

Held August 19,

19 74

SPECIAL MEETING

The Council of the City of Centerville, County of Montgomery, State of Ohio met in Special Session on Monday, August 19, 1974 at 8:00 P.M. in the Council Chambers of the Centerville Municipal Building. The Meeting was opened with the Pledge of Allegiance to the Flag with Mayor Paul Hoy presiding. Council Members and City Staff present were as follows:

Deputy Mayor J. V. Stone

Councilwoman Nora Lake

Councilmen Ralph Spencer

Russell Sweetman

Charles McQueeney

Leonard Stubbs

Clerk of Council Marilyn McLaughlin

Acting City Manager Thayer Thompson

Director of Parks and Recreation Timothy Shroyer

City Engineer Karl Schab

Service Director Richard Bishop

City Planner Robert Winterhalter

Director of Finance William Bettcher

Chief of Police William Randolph

The Minutes of the Meeting of August 5, 1974 had been distributed prior to this Meeting. Mr. Stone moved that the Minutes of the Meeting of August 5, 1974 as distributed, be approved. Mr. Stubbs seconded the motion. A roll call vote resulted in six ayes in favor of the motion, Mr. McQueeney abstained.

The Oath of Office was administered to Centerville Arts Commission Member Ronald J. Browne and to Centerville City Beautiful Commission Member Ronald J. Niess by the Acting City Manager.

Mr. Robert Muzechuk, 9535 Sheehan Road, appeared to make reference to the opinion he received concerning questions submitted to the Acting City Manager relative to the proposed group home at 9525 Sheehan Road; he asked Council to get involved, to look at this proposed facility. Mayor Hoy questioned Council's realm of authority in dealing with this matter, he advised that Council will review the questions submitted to the Acting City Manager to ascertain whether any need Council's reply.

During the Acting City Manager's Report, Department Heads reported the following:

Mr. Shroyer advised that over 500 children from ages 6 to 16 were registered in the 1974 Summer Recreation Program. An arts and crafts show was held in the Municipal Building during the final week of the Program.

Mr. Schab advised that black top streets have been improved, concrete streets will be improved soon. Sanitary sewer line is being installed on East Spring Valley Road at Susan Drive upon the request of property owners and originated by the County Sanitary Department.

Mr. Bishop advised that security has been completed at the Olympian Club, streets are being striped, cracks filled and the drainage system has been improved at West Franklin Street and Hampton Road.

Mr. Winterhalter explained his work with T.C.C. and Sub-Committees to acquire uncommitted 1974 dollars for the three County region. Monies could be used for highway improvements in Centerville and a bikeway system in the center of town. Mr. Winterhalter is working with the Dayton Power and Light Company to review available street lights more in keeping with the center City architecture. The Planning Commission is reviewing pro-

RECORD OF PROCEEDINGS

Minutes of

Meeting

Johnson-Watson • Dayton Blank Book--D-2585

Held August 19, 1974 continued

19

posed requirements for group homes in Centerville, a report to Council will be forthcoming.

Mr. Bettcher made reference to a letter received from the County Treasurer requesting an extension on payment of Real Estate taxes from September 7 to September 18, last property tax settlement will not be received until six weeks following this date, thus a request for advance payment will be necessary by the City.

Chief Randolph explained the Bellbrook Police Department's desire to enter into a Mutual Aid Agreement with Centerville. Mr. Stone moved that the City Staff pursue a Mutual Aid Agreement with the City of Bellbrook. Mrs. Lake seconded the motion. A roll call vote resulted in seven ayes in favor of the motion. Chief Randolph advised that correction of traffic view obstructions throughout the City in six different locations has been pursued.

Mr. Thompson advised that notice of weed control violations have been sent to twelve property owners; if notice is not complied with the City will perform the work and bill the property owner.

The Public Hearing was held concerning the Application by Carriage South Partnership to construct a Mini-Shopping Center in an Entrance Corridor District.

Mr. Winterhalter located the subject property on a map, being located on the west side of Bigger Road, south of Hewitt Road and north of Carriage Trace Blvd. The shopping area is a part of the overall concept for the Carriage Trace Condominium development. The Planning Commission recommended approval of this Application by a 4-3 vote, difference of opinion concerning: it's close proximity to the Oak Creek Shopping Center, variances in set back included on the Plan and the secondary access street off Bigger Road. Mr. McQueeney expressed his concern with the width of Bigger Road and how it ties in with that portion of Bigger Road in the City of Kettering. Mr. Winterhalter explained the development of this roadway to be a five lane roadway, 86 foot right-of-way; the width has been coordinated between Centerville and Kettering standards; he is satisfied with the proposed construction of Bigger Road, the mechanics are there for a safe highway. As questioned by Mr. Sweetman, Robert Archdeacon, from the Ralph L. Woolpert Company and representing the Developer, located the additional north curb cut off Bigger Road, it is located approximately 1470 feet from Hewitt Road. Mr. Sweetman complimented the Developer on this Plan as presented, he moved that a Zoning Permit be issued for the Carriage Square Mini-Shopping Center in accordance with the recommendation of the Planning Commission. Mr. McQueeney seconded the motion. A roll call vote resulted in six ayes in favor of the motion, Mrs. Lake voted no.

The Public Hearing was held concerning Ordinance Number 58-74, An Ordinance Adopting The Zoning Ordinance Of 1974 For The City of Centerville, Ohio As Well As A Zoning Map For The City Of Centerville, Ohio And Repealing Ordinances 15-61, 1-69, 25-69, 51-69, 28-70, 48-70, 13-71, 80-71, 86-71, 11-72, 24-72, 49-72, 70-72, 71-72, 20-73, 25-73, 27-73, 28-73, 50-73, 59-73, 79-73, 10-74 and 16-74. The proposed Ordinance is an amendment to the existing Zoning Ordinance and it's amendments.

Mr. Winterhalter explained the need for this amendment, it is 75% the same as the present Zoning Ordinance as amended. He located proposed changes to the present zoning map and explained density set for various residential districts. Elimination of the Entrance Corridor District is proposed, areas are to be rezoned to correspond with their current uses.

Attorney James Gilvary, representing Towne Properties, Inc., explained their concern with the density proposed for their land, their use today would be non-conforming in an R-6 District, what effect would this have

Held

August 19, 1974 continued

19

upon reconstruction should an area be destroyed, saving language is needed in this respect in the proposed Ordinance.

Attorney James Cross, representing the Home Builders Association, stated their concern also over the non-conforming use of apartment developments if the zoning is changed to R-5 or R-6 as proposed, language is needed to permit re-construction. He suggested that consideration be given to lightening the burden of the non-conforming provision or adjust the proposed zoning map to conform to reality. Mr. Cross feels that clarification is needed in the damage and destruction clause as it pertains to non-conforming uses: referred to is the market value of the day of passage of the Ordinance or the market value of the day of damage or destruction? The HBA feels that all zoning should be classified as Centerville zoning and not continue to carry Washington Township zoning classifications. Mr. Cross also feels that the notice provision should require notification to all people affected by a particular change.

Mr. Carl Gaiser, 118 Jeanette Drive, President of the Concept West Civic Association, stated their recommendations concerning the proposed Zoning Ordinance amendment: 1. Office should be defined, 2. Home Occupation should be better defined, a detailed set of procedures should be provided, 3. Residential Office should be restricted, 4. Authorization should be required before establishing a Home Occupation. The Civic Association also recommended some changes in procedure and screening requirements concerning the Architectural Preservation District. They requested that the area bounded by Franklin Street, Virginia Avenue and Westerfield Drive remain R-3 zoning, and that the area on Virginia Avenue and White Birch be removed from the A.P. District.

Mr. David Anderson, 5114D Fireside Drive and partner in the Greenbrier Commons Development, expressed their concern with their use becoming non-conforming if the Ordinance as proposed is passed. Their project is nearing 50% complete, they foresee a problem in selling real estate which is non-conforming, they also anticipate a legal problem with the development of the land not yet under construction. They feel the E-C District is not equal to the R-6 and O-S classifications (the zoning classifications supposedly taking the place of E-C). Mr. Anderson recommended a better grandfather clause to allow present conditions to exist and that the proposed Zoning Ordinance and the proposed changes to the zoning map be considered as separate matters.

Attorney Robert Corwin, representing Carl Linxweiler, stated Mr. Linxweiler's objection to his property proposed to be rezoned from EC to R-2. This is a complete change in permitted use. Utilities on this land make development of the land under R-2 zoning almost prohibitive.

Attorney Bill Rogers, representing Dr. J. Melton Zimmerman, concurred with Attorney Corwin's comments, the economic impact of the rezoning of his land from EC to R-2 is overwhelming. Owners of EC zoned land should be considered on an individual basis, the rezoning should be to an agreeable use between the Council and property owner.

Mr. Harry Brown, 2017 Centerville Station Road, sees merit in the proposed Zoning Ordinance and proposed zoning map, however he asked that action be tabled for at least 90 days to receive input from Citizens and to consider the formation of a Citizen Committee to receive input from the Community as a whole. He encouraged Council's review and consideration of comments made during this Public Hearing. He emphasized the need for non-conforming uses to be permitted to expand as desired, not limited to a particular percentage.

Mr. Robert Archdeacon, representing several Developers in the City of Centerville, wondered whether there is provision in the proposed Ordinance for residential density development plans and whether the Ordinance requires a separate lot for each residential building. He sees all existing or

Held

August 19, 1974 continued

19

proposed apartment projects and condominium developments in Centerville as non-conforming uses. The OS classification does not permit uses which are currently allowed in the EC Districts. Mr. Archdeacon cited hardships anticipated by the proposed Zoning Ordinance and proposed zoning map for Oak Creek, Carriage Trace, Greenbrier Commons, Southbrook Manor, Walnut Walk, Black Oak, Franklin East and the Dr. Zimmerman-Linxweiler property. Mr. Archdeacon asked that properties be rezoned to permit current and proposed uses, and that the Ordinance be made a workable Ordinance with unnecessary delay.

As questioned by Mrs. Robert Muzechuk, Mr. Winterhalter advised that Nursing and Care Facilities are permitted in the OS District under the proposed amendment.

Mr. Dale Schaeffer, 50 Bristol Drive, believes that the Linxweiler-Zimmerman property should be rezoned to R-2, OS would change the residential character of the neighborhood.

Mr. Gary Wolkgang, 111 Marsha Jeanne Way, questioned the definition for family as proposed. Mr. Winterhalter read the definition for a family and a house keeping unit.

Mr. Robert Muzechuk, 9535 Sheehan Road, wondered whether provisions have been included in the proposed amendment for group homes. Mr. Winterhalter explained the fact that this issue has arisen after the proposed Zoning Ordinance was prepared and recommended for approval by the Planning Commission, this matter will be considered by the Planning Commission under separate issue. Mr. Muzechuk recommended that group homes be covered in this proposed amendment: definition, types, where permitted.

Mayor Hoy advised that Council will review the Minutes of this Meeting, comments made and additional input before a final decision is made concerning this amendment to the Zoning Ordinance. Mr. Stubbs welcomed written suggestions from anyone.

Mr. Thompson reviewed proposed Ordinance Number 71-74 and explained the necessity of this being passed as an emergency measure. The Ordinance provides for an additional Mechanic, a Youth Center Director and a Concrete Foreman. Mr. Stubbs questioned the inclusion of a Concrete Foreman and the deletion of a Planning Intern. Mr. Stubbs moved that this Ordinance be amended by changing Section 3 to Section 4 and by adding Section 3: Ordinance 60-74 and Ordinance 57-74 Section 3, Table of Organization, F. Department of Development, Division of Planning is hereby amended by adding the following: 1 - Planning Intern \$60.00 per week. Mrs. Lake seconded the motion. Mr. McQueeney questioned this procedure, he requested this action be reviewed by the Municipal Attorney; the Chair ruled the action out of order on the following basis: a Planning Intern was voted on at the last Council Meeting, vote resulting in three Members of Council for and three Members of Council against including the Planning Intern in the Ordinance, Councilman Stubbs voting for it's inclusion. Mr. Spencer sponsored Ordinance Number 71-74, An Emergency Ordinance Amending Ordinance 82-72 As Amended By Ordinances 34-74, 47-74, 57-74 And 60-74 To Establish A Table Of Organization, Personnel Classifications, Rates Of Pay, And Regulations For Employees Of The City Of Centerville, Ohio, and moved that it be passed. Mr. Sweetman seconded the motion. A roll call vote resulted in five ayes in favor of the motion, Mrs. Lake and Mr. Stubbs voted no. Mrs. Lake expressed her desire for all needed personnel for the remainder of 1974 be considered at the same time.

Mrs. McLaughlin advised that an Appeal has been received from Edward and Mary Wainscott concerning a Planning Commission decision rendered on July 30, 1974. This concerns their Rezoning Request for property on East Franklin Street, a change from R-2 to AP.

Held

August 19, 1974 continued

19

Mrs. McLaughlin also advised of the receipt of seven letters against and one in favor of the proposed Group Home on Sheehan Road.

Mayor Hoy left the Meeting at this time, Deputy Mayor J. V. Stone presided.

Mr. Thompson reviewed proposed Resolution Number 50-74, Mr. Sweetman sponsored Resolution Number 50-74, A Resolution Authorizing And Directing The Acting City Manager To Enter Into An Agreement With The Dayton Power And Light Company For The Joint Use Of Poles Bound By The Dayton Power And Light Company In The City Of Centerville For Joint Use shall Be Of Mutual Advantage, and moved that it be passed. Mr. Spencer seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

Mr. Thompson reviewed the bid received for the purchase of a new Station Wagon for use by the Police Department, he recommended accepting the bid of Borchers Ford for said purchase, bid price \$4,100.00. As questioned by Mr. Sweetman, Police Chief Randolph advised that although this vehicle is not "Police Package" it will withstand everyday wear and tear. Mr. McQueeney sponsored Resolution Number 51-74, A Resolution Accepting The Bid Of Borchers's Ford To Supply A Vehicle 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. Sweetman seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

Mr. Bishop reviewed the bid received from Flack Equipment Company for the purchase of three snow plows for use on City streets, he recommended accepting this bid at a bid price of \$5,991.00 less trade. Mr. Sweetman sponsored Resolution Number 52-74, A Resolution Accepting The Bid Of Flack Equipment Company To Supply Three (3) Model F-5-10 Root Hydraulic Under-Body Snow Plows 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. Mrs. Lake seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

Police Chief Randolph reviewed the three bids received for the purchase of an automatic filing system for use in the Police Department. He recommended accepting the bid of Sperry/Remington Rand Company for a total bid price of \$6,442.40 (Federal Grant = \$5,500.00, Cost to City of Centerville = \$942.40.)

Mr. John Savely, representing Acme Visible Records, requested reasoning for recommending acceptance of the bid of Sperry/Remington Rand. Chief Randolph explained the equipment and inclusions in the bid. Mr. Stubbs sponsored Resolution Number 53-74, A Resolution Accepting The Bid Of Sperry/Remington Rand Company To Supply A Lektriever 200 (#9628-1214 Mechanized File) 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. Sweetman seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

Mr. Bishop reviewed the three bids received for the purchase of two salt spreaders for the City of Centerville. He recommended accepting the bid of King Equipment at a bid price of \$2,572.74. Mr. Sweetman sponsored Resolution Number 54-74, A Resolution Accepting The Bid Of King Equipment Company To Supply Two (2) Iberia Model 94 Replacement Tailgate Spreaders 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. McQueeney seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

Held

August 19, 1974 continued

19

Mr. Schab reviewed his recommendation to release the \$71,000.00 Performance Bond on Carriage Square, Section One. All items under the Bond have been corrected and are in accordance with City Standards. Mr. Sweetman moved that Council release the Performance Bond of \$71,000.00 on Carriage Square, Section One subject to the receipt of a Maintenance Bond in the amount of \$3,550.00. Mr. Stubbs seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

Mr. Schab reviewed his recommendation for release of the reduced Performance Bond on Pelbrook Estates, Section One, no deficiencies are visible at this time. Mr. Sweetman moved that the Performance Bond of \$14,000.00 on Pelbrook Estates, Section One be released subject to the receipt of a Maintenance Bond in the amount of \$2,830.00. Mr. Stubbs seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

City Engineer Karl Schab explained his recommendation for release of the \$80,000.00 Performance Bond on Red Coach South, Section Four. Mr. Stubbs moved that Council release the Performance Bond of \$80,000.00 on Red Coach South, Section Four subject to the receipt of a Maintenance Bond in the amount of \$4,000.00. Mr. Sweetman seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

As the Poll of Council Members was taken, the following comments were received:

Mr. Spencer stressed the need for the proposed Zoning Ordinance to be clear, it should not be passed with vague and ambiguous statements just to meet a time deadline. He also feels that it should define group homes.

Mrs. Lake suggested that a Work Session with people having questions be held before Council holds it's Work Sessions on the proposed Ordinance. She advised that before the Planning Commission presently is an Ordinance concerning group homes.

Mr. McQueeney stressed the need for input from both sides concerning the Zoning Ordinance amendment = builders and residents. He is in favor of firm commitments by developers.

Mr. Stone suggested that the Clerk of Council notify Presidents of Civic Associations of this proposed amendment and ask for their comments.

There being no further business, the Meeting was adjourned.

Approved:



Mayor

ATTEST:



Clerk of Council