mr. Schwab reviewed for Council, City Staff's recommendation for denial to the Planning Commission based upon the following analysis:

1. The height of the tower in relationship to the lot size. Given the tall height of the antenna support tower, the small size of the lot, and the proximity of the antenna tower to existing industrial buildings and vacant developable land, the Application does not demonstrate to the satisfaction of Staff that debris resulting from failure of the antenna tower, whatever the cause, could reasonably be expected to be contained within the proposed lot.

2. The negative effect on WHIO-AM radio station night broadcast directional antennas. Concern has been expressed by WHIO-AM that the height and position of the proposed antenna tower would interfere with the night-time directional broadcast pattern of the WHIO-AM radio towers located on East David Road. The Federal Communications Commission has a general policy that the construction of any new antenna within two miles of an AM station directional antenna array must not cause a change in the authorized operating parameters of the AM station. The proposed antenna tower is approximately 1.74 miles south of the WHIO-AM antennas.

Mr. Schwab advised that this Application, in consideration of City Staff's recommendation and testimony received during their Meeting, the Planning Commission by a 4-0 vote denied this Special Use Approval Application.

Mr. Irwin Haiman, Attorney for Cellular Communications, a

RECORD OF PROCEEDINGS

480

Minutes of

Meeting

Held

May 18, 1987 continued

19

Client being Dayton Cellular, brought Council's attention to a letter written by his law firm dated May 12, 1987 addressed to Mayor Heintz, City of Centerville, concerning the Application by Dayton Cellular and the denial of said Application by the Planning Commission. He stated their objection to this decision on the grounds that it does not comply with City Ordinances or with the law. He defined Cellular Communications as the newest advancement in mobile communications. Cellular Communications is authorized and licensed by the Federal Communications Commission and has been declared to be a Public Utility by the State of Ohio. Their goal and charge from the FCC is to provide licensed areas with the best possible service to the subscribers for mobile service. To achieve this a grid system of towers has been established located in licensed areas, these towers are selected by engineers with many constraints being considered. This site has been selected as a proper location with the proper zoning in a community section doing the least harm. He asked that the action taken by the Planning Commission be reviewed by City Council to determine whether it was proper; he further asked Council to consider the facts before them during this Meeting.

Mr. Barclay Knapp, Vice President of Cellular Communications, defined Dayton Cellular Telephone and explained why the location of a tower is critical to the proper functioning of the system.

Mr. Kevin Bowman, a consulting structural engineer involved in tower design, advised that he has never heard of a tower falling, a tower structure is just as safe as a building. Upon question of Mr. Singer, Mr. Bowman advised that it is not uncommon to erect a tower of this height on a small piece of ground.

Mr. Craig Jarvis, a consulting civil engineer, explained the fact that this location has been chosen for site number 8 because of heavy traffic pattern (subscribers) being developed in the southeast portion of Dayton. Their proposal is a permitted use according to zoning and they have conformed to all City Codes; the building has been approved by the State of Ohio.

Mr. Thomas Martin, Attorney representing Circuit Cad Corporation, 1700 Thomas Paine Parkway (property immediately adjacent to the site in question), express his client's concern with radio waves that will be emitted from the tower and with the possibility of power failure, if the tower was struck by lightning, and the fact that power outage could totally destroy the memory on their very valuable equipment. The Circuit Cad Corporation specializes in designing circuit boards for the electronic industry, boards which are designed on the computers.

Mayor Heintz brought attention to a letter received by the City of Centerville, advising of a complaint filed at the Federal Communications Commission by the Miami Valley Broadcasting Corporation, proposing that WHIO is concerned that the installation of the proposed tower would cause severe radiation and other problems, and that construction would jeopardize the station's ability to provide service to the residents of Centerville in conformity with the Rules and Regulations of the FCC.

RECORD OF PROCEEDINGS

481

Minutes of

Meeting

Held

May 18, 1987 continued

19

Mr. Doug Larkin, 6393 Joseph Place, President of the Thomas Paine Homeowners' Association, expressed the concern of the 130 residents in Thomas Paine Settlement with property values and safety if this tower is permitted to be constructed on the proposed site.

Upon question of Mr. William Stone, 6371 Adams Circle, President of the Painewood Association (a condominium of 22 units directly east of Thomas Paine Settlement), Mr. Farquhar advised that the height restriction contained in the Zoning Ordinance does not apply to towers of the type proposed by Dayton Cellular Telephone. Mr. Stone stated his concern with the aesthetics of a tower of this height. Mayor Heintz pointed out the fact that though the Zoning Ordinance does not restrict height of this type, the Planning Commission has authority to deny a request based upon its adverse effect on adjacent properties.

Mr. Knapp pointed out that the FCC approves all electronic devices and what emissions they can take, the cellular system is not the high powered technology that it is perceived.

Mr. Jarvis explained how the tower will be grounded to provide a safety factor for businesses in the area. Upon question of Mr. Taylor, Mr. Jarvis advised that this site is approximately in the center of the diameter or grid system established in the licensed area. It is not possible to increase the capacity at existing towers.

Mr. Siler wondered if this tower must be 290 feet high. Mr. Knapp advised that the height is important for distance coverage, topography dictates height.

Upon question of Mr. Compton, Mr. Jarvis explained that the majority of sites are the same size, and towers the same height. The towers are all self-supporting and free standing.

As questioned by Mr. Singer, Mr. Knapp advised that he is regulated by FCC as to what kind emissions he can make. He will assure that emissions around the bottom of the building are within standards or will take measures to bring them further within standards to protect the adjacent property owner.

Dr. Robert Howells, 5285 Little Woods Lane, Senior Research Scientist with Battelle, believes that nearby computers will not be affected by signals from the proposed antenna and that protection at the site is adequate. He did express concern with the placement of this communication system, he recommended a drop radius of double the height for this type antenna tower. Dr. Howells stressed the importance of proper installation, proper inspections and it must have long term maintenance.

Upon question of Mr. Siler, Mr. Jarvis advised that if this antenna tower becomes obsolete, it is the Company's responsibility to dismantle the tower and bring the site to its original condition. Security around the building and tower will be by chain link fence and will be monitored 24 hours a day in downtown Dayton. The FAA requires the top of this antenna to be lighted.

Mr. Singer expressed concern with the erection of this tall tower on such a small tract of land in consideration of other buildings in the area.

Mr. Compton identified the tower having an adverse affect

Held

May 18, 1987 continued

19

upon 130 residents in the City of Centerville.

Mr. Stone stressed the fact that City Council must protect the health, safety and welfare of Centerville residents, the potential for the falling of this tower must be considered.

Mr. Samples believes that to protect the welfare of Centerville residents includes property values which is a concern of nearby residents.

Mr. Compton moved to support the decision of the Planning Commission rendered concerning the Planning Commission Special Approval Application submitted by Dayton Cellular Telephone to construct a 12 foot by 30 foot equipment enclosure building and a 290 foot self-supporting antenna tower on a 100 foot by 100 foot leased lot at 1690 Thomas Paine Parkway in the City of Centerville. Mr. Singer seconded the motion. A roll call vote resulted in five ayes in favor of the motion; Mr. Siler and Mr. Taylor voted no.

THOMAS E. AND BARBARA K. MONNIG CONDITIONAL USE SPECIAL APPROVAL

The Public Hearing was held concerning a Conditional Use Special Approval Application submitted by Thomas E. and Barbara K. Monnig to permit the establishment of a Bed and Breakfast Guest House at 39 and 41 South Main Street.

Mr. Schwab located the subject property on a map, being situated on the west side of South Main Street, south of the alley, in the Architectural Preservation District. The Applicant proposes no change to the Site Plan, the number of parking spaces being provided exceed the number required. The Planning Commission, by unanimous vote, recommended approval of this Application to City Council.

Mrs. Monnig outlined approvals obtained from the Local Board of the Ohio Basic Building Code for this proposed use.

Mr. Samples moved that the Conditional Use Special Approval Application submitted by Thomas E. and Barbara K. Monnig for the property located at 39 and 41 South Main Street be approved, as submitted. Mr. Taylor seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 11-87 INVESTIGATIONS

The Public Hearing was held concerning Ordinance Number 11-87. Mr. Kenning reviewed this proposed Ordinance which establishes investigating procedures as required by the City Charter. Mr. Compton sponsored Ordinance Number 11-87, An Ordinance Enacting Investigative Procedures, and moved that it be passed. Mr. Siler seconded the motion. The motion passed by a 6-1 vote, with Mr. Stone voting no.

1988 TAX BUDGET

Mr. Siler moved that the 1988 Tax Budget for the City of Centerville to be certified to the Montgomery County Auditor, be set for Public Hearing on June 15, 1987. Mr. Taylor seconded the motion. The motion passed by unanimous vote of City Council.

DAYTON LEGAL BLANK CO. 10144

Held _____ May 18, 1987 continued _____ 19 _____

ORDINANCE NUMBER 12-87 PERSONNEL

Mr. Kenning reviewed a proposed Ordinance to provide for the employment of an additional person in the Inspection Department for temporary assistance. Mr. Compton sponsored Ordinance Number 12-87, An Emergency Ordinance To Amend Ordinance Number 21-86, 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. Siler seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 13-87 PERSONNEL

Mr. Siler moved that Ordinance Number 13-87, An Ordinance To Amend Ordinance Number 21-86, 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 June 15, 1987. Mr. Compton seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 14-87 WILMINGTON PIKE

Mr. Kenning reviewed a proposed Resolution to provide payment for the preliminary engineering to improve Wilmington Pike. Funds have been budgeted in the 1987 City Budget, the estimated cost to the City of Centerville is \$17,000.00. Mr. Taylor sponsored Resolution Number 14-87, A Resolution Authorizing And Directing The City Manager To Enter Into A Contract For The City Of Centerville With Greene County To Pay For Preliminary Engineering For Wilmington Pike, and moved that it be passed. Mr. Stone seconded the motion. The motion passed by unanimous vote of City Council.

RESOLUTION NUMBER 15-87 REFUSE PACKER

Mr. Kenning reviewed the following Bids received for the purchase of one refuse collection truck for the City of Centerville:

George Byers Sons, Inc.	Crane Carrier - Options \$86,200.00
	Crane Carrier \$85,700.00
Key Truck Sales	1987 Peterbilt #320 \$91,145.00 \$84,831.00 \$88,628.00
Cincinnati Truck Center	1987 White Chassis \$62,500.00 + Easy Pack \$27,733.00 Packmore 325 \$23,936.00 Loadmaster \$24,225.00

RECORD OF PROCEEDINGS

184

Minutes of

Meeting

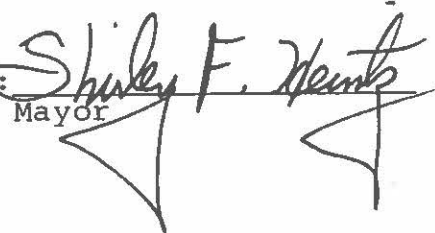
Held _____ May 18, 1987 continued _____ 19 _____

Mr. Kenning, after a careful review of all Bids submitted, recommended acceptance of the Bid submitted by Cincinnati Truck Center for the 1987 White Chassis with Loadmaster Packer for a total Bid price of \$86,725.00.

Mr. Taylor sponsored Resolution Number 15-87, A Resolution Accepting The Bid Of The Cincinnati Truck Center to Supply One Refuse Collection Truck To 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. Stone seconded the motion. The motion passed by unanimous vote.

There being no further business, the Meeting was adjourned.

Approved:


Mayor

ATTEST:


Clerk of Council