

Held November 18,

19 74

CENTERVILLE CITY COUNCIL
SPECIAL MEETING
NOVEMBER 18, 1974

The Council of the City of Centerville, County of Montgomery, State of Ohio met in Special Session on Monday, November 18, 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 Deputy Mayor J. V. Stone presiding. Council Members and City Staff present were as follows:

Councilwoman Nora Lake

Councilmen Charles McQueeney

Russell Sweetman

Ralph Spencer

Leonard Stubbs

Clerk of Council Marilyn McLaughlin

Acting City Manager and Chief of Police William Randolph

Engineering Aid William Linklater

Director of Parks and Recreation Timothy Shroyer

City Planner Robert Winterhalter

Director of Finance William Bettcher

Administrative Assistant John Levermann

Municipal Attorney Robert Farquhar

Mrs. McLaughlin advised that Mayor Paul Hoy was ill and would not be present for this Meeting. Mr. Sweetman moved that Mayor Hoy be excused from attending this Meeting. Mr. McQueeney seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

The Minutes of the Meeting of November 4, 1974 had been distributed prior to this Meeting. Mr. Sweetman moved that the Minutes of the Meeting of November 18, 1974 as distributed, be approved. Mr. McQueeney seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

CITY BEAUTIFUL COMMISSION APPOINTMENT

The Oath of Office was administered to City Beautiful Commission Member William D. Zahrt by Mr. Farquhar.

SISTER CITY COMMITTEE APPOINTMENT

Mr. Farquhar administered the Oath of Office to Sister City Committee Member Susalee Wildason Gray.

YOUTH BOARD APPOINTMENT

The Oath of Office was administered to Youth Board Member Walter J. Hill by Mr. Farquhar.

Mr. Paul Harper, 141 Sheldon Drive, appeared before Council concerning the City's failure to pick up his leaves after several phone calls. Mr. Randolph will contact Mr. Harper and remedy the problem.

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

Mr. Linklater explained a six week delay in the completion of the Topics Program on State Route 48. The turn lane on Whipp Road at State Route 48 will be completed within two weeks, the total project must be completed on or before July 30, 1975.

Mr. Shroyer advised that the Youth Center opened Friday, November 15, 1974; attendance should increase as equipment becomes available. Recreation programs are being well attended.

Mr. Winterhalter informed Council that the Subdivision Regulations

Held November 18, 1974 continued

19

update will be before the Planning Commission for their next workshop. Mr. Winterhalter explained the flood plane area in Black Oak Estates as determined by the Housing and Urban Development Committee.

Mr. Bettcher advised that manual bookkeeping has been converted to the computer, by the end of November the computer will supply a financial report.

Mrs. Lake wondered if the pitch on the microphones were adequately set for the audience to hear well during Meetings in the Council Chambers. The City Administration will have the Public Address System checked.

GROUP HOME HEARING ON APPEAL

The Public Hearing was held concerning the Appeal filed by Mr. Robert Muzechuk against a Planning Commission decision rendered on September 24, 1974 relative to the proposed Group Home to be located at 9525 Sheehan Road.

The Notice of Public Hearing was read by the Clerk of Council.

Mr. Farquhar outlined the procedural steps taken to lead to this Public Hearing. The City Manager was requested to give a ruling as to whether the Group Home was permitted in a single family residential zone; said ruling being that it was permitted based upon definitions contained in the Zoning Ordinance. An Appeal was then filed against the Administration's ruling to the Planning Commission. Upon proper consideration the Planning Commission moved to deny the Appeal, and this decision was then appealed to Council. The question in this matter is whether or not this is a permitted use in a single family residential zone. Mr. Farquhar reviewed permitted uses in the R-1 District and interpreted the definition of a family as contained in the Centerville Zoning Ordinance. It was Mr. Farquhar's legal opinion that this is a permitted use in a single family residential zone in accordance with the Zoning Ordinance.

Mr. Robert Muzechuk, 9535 Sheehan Road, outlined the points on legal technicalities contained in his Appeal filed in behalf of residents in and about Rose Estates. Considering all aspects of the home (transient provisions, parents pay for their dependent's room and board, house parents are paid employees of Montgomery County) Mr. Muzechuk believes the home is a business, a care facility. He cited conditions by which a home occupation is permitted in accordance with the Zoning Ordinance, the Group Home does not comply with these conditions. Mr. Muzechuk believes that the Administrative decision has been based upon cases concerning Foster Homes and homes not located in a single family residential district. Approval of this Group Home will be approval for other Group Homes in Centerville.

Mrs. William Wilkins, 9515 Attwood Court, suggested soliciting the feeling of Citizens in other areas of the City.

The following supported Mr. Muzechuk's presentation: Mrs. Richard Ableman, 9725 Stage Coach South; Mr. Gary Antrobus, 9712 Stage Coach South and Mrs. William Reeves, 9732 Stage Coach South. Mr. Antrobus believes that City laws were written and intended to protect the Citizens of Centerville. Mrs. Reeves is opposed to a Governmental Agency buying into a residential area.

Mr. Robert Surdyke, Attorney representing Montgomery County, emphasized the fact that the question before Council is whether individuals living within this home on Sheehan Road can be classified as a family as defined in the Centerville Zoning Ordinance. In order to make this decision, facts in this case must be considered. Mr. William Harris, the house father, described the use presently occurring in the home: He, his wife, daughter and one mentally retarded child currently live in the home, provided are no training facilities, no therapy and no medication for the mentally retarded. The home is operated as a family. The home will accommodate six mentally retarded girls between the ages of 10-16, they will attend

Held

November 18, 1974 continued

19

school and help maintain the home. Mr. Surdyke presented a Memorandum to Council for their consideration concerning the Appeal filed by Mr. Muzechuk.

Mr. Harvey Stein, Executive Director, Montgomery County Board of Mental Retardation, verified activities as described by Mr. Harris at the home to be accurate.

Mrs. Marie Grimm, representing the League of Women Voters and a resident on Zengel Drive, offered the League's support for this Group Home on Sheehan Road, they see it as an asset to the Community.

Mrs. Lorraine Ellis, 9500 Sheehan Road; Carolyn Zappe, 353 Silvertree Lane; Mrs. William Dilbone, 9518 Sheehan Road; Mrs. Shirley Heintz, 201 Pleasant Hill Drive and Mrs. Diane Kaiser, 9700 Ariadne Trail offered their support for the Group Home.

Mrs. William Laing, 205 South Hill Court, does not see this home as a business; it is necessary for these girls to be placed in a normal environment.

Mrs. July Billings, 9082 Mary Haynes Drive, admires the Harris family for making this home possible.

Mr. Gary Antrobus pointed out the fact that he does not oppose the mentally retarded program, he is opposed to the potential use of this Group Home in Centerville.

Mrs. William Reeves advised that through a survey it has been evidenced that Group Homes are working well in business areas in other Municipalities. She is opposed to this home being located in a residential district.

Mr. Muzechuk pointed out the fact that he and those he represents do not oppose the Group Home as such, but do oppose it's being located in a residential area.

Mr. Farquhar again stated the issue, question being whether this home meets the definition of family as contained in the Zoning Ordinance. The City Manager has determined it does and the Planning Commission upheld his opinion. Mr. Stubbs moved that Council uphold the decision of the Planning Commission rendered on September 24, 1974 concerning the Group Home at 9525 Sheehan Road. Mrs. Lake seconded the motion. A roll call vote resulted in four ayes in favor of the motion, Mr. Sweetman and Mr. Spencer voted no.

FOTO FAIR INTERNATIONAL, INC. APPEAL

The Public Hearing was held concerning an Appeal filed by Foto Fair International, Inc. against a Planning Commission decision rendered on August 27, 1974 concerning the construction of a walk-in, drive-in kiosk to be located in the parking lot of Goldman's on Lebanon Pike.

Mr. Winterhalter located the property on a map and situated the proposed kiosk on the property. The Planning Commission by a 7-0 vote denied the Application.

Mr. Jacob Myers, Attorney representing Foto Fair International, explained the operation. There are presently twenty two such kiosks located in the Dayton Metropolitan Area. The kiosk has been designed to conform to the desires of the Planning Commission. Their basic concept is to locate in an established shopping area. The building would be located away from present buildings in an unused area of the parking lot, using approximately one parking space. Mr. Myers outlined objections made by Planning Commission Members during their Meeting. This service would be a convenience to the residents of Centerville.

Mr. McQueeney questioned the reasons for the Planning Commission's denial of the Application to construct this kiosk. Mrs. Lake pointed out the fact that the Planning Commission does not look favorable upon free standing buildings, the Commission recognized problems associated with this type of operation and believes the building could be built in the philosophy they are striving for in Centerville. Mr. McQueeney believes that the

Held November 18, 1974 continued19

City cannot deny business the opportunity to advertise through architecture. As questioned by Mr. Stubbs, Mr. Farquhar advised that in accordance with the Zoning Ordinance, the Application can be denied based upon design control.

Mr. Myers explained the fact that through engineering it has been determined the proposed location for the kiosk is the best from traffic and safety standpoint. Chief Randolph would rather see this building where it is proposed than off Spring Valley Road as previously suggested by the Planning Commission. Mr. Sweetman suggested that curbing be installed in the parking lot to direct traffic around the proposed kiosk. Following further discussion, Mr. Sweetman moved that the decision of the Planning Commission be modified and the Application for issuance of the Zoning Certificate be granted conditioned upon Applicants submission to this Council of an acceptable plan showing curbing to eliminate any hazardous traffic conditions which might otherwise result from the establishment of Applicants business at the location requested. Mr. Spencer seconded the motion. A roll call vote resulted in five ayes in favor of the motion, Mr. Stubbs voted no.

ROSE ESTATES, SECTION NINE RECORD PLAN

Mr. Winterhalter reported on the Planning Commission Meeting held October 12, 1974. He reviewed their action concerning the Record Plan for Rose Estates, Section Nine. The Planning Commission by a 6-1 vote approved this Record Plan subject to the construction of sidewalks on both sides of Roselake Drive and on the west side of Marsha Jeanne Way. Mrs. Lake moved that the Record Plan for Rose Estates, Section Nine be approved subject to the receipt of a Performance Bond in the amount of \$26,000.00, a Sub-Dividers Agreement and an Inspection Fee of \$184.00. Mr. McQueeney seconded the motion. A roll call vote resulted in five ayes in favor of the motion, Mr. Sweetman abstained.

ORDINANCE NUMBER 84-74 CITY MANAGER APPOINTMENT

The Public Hearing was held concerning Ordinance Number 84-74. Mr. Farquhar advised that paragraph three under Section Three should be stricken from the Ordinance as this is a requirement by State Law and the percentage figure changes periodically. Mr. McQueeney sponsored Ordinance Number 84-74, An Ordinance Appointing Darryl K. Kenning As City Manager Of The City Of Centerville Effective December 15, 1974; Fixing The Salary Of The City Manager; Fixing Fringe Benefits For The City Manager And Providing For An Annual Professional Travel And Expense Budget, and moved that it be passed as amended. Mr. Spencer seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

ORDINANCE NUMBER 85-74 SISTER CITY APPOINTMENT

The Public Hearing was held concerning Ordinance Number 85-74. Mr. Sweetman sponsored Ordinance Number 85-74, An Ordinance To Appoint Gordon L. Coffin As A Member Of The Sister City Committee For A Term Of Three Years, and moved that it be passed. Mr. McQueeney seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

ORDINANCE NUMBER 86-74 SUBDIVISION REGULATIONS

As questioned by Mrs. Lake, Mr. Farquhar explained why proposed Ordinance Number 86-74 is an amendment to the Municipal Code, the Code includes the Subdivision Regulations to which this is an amendment. According to the Ordinance sidewalk will be required on both sides of all streets unless this provision has been waived by the Planning Commission in particular cases and upon proper Application by the Developer. Mr. Stubbs sponsored Ordinance Number 86-74, An Emergency Ordinance To Amend Codified Ordinance No. 1123.01 (b) Relating To Sidewalk Requirements, and moved that

Held _____ November 18, 1974 continued _____ 19_____

it be passed . Mr. McQueeney seconded the motion. A roll call vote resulted in five ayes in favor of the motion, Mrs. Lake voted no.

ORDINANCE NUMBER 87-74 SUBDIVISION REGULATIONS

Mr. McQueeney moved that Ordinance Number 87-74, An Ordinance To Amend Codified Ordinance No. 1123.01 (b) Relating To Sidewalk Requirements, be set for Public Hearing on December 2, 1974. Mr. Sweetman seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

CABLE TV

Mr. Sweetman advised that Cable TV must be considered for Centerville soon, he requested that it be an agenda item for the next Council Work Session.

ZONING ORDINANCE AMENDMENT REZONING

Mrs. McLaughlin advised that a Notice of Intent to Appeal and the Appeal has been received in behalf of Augusta H. Son concerning a Planning Commission decision rendered October 29, 1974 relative to her Rezoning Request to rezone 0.92 acres of land from R-1 to R-3 zone classification.

ORDINANCE NUMBER 88-74 CITY MANAGER

Mr. McQueeney sponsored Ordinance Number 88-74, An Emergency Ordinance Authorizing The Payment Of Moving Expenses For The Newly Appointed City Manager Of The City Of Centerville, Not To Exceed Eight Hundred Dollars (\$800.00) And Authorizing And Directing The Director Of Finance To Reimburse The Newly Appointed City Manager For Said Expenses, and moved that it be passed. Mr. Sweetman seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

As questioned by Mr. Spencer, Mr. Stone advised that the Centerville-Washington Park District presentation was deleted from the agenda because of the length of business, this will be an agenda item for the next Council Meeting.

RESOLUTION NUMBER 67-74 BEAUTIFICATION

Mr. Stubbs sponsored Resolution Number 67-74, A Resolution Accepting The Bid Of Countryside Nursery And Landscaping, Inc. To Provide Trees And Plants 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. Spencer seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

ROSE ESTATES, SECTIONS FOUR AND FIVE

Mr. Linklater explained the City Engineer's recommendation for partial release of the Performance Bond on Sections Four and Five of Rose Estates. Mr. Sweetman moved that the Performance Bond on Rose Estates, Section Four be reduced to \$4,000.00 and the Performance Bond on Rose Estates, Section Five be reduced to \$25,000.00 as recommended by the City Engineer. Mr. Stubbs seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

ORDINANCE NUMBER 89-74 ELECTRIC LIGHT

In reference to proposed Ordinance Number 89-74, Mr. Bettcher pointed out the fact that the cost on wooden poles will increase only \$60.00 in total for the entire year in accordance with the Contract. Mr. Sweetman moved that Ordinance Number 89-74, An Ordinance Fixing The Price Which The Dayton Power And Light Company, Its Successors And Assigns, May Charge For Electric Light Furnished To The Public Grounds, Streets, Lanes, Alleys And Avenues In The City Of Centerville, State Of Ohio, For A Period Of Three

RECORD OF PROCEEDINGS

241

Minutes of

Meeting

Johnson-Watson • Dayton Blank Book—D-2585

Held

November 18, 1974 continued

19

(3) Years, Commencing On The 29th Day Of December, 1974, And Determining The Manager In Which Said Lighting May Be Furnished, Provided And Paid For, be set for Public Hearing on December 2, 1974. Mr. Stubbs seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

RESOLUTION NUMBER 68-74 CITY MANAGER

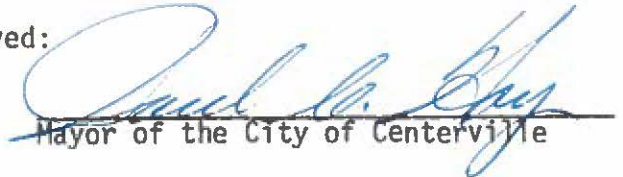
Mr. Sweetman sponsored Resolution Number 68-74, A Resolution Ratifying The Actions Of The Director Of Finance In Reimbursing Certain Expenses Incurred By Persons Being Interviewed For The Post Of City Manager Of The City Of Centerville And Authorizing And Directing The Director Of Finance To Reimburse Other Expenses Incurred By A Candidate For The Post Of City Manager Of The City Of Centerville, and moved that it be passed. Mr. McQueeney seconded the motion. A roll call vote resulted in six ayes in favor of the motion.

As the poll of Council was taken, the following comment was received:

Mr. Stubbs suggested that the public be polled to ascertain what people prefer relative to future waste collection: \$4.00 per month for curb pick up or \$5.00 per month for house pick up. Mr. Stone pointed out the fact that a basic determination has already been reached by Council concerning this matter. Mr. McQueeney stated his objection to a post-a-card or newspaper survey, he wishes to give the Citizens of Centerville the best possible service. Mr. Stubbs moved that a Public Hearing be held regarding an increase in trash collection rates prior to Council's decision to accept or reject bids on the new trash equipment. The motion died for want of a second.

There being no further business, the Meeting was adjourned.

Approved:


Mayor of the City of Centerville

ATTEST:


Clerk of the Council