

Held December 16, 1985

The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session on Monday, December 16, 1985 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, Pastor of the Heritage Presbyterian Church 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 Charles Taylor
 Councilmembers Bernard Samples
 Jeffrey Siler
 James Singer
 Brooks Compton
 J. V. Stone

Clerk of Council Marilyn McLaughlin
 City Manager Darryl Kenning
 Assistant City Manager Jon Bormet
 City Planner Alan Schwab
 City Engineer Karl Schab
 Service Director Richard Bishop
 Director of Finance William Bettcher
 Chief of Police William Lickert
 Municipal Attorney Robert Farquhar

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

Council Meeting - November 18, 1985.
 Council Work Session Meetings - November 18, 1985.
 - November 25, 1985.
 - December 2, 1985.

Mr. Taylor moved that the Minutes of the foregoing Meetings be approved, as distributed. Mr. Samples seconded the motion. The motion passed unanimously.

Mayor Heintz administered the Oath of Office to Councilmen Elect James E. Singer, Jeffrey T. Siler and Bernard M. Samples.

Mayor Heintz administered the Oath of Office to Centerville Police Officer James Shanesy.

Mrs. McLaughlin announced the receipt of a letter of resignation from Planning Commission Member M. Brian Bergsten, effective immediately. Mr. Siler moved that the resignation of M. Brian Bergsten from the City Planning Commission be accepted with regret. Mr. Taylor seconded the motion. The motion passed by unanimous vote of City Council.

Mrs. McLaughlin advised that a letter of resignation has been received from Personnel Appeals Board Member Lester R. Stauske, necessitated by his relocation. Mr. Compton moved that the resignation of Lester R. Stauske as a Member of the Personnel Appeals Board, be accepted with regret. Mr. Samples seconded the motion. The motion passed unanimously.

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Mrs. McLaughlin announced the receipt of a Notice of Intent to Appeal a decision rendered by the Board of Architectural Review during their Meeting held December 3, 1985, to deny an Application for the demolition of buildings located at 10 Maple Avenue, 47 East Franklin Street and 59 East Franklin Street, submitted by the Centerville United Methodist Church.

Mrs. McLaughlin advised that a request for withdrawal of an Application submitted by Ron R. Kronenberger Realty, Inc., for the construction of a shopping center at 166 North Main Street in the Architectural Preservation District, has been received. Mr. Singer moved that this request for withdrawal be granted. Mr. Taylor seconded the motion. The motion passed by unanimous vote of City Council.

Mayor Heintz announced the City of Centerville's receipt of the following three awards:

Award of Appreciation received for outstanding service to the Maimi Valley Cable Council during 1985.

1984 Pedestrian Safety Achievement Award presented by the American Automobile Association recognizing no pedestrian accident in the past fifteen years in the City of Centerville.

National Child Safety Council Award to the Centerville Police Department for outstanding and dedicated service to the safety education of children.

Mayor Heintz advised that the City Beautiful Commission is sponsoring a Christmas Decorating Award Program beginning this date and continuing until December 23, 1985 in the City of Centerville.

Mayor Heintz briefly reviewed the National League of Cities Conference recently held in Seattle, Washington, which several City Officials attended.

Mayor Heintz expressed appreciation to Assistant City Manager Jon Bormet for his recent activities relative to the reconstruction of State Route 725 east of State Route 48 in Centerville.

STEVE TATONE SITE PLAN AMENDMENT

Mr. Kenning reviewed the Planning Commission Meeting held on December 10, 1985. Mr. Schwab reviewed a Site Plan Amendment submitted by Steve Tatone All American Leasing and Auto Sales for the property located at 2 Loop Road, the former Limerick's Restaurant building at the northeast corner of Far Hills Avenue and Loop Road. Requested is the installation of outdoor lighting fixtures, and the addition of two large windows and large garage doors. The lighting fixtures will be down directed, a style which has been acceptable in other proposals. The Planning Commission voted unanimously to recommend approval of this Amendment to City Council subject to the following two conditions:

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1. Muntins shall be installed in all proposed windows and glass doors.

2. Signs shall not be considered as a part of this application.

Applicant Steve Tatone stated his concurrence with these conditions. Mr. Samples moved that the Site Plan Amendment for Steve Tatone All American Leasing and Auto Sales at 2 Loop Road, be approved as recommended by the Planning Commission and including the two stated conditions. Mr. Siler seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 18-85 ZONING ORDINANCE AMENDMENT TEXT

Mr. Singer moved that Ordinance Number 18-85, An Ordinance Amending Ordinance Number 15-61, The Zoning Ordinance, As Amended By Ordinance Number 48-80, The Architectural Preservation District, To Establish Standards Regulating The Materials, Pattern, Texture, Features, And Cleaning Of Exterior Siding Materials For Any Principal Or Accessory Building Located In The Architectural Preservation District, be set for Public Hearing on February 17, 1986. Mr. Taylor seconded the motion. The motion passed by unanimous vote.

Mayor Heintz and Deputy-Mayor Taylor left the Meeting at this time due to a potential conflict of interest with the following agenda item, Mr. Siler presided.

LINCLAY CORPORATION CONDITIONAL USE

The Public Hearing was held concerning a Conditional Use Application submitted by Linclay Corporation to construct a Burger King and a Firestone Service Center along the north side of AlexanderSville-Bellbrook Road. Mr. Schwab located the subject property on a map, being one of the outlots in front of the Cross Pointe Shopping Center and more particularly situated approximately 1700 feet from the intersection of Alexandersville-Bellbrook Road with Far Hills Avenue. Entrance into the facilities will be from the parking lot for the Shopping Center. A drive through window is proposed on the east side of the Burger King, while service bays are proposed on the west and north sides of the Firestone Service Center. Mounding and additional landscaping will be provided to act as a buffer for the residents to the south. Mr. Schwab reviewed Planning Commission's 4-0 vote recommending denial of this Application to City Council. Their decision was based upon the potential impact on residents to the south: the potential noise generated by these type establishments, hours of operation, parking lot lights, and the density of the development of this site as compared with the original plan for the Shopping Center.

Mr. Jeffrey Tulloch, Vice President, Linclay Corporation, read a letter addressed to City Council in which they documented their position and answered questions and concerns previously expressed by residents and the City Planning Commission. He expressed their desire to produce a development which is, and

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will continue to be, a credit to the Community and a good neighbor to the adjacent residents.

Mr. George Monington, 185 Cushwa Drive, spokesman for the residents in Washington Park, stated their observation: that the proposed development is a detriment to their residential area, it threatens their life-style, they fear a shopping center of empty storerooms. They believe family life needs a certain degree of quiet and requires limitations from nuisances such as light, sound, and visual aesthetics. Mr. Monington expressed concern with the density proposed on this one outlot and the hours of operation for these two establishments.

Mr. Matt Springer, 521 Duberry Place, believes there are enough fast food establishments and service centers already located in the Centerville Community. He is concerned with potential additional traffic and the hours of operation of a Burger King.

Mr. Bruce Marlays, Architect for the Center, detailed extra effort put forth by the Linclay Corporation to construct the outer area compatible with the shopping center, the development of this center is above the norm.

Mr. Paul Gustin, 7601 East Von Dette Circle and owner of a store in Cross Pointe Center, spoke of the honesty, trustworthyness and integrity of the Linclay Corporation.

Mr. Larry Smith, owner of property at 108 Cushwa Drive, believes the Center as constructed today is fine, sees no need for two more establishments.

Mrs. Dorothy Harmon, 531 Willowhurst Street, expressed concern with the sound to the east of the property in question, the sound barrier is not adequate.

Mr. Nick Spillson, 511 Duberry Place, believes that the additional businesses and nuisances are not necessary in this family community.

Mr. John Batson, 143 Cushwa Drive, expressed his love for Centerville.

Mr. Frank Svoboda, 526 Willowhurst Street, expressed concern with potential noise generated by work performed at Firestone, and air polution at the Burger King caused by waste and food smoke.

Upon question of Mr. Jeff Strathearn, 133 Cushwa Drive, Mr. Tulloch advised that the height of the barrier will differ between in front of the Burger King and Firestone, due to space available and height necessary according to the noise which will be generated by the specific use.

Mr. Singer, while recognizing Linclay as one of the finest corporate citizens in the Centerville area, expressed a two-fold concern with the development: 1. the construction of two uses on one small piece of property, and 2. in consideration of the single family residences located directly across the street, unrestricted hours of operation.

Mr. Samples cited one of the major intents of the City Operating Plan being that of maintaining the single family residential character in the City of Centerville.

Mr. Stone pointed out the fact that, by turning down a development with restrictions to which an Applicant will agree,

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the City could end up with a less desirable development with no restrictions, a use which is permitted not requiring formal legislative approval. He suggested that certain restrictions be considered between the City and Linclay Corporation for the development of this site as proposed.

Mr. Compton recognizes the Shopping Center as a first class project, the uses proposed are permitted uses in a Shopping Center District. He believes that the berming and the five lane roadway will be an asset to the neighborhood.

Mr. Siler expressed his concern with the over development of this particular parcel of land. He is sympathetic with the residents directly across the street.

A motion made by Mr. Samples to deny the Conditional Use Application submitted by Linclay Corporation to construct a Burger King and a Firestone Service Center on the north side of Alexandersville-Bellbrook Road in front of the Cross Pointe Shopping Center died for lack of a second.

Following discussion relative to restricting operating hours for both establishments, Mr. Compton moved that the recommendation made by the City Planning Commission be overruled and that this Conditional Use Application be approved, subject to the following conditions:

A revised Site Plan be submitted to and approved by the City Planning Department, incorporating the following information:

1. Detailed architectural elevations of all buildings.
2. A detailed grading and landscaping plan for the earth berm located at the front of the property.
3. Location and screening design for any dumpster located on the site.
4. The location and type of all exterior lighting fixtures.
5. Fire hydrant location(s) and water line plans approved by the Washington Township Fire Department.
6. Fifteen foot minimum radius turns on the inside curbs for the drive-through lane approaching and leaving the menu board call-in parking space.

The hours of operation be restricted as follows:

Firestone Service Center - 7:30 A.M. to 8:00 P.M.

Burger King - 7:30 A.M. to 11:00 P.M.

Mr. Stone seconded the motion. A roll call vote resulted in three nays against the motion; Mr. Compton and Mr. Stone voted yes. The Chair declared the Planning Commission recommendation affirmed.

Mayor Heintz and Deputy-Mayor Taylor returned to the Meeting at this time. Mayor Heintz presided.

Mr. Samples left the Meeting at this time due to a potential conflict of interest with the next agenda item.

ORDINANCE NUMBER 15-85 LAND SWAP

The Public Hearing was held concerning Ordinance Number 15-85. Mr. Kenning reviewed this proposed Ordinance which provides the method by which the City of Centerville can swap

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land with the Centerville Builders Supply Company, the property involved being railroad right-of-way purchased by Centerville Builders Supply for a 32 foot strip located along the north property line of the City owned property on South Suburban Road and a triangular parcel at the corner of Clyo Road and Centerville Station Road. Mr. Taylor sponsored Ordinance Number 15-85, An Ordinance To Authorize The Transfer Of Certain Real Estate Owned By the City Of Centerville To Centerville Builders Supply Company, Inc., In Exchange For Other Real Estate, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote of City Council.

Mr. Samples returned to the Meeting at this time.

ORDINANCE NUMBER 17-85 PERSONNEL

The Public Hearing was held concerning Ordinance Number 17-85. Mr. Kenning reviewed this proposed Ordinance to provide that the City of Centerville pick-up the remaining 2 1/2% retirement now being paid by each employee to the retirement systems. This is part of the total compensation package for employees in 1986. Mr. Siler sponsored Ordinance Number 17-85, An Ordinance Amending Ordinance Number 45-84 As Amended By Ordinance Number 2-85, Providing For The City Of Centerville To Pay All Employee Contributions To The Public Employees' Retirement System Or the Police And Firemen's Disability And Pension Fund Both Of Which Are Administered By the State Of Ohio For All Full-Time And Regular Part-Time Employees Of The City Of Centerville And Making Such Plan Mandatory, and moved that it be passed. Mr. Taylor seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 20-85 APPROPRIATIONS 1985

Mr. Kenning reviewed a proposed Ordinance to make adjustments to the original appropriations for 1985. Mr. Siler sponsored Ordinance Number 20-85, An Emergency Ordinance To Repeal Ordinance 42-84 In Its Entirety To Make Appropriations For Current Expenses And Other Expenditures Of The City Of Centerville, State Of Ohio, During The Fiscal Year Ending December 31, 1985, and moved that it be passed. Mr. Samples seconded the motion. The motion passed by unanimous vote of City Council.

ORDINANCE NUMBER 21-85 APPROPRIATIONS 1985

Mr. Taylor moved that Ordinance Number 21-85, An Ordinance To Repeal Ordinance 42-84 In Its Entirety To Make Appropriations For Current Expenses And Other Expenditures Of The City Of Centerville, State Of Ohio, During The Fiscal Year Ending December 31, 1985, be set for Public Hearing on January 20, 1986. Mr. Compton seconded the motion. The motion passed unanimously.

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RESOLUTION NUMBER 32-85 PUBLIC DEFENDER SERVICES

Mr. Kenning reviewed a proposed Contract with the Montgomery County Public Defender Commission to provide legal counsel to indigent persons charged with violations of the City's Municipal Ordinances. The cost to the City of Centerville during 1986 will be \$1,529.00. Mr. Compton sponsored Resolution Number 32-85, 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, 1986 And Terminating On December 31, 1986, and moved that it be passed. Mr. Siler seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 22-85 DAYTON POWER & LIGHT COMPANY

Mr. Kenning reviewed a proposed Ordinance to grant to the Dayton Power & Light Company a gas franchise to supply natural gas to the City of Centerville and its inhabitants through the year 1999. Mr. Singer moved that Ordinance Number 22-85, An Ordinance Granting To The Dayton Power & Light Company, Its Successors And Assigns, A Gas Franchise In The City Of Centerville, State Of Ohio, Until December 31, 1999, be set for Public Hearing on January 20, 1986. Mr. Taylor seconded the motion. The motion passed unanimously.

RESOLUTION NUMBER 33-85 INCOME TAX ALLOCATION 1986

Mr. Kenning reviewed this proposed Resolution directing how the City's income tax receipts will be allocated among the various funds. Mr. Compton sponsored Resolution Number 33-85, A Resolution Authorizing And Directing The Allocation Of Income Tax Receipts Received On And After January 1, 1986 Between The General Fund, Capital Improvements Fund, Street Construction And Maintenance Fund, And General Insurance Deductible Trust Fund Of The City Of Centerville, and moved that it be passed. Mr. Siler seconded the motion. The motion passed by unanimous vote of City Council.

ORDINANCE NUMBER 23-85 WASTE COLLECTION

Mr. Kenning reviewed a proposed Ordinance to increase rates for waste collection in the City of Centerville as follows:

residential refuse collection	\$ 7.80 per month
special pick-up and chipper service	10.00 per half hour
commercial refuse collection	4.00 per yard per pick-up

This increase has become necessary due to increased insurance rates and an increase in the tipping fee paid to Montgomery County. The tipping fee has doubled during the past three years, increasing from \$4.00 to \$8.00 per ton. This increase will

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become effective with March 1, 1986 service. Mr. Samples sponsored Ordinance Number 23-85, An Emergency Ordinance Repealing Existing Chapter 957 Of The Centerville Code And Enacting A New Chapter 957, and moved that it be passed. Mr. Compton seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 24-85 WASTE COLLECTION

Mr. Stone moved that Ordinance Number 24-85, An Ordinance Repealing Existing Chapter 957 Of The Centerville Code And Enacting A New Chapter 957, be set for Public Hearing on January 20, 1986. Mr. Singer seconded the motion. The motion passed by unanimous vote.

RESOLUTION NUMBER 34-85 CITY PROPERTY RENTAL

Mr. Kenning reviewed a proposed space rental agreement between the City of Centerville and the Director of Ohio Department of Highway Safety in order to provide for a drivers' license testing station to be located in the rear Municipal facility at 100 West Spring Valley Road; occupancy should begin approximately January 15, 1986. Mr. Singer sponsored Resolution Number 34-85, A Resolution Authorizing And Directing The City Manager To Enter Into A Space Rental Agreement Between The City Of Centerville And The Director Of Ohio Department Of Highway Safety, and moved that it be passed. Mr. Compton seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 25-85 PERSONNEL

Mr. Kenning reviewed a proposed Ordinance to make adjustments in the merit salary and wage plan for employees of the City of Centerville. The Ordinance provides for a 3% adjustment, coupled with the 2 1/2% retirement pick-up, provides for an increase of 5% for employees for the year 1986. Mr. Siler sponsored Ordinance Number 25-85, An Emergency Ordinance To Repeal Ordinance Number 43-84 In Its 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. Taylor seconded the motion. The motion passed by unanimous vote of City Council.

ORDINANCE NUMBER 26-86 PERSONNEL

Mr. Taylor moved that Ordinance Number 26-86, An Ordinance To Repeal Ordinance Number 43-84 In Its 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 20, 1986. Mr. Samples seconded the motion. The motion passed unanimously.

ORDINANCE NUMBER 27-85 APPROPRIATIONS 1986

Mr. Kenning reviewed a proposed Ordinance to make

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appropriations for the year 1986, grand total appropriations being \$6,707,580.00. The Ordinance includes no increase in the City's income tax rate but does include the waste collection rate increase. Mr. Siler sponsored Ordinance Number 27-85, 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, 1986, and moved that it be passed. Mr. Singer seconded the motion. The motion passed by unanimous vote.

ORDINANCE NUMBER 28-85 APPROPRIATIONS 1986

Mr. Siler moved that Ordinance Number 28-85, An Ordinance To Make Appropriations For Current Expenses And Other Expenditures Of The City Of Centerville, State of Ohio, During The Fiscal Year Ending December 31, 1986, be set for Public Hearing on January 20, 1986. Mr. Singer seconded the motion. The motion passed unanimously.

CITY PLANNING COMMISSION

Mayor Heintz advised that a vacancy now exists on the City Planning Commission due to the resignation of M. Brian Bergsten. Mr. Stone moved that Stanley Swartz be appointed to fill the unexpired term of M. Brian Bergsten as a Member on the City Planning Commission. Mr. Compton seconded the motion. The motion passed by unanimous vote.

Mayor Heintz wished all residents of the City of Centerville a Merry Christmas and a Happy Holiday Season.

There being no further business, the Meeting was adjourned.

Approved: _____

Shirley F. Heintz
Mayor

ATTEST:

Maile J. McLaughlin
Clerk of Council