

Held August 20, 19

SPECIAL MEETING

The Council of the City of Centerville, County of Montgomery, State of Ohio met in Special Session on Monday, August 20, 1973 at 8:00 P.M. at the Centerville High School, South Building. The Meeting was opened with the Pledge of Allegiance to the Flag with Mayor Paul Hoy presiding. Councilmen present were as follows: Charles McQueeney, John Davis, John McIntire, City Manager James Smith, City Engineer Karl Schab, Assistant Municipal Attorney Robert Nugent, Director of Finance William Bettcher and Clerk of Council Marilyn McLaughlin.

Mr. Davis moved that Councilmen Russell Sweetman and J. V. Stone be excused from this Meeting. Mr. McIntire seconded the motion. A roll call vote resulted in four ayes in favor of the motion.

Mrs. Claudette Cash, 223 Freyn Drive, presented to Council a Petition signed by over 200 residents in the Concept West area in an attempt to display their displeasure with an action taken by the Board of Architectural Review concerning an Arby's Restaurant to be located on the southeast corner of Virginia Avenue and West Franklin Street.

Mr. David Karl, 205 Freyn Drive, explained the Petition. The Petition requests that the City Council stop the issuance of any and all permits for building and occupancy of an Arby's Restaurant on the proposed site. He reviewed recent proceedings of the Board of Architectural Review and their attempt to obtain pertinent information for filing an Appeal to Council. Mayor Hoy requested a legal interpretation from the Municipal Attorney concerning Council's position to this particular request.

Councilman Leonard Stubbs entered the Meeting at this time.

Mr. Davis suggested that the 15 day Appeal to Council time limit be extended if possible, to afford the aggrieved residents the opportunity to file their Appeal with the proper authorities. Mr. Karl asked for an interpretation of the Ordinances as to who are aggrieved persons for the purpose of filing an Appeal. Mayor Hoy requested a legal opinion concerning these matters.

Mrs. Claudette Cash wondered who has jurisdiction over traffic in the Architectural Preservation District.

Mr. Howard Depew, 47 Virginia Avenue, wondered if the Appeal to Council time limit could be extended pending review of other matters. Mr. McQueeney suggested that the residents contact an Attorney to render for them an opinion concerning this question.

Mr. Jerry Cash, 223 Freyn Drive, quoted sections of Ordinances relative to aggrieved persons and persons who should be notified of the Public Hearings.

Mr. Smith reported the following during his City Manager's Report:

1. He reviewed the pre-construction co-ordination meeting held between the City Engineer, Finke Construction Company and the School Architect concerning the East Franklin Street Improvement. Detouring traffic will be an inconvenience to residents but will lessen the construction time period, it will begin on August 22, 1973.

2. He reviewed a meeting held with the Washington Township Trustees and a representative from both the County Engineers Office and the County Auditors Office concerning Federal Revenue Sharing monies and 7/10 Mill monies during the City of Centerville. It was finally decided to transfer the amount of \$23,556.00 from Township funds to City funds to cover a portion of the City's cost on the East Franklin Street Improvement (the

RECORD OF PROCEEDINGS

Minutes of

Meeting

Johnson-Watson • Dayton Blank Book—D-2585

Held

August 20, 1973 continued

19

improvement to a former Township Road).

3. Two additional Police Officers have been employed by the City of Centerville. This brings the Police Department to full strength as authorized for 1973. Mr. Stubbs wondered whether an officer is spending half time handling juvenile complaints. Mr. Smith advised that some time is being spent but it does not amount to half time. Mr. Stubbs suggested that more consideration be given to this matter in the future. Police Chief William Randolph explained how the Police Department has applied for Federal Funding for this type of an officer for the year 1974 and the request has been rejected. Mr. McIntire briefly reviewed the Police Department's monthly report and stressed top priority for this type of Law Enforcement.

The Public Hearing was held concerning the Rezoning Request filed by Herbert Norfleete and Raymond DeGrootte for three lots in the Village South Plat.

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

City Planner Robert Winterhalter located the subject property on a map, it is bounded on the south side by proposed I-675, north by the Village South Subdivision and to the west by the Village South School. The Applicant has requested a change from R-1 to R-4 to erect a double on each of the three lots.

Applicant Raymond DeGrootte explained his request, he does not intend to use R-4 density. He reviewed the topo of the land and why it is not suitable to single family dwellings.

Mr. Curtis Tucker, 6391 Marshall Road, brought Council's attention to a Petition submitted to the Planning Commission in opposition to this Rezoning Request.

Mr. Stubbs wondered why the land would be more suitable for doubles than single family. Mr. DeGrootte explained how these doubles would serve as a buffer between proposed I-675 and the Village South Plat.

Mrs. Eloise Burke, 6351 Millbank Drive, asked that something be done with a dug foundation standing on one of these lots. Mayor Hoy requested that the City Manager pursue correction of this problem.

Mr. Michael Lenrow, 6371 Millbank Drive, asked that the City Planner's recommendation to the Planning Commission be reviewed concerning this Rezoning. The Planning Commission's action was read by the Clerk of Council, the vote for denial was a unanimous decision 5-0 with two members being absent.

Mr. Davis sponsored Ordinance Number 68-73, An Ordinance Amending Ordinance No. 15 Dated December 11, 1961, The Zoning Ordinance, By Rezoning, More Or Less, Lots Numbered 333, 334 And 335 In Village South, Section 16 As Recorded In Plat Book 88, Page 74 Of The Plat Records Of Montgomery County, Ohio, From Centerville R-1 Classification To Centerville R-4 Classification, and moved that the Rezoning be denied, the Ordinance not be passed. Mr. Stubbs seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Winterhalter reported on the Planning Commission Meeting held August 14, 1973. The Planning Commission has unanimously, by a 6-0 vote, approved a text change to the Zoning Ordinance, adding "O-S" Office Service, "R-O-I" Research Office Light Industrial and a revised "I-1" Light Industrial Zoning District to the Zoning Ordinance. The Ordinance is being prepared by the Municipal Attorney.

Mr. Winterhalter explained the changes made to an amendment to various Figures in the Zoning Ordinance, it now includes the changes as previously recommended by Council (Multi-family dwellings for which building or zoning permits have been issued as of the effective date of the Ordinance are considered conforming uses, business uses are allowed in the I-1 District as conforming uses as of the effective date of the Ordinance and "Outdoor

Held

August 20, 1973 continued

19

Theatres" have been removed from the I-1 District as a Conditional Use. The Planning Commission recommended approval of this amendment by a 7-0 vote. Mr. McQueeney moved that Ordinance Number 25-73, An Ordinance Modifying Figure 1, Residential Uses And Requirements; Figure 2, Business Uses And Requirements; Figure 5, Industrial Uses And Requirements; Figure 9, Conditional Uses, Requirements And Procedures; Of The Centerville Zoning Ordinance, An Ordinance Amending Ordinance 28-70 Which Amended Ordinance 15-61, The Zoning Ordinance, By Making Certain Additions To And Deletions From Figure 1; Amending Ordinance 24-72 Which Amended Ordinance 15-61, The Zoning Ordinance, By Making Certain Deletions From Figures 2; Amending Ordinance 15-61, The Zoning Ordinance, By Making Certain Deletions From Figure 5 And Amending Ordinance 24-72 Which Amended Ordinance 15-61, The Zoning Ordinance, By Making Certain Deletions From Figure 9, be set for Public Hearing on October 15, 1973. Mr. Stubbs seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Winterhalter reviewed the Record Plan for Carriage Square, Section One, a multi-family development north of proposed I-675 and west of Bigger Road. Off street construction parking will be provided on the non-residential portion of this tract of land. The Planning Commission recommended approval of this Plan by a 7-0 vote, the final Landscape Plan will be before the Planning Commission on August 28, 1973 for approval. Mr. Schab pointed out the fact that this Plan only includes a deceleration lane, he recommended a small lane around the cars turning left into the development be installed. Mr. McIntire questioned who would be financially responsible for this by-pass lane and what legal hold would the City have on the developer for this by-pass to be constructed, he felt more consideration should have been given to access to this project from Hewitt Road, and he pointed out the fact that this is zoned for high density apartments with no covenants. Mayor Hoy would like to see a corridor road on this particular tract of land. Mr. McQueeney stressed his concern with additional traffic on Bigger Road, he prefers not to approve anything for construction until Bigger Road is improved. Mr. Stubbs moved that approval of this Record Plan be tabled until covenants are issued to specify condominiums and consideration be given to an exit from this property to Hewitt Road. Mr. Davis seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Winterhalter explained the Preliminary Plan for Thomas Paine Settlement, Number Two, a multi-family development east of Bigger Road and north of proposed Cayo Road. Proposed for this Section is erection of 51 units at a density of 4.4 units per acre. As this Section borders Cloyo Road on the south, Mayor Hoy wondered if Cloyo Road will be developed at this time and if not will money be placed in escrow for it's development at a future date; he felt that money should be placed in escrow as land is developed along Cloyo Road. Mr. Don Ernst, from the Ralph L. Woolpert Company and representing the Applicant, advised that Cloyo Road will not be developed with this Section. Mr. Winterhalter explained that money will be placed in escrow with the development of the last two Sections. The City Planner and Planning Commission recommended approval of this Plan by a 7-0 vote. Mr. McIntire moved that the Preliminary Plan for Thomas Paine Settlement, Number Two be approved. Mr. McQueeney seconded the motion. A roll call vote resulted in four ayes in favor of the motion, Mayor Hoy voted no.

A replat for Section One, Fox Run was reviewed by Mr. Winterhalter, it is a size reduction in the one lot on the previously approved Record Plan. The Planning Commission unanimously recommended approval of this replat. Mr. Davis moved that Council approve the requested change in the platting of Fox Run, Section One. Mr. McQueeney seconded the motion. A roll call vote resulted in four ayes in favor of the motion, Mr. McIntire voted no.

Mr. Wayne Timberman, Danners Incorporated and representing the Cambridge Inn Cafeteria, explained a revised plan for the Cafeteria to be

Held August 20, 1973 continued

19

located on "EC" zoned land, east side of State Route 48 and south of the Far Hills Veterinary Clinic. The parking ratio is now in accordance with that of the Ponderosa, Steak & Ale and Bill Knapps Restaurant. There is a total of 113 parking spaces for a seating capacity in the Cafeteria of 200 to 208. The building has been moved to the west to provide more parking to the rear of the building. Mr. Stubbs moved that Council approve the Site Plan dated August 15, 1973 for the Cambridge Inn Cafeteria. Mr. Davis seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Winterhalter advised Council that the Planning Commission has requested a clarification as to their relationship to control within the Architectural Preservation District. Mayor Hoy requested that this be completely reviewed by the Municipal Attorney and a report be made to Council.

The Public Hearing was held concerning Ordinance Number 62-73. Mr. McQueeney sponsored Ordinance Number 62-73, An Ordinance Appointing Various Members To The Sister-City Committee Of The City Of Centerville And Establishing Terms, and moved that it be passed. Mr. Stubbs seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

The Public Hearing concerning Ordinance Number 63-73 was held. The proposed Ordinance was reviewed by the City Manager. Mr. Stubbs sponsored Ordinance Number 63-73, An Ordinance Defining The Applicability Of The "Uniform Building Code" And The "Ohio Building Code", As Same Are Enforced By The City Of Centerville, and moved that it be passed. Mr. Davis seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

The Public Hearing was held concerning Ordinance Number 64-73. Mr. Davis sponsored Ordinance Number 64-73, An Ordinance To Appoint Members To The City Beautiful Commission Of The City Of Centerville As Established By Ordinance 10-73 And To Establish Terms For Said Appointees, and moved that it be passed. Mr. Stubbs seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

The Public Hearing concerning Ordinance Number 65-73 was held. Mr. McIntire sponsored Ordinance Number 65-73, An Ordinance To Appoint A Member To The Arts Commission Of The City Of Centerville As Established By Ordinance 9-73 And To Establish A Term For Said Appointee, and moved that it be passed. Mr. Stubbs seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Smith gave a progress report concerning the purchase of the Temple and Phillips Petroleum properties at Main and Franklin Streets. \$800.00 a front foot has been estimated as a maximum cost for the property in this particular area. Mr. McQueeney suggested that purchase of this property be pursued and that another contact be made by the City Manager with Phillip's main office in Oklahoma. Mayor Hoy requested that a more vigorous effort be made concerning this matter.

Mr. Davis sponsored Resolution Number 29-73, A Resolution Designating A Public Depository And Awarding Public Money, and moved that it be adopted. Mr. McQueeney seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Smith advised that money to be placed in escrow for the improvement of Bigger Lane has not been received, the amount estimated to be \$5,600.00. A request will be sent to Black Oak Development Company to acquire this escrow amount.

Held

August 20, 1973 continued

19

Mr. Smith reviewed his contact with salvage companies in reference to the Penn Central tracks, it appears to be worth approximately \$10,000 in scrap metal. Mayor Hoy requested that the City Manager give Council a recommendation concerning the Penn Central complete project.

Mr. Smith recommended drafting a separate Ordinance to control the parking of damaged and wrecked vehicles in the City of Centerville. Mr. Davis suggested drafting one Ordinance to cover restrictions in Ordinance Numbers 11-66 and 29-70 and to include additional proper controls. Council concurred that the Municipal Attorney draft an Ordinance to provide authority to eliminate wrecked and damaged vehicles from standing at certain locations for long periods of time.

Mayor Hoy read a recommendation made by the Centerville Youth Board to City Council dated July 20, 1973. Mr. McIntire suggested that a Work Session be held between the Youth Board and Council to better understand the philosophy of the Centerville Youth Board. Mayor Hoy and Mr. Davis suggested making the Recycling Center separate from the Youth Board for appropriation of funds. Mr. McQueeney stressed the importance of the Recycling Center remaining a Youth Board project. Mr. Stubbs moved that the Youth Board recommendation be tabled. Mr. Davis seconded the motion. A roll call vote resulted in five ayes in favor of the motion. Mr. Davis suggested that the City Administration give to Council a recommendation as to the where from the funding of \$560.00 can be taken and this recommendation be given at the Work Session. Mayor Hoy called the Work Session for Thursday August 23, 1973 at 8:00 P.M.

Director of Finance William Bettcher reviewed his monthly financial statement for July 1973. Mr. Bettcher was complimented on his report.

Mrs. McLaughlin advised that a Notice of Intent to Appeal a decision of the Board of Architectural Review has been filed concerning an Application to construct an Arby's Restaurant at the southeast corner of Virginia Avenue and West Franklin Street.

Mayor Hoy read a recommendation to City Council from the Board of Architectural Review dated August 7, 1973. He suggested that this recommendation be reviewed with the Municipal Attorney by Mr. Smith and if an Ordinance is needed, that such be drafted.

Mr. Stubbs sponsored Resolution Number 30-73, A Resolution Designating Public Depository And Awarding Monies Pursuant To The Uniform Depository Act Of Ohio, By The City Of Centerville, Ohio, and moved that it be passed. Mr. McQueeney seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Smith explained an "Offer to Convey a Park Lot to the City of Centerville" in Rose Estates. Mr. McIntire moved that Council accept the offer from Rose Estates to convey a park of 12 1/2 acres to the City of Centerville. Mr. Stubbs seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Schab reviewed his recommendation for release of the Performance Bond for Oak Creek Four, Section Five, all improvements have been made. Mr. Davis moved that the Performance Bond on Oak Creek Four, Section Five be released subject to the receipt of a Maintenance Bond as recommended by the City Engineer. Mr. Stubbs seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Smith reviewed the bid received from the Ziehler Road Materials Company for the resurfacing of certain streets throughout the City, total bid price being \$90,924.00. The condition of all streets has been surveyed by the City Engineer, streets to be resurfaced meet his recommendation. Mr. Smith recommended that this bid from Ziehler Road Materials

RECORD OF PROCEEDINGS

Minutes of

Meeting

Johnson-Watson • Dayton Blank Book—D-2585

Held August 20, 1973 continued

19

Company be accepted as submitted; he would like to use Bowser-Morner Testing Laboratories to again assure quality and type of materials used. Mr. McIntire expressed his dissatisfaction with these bids being let so late in the year, perhaps more bids would have been received at an earlier date. Mr. McQueeney sponsored Ordinance Number 69-73, An Emergency Ordinance Accepting The Bid Of Ziehler Road Materials, Inc. For General Contract Work On The Street Resurfacing Program And Authorizing The City Manager To Execute A Contract With Said Contractor On Behalf Of The City Upon The Posting Of The Proper Performance Bond By The Contractor, and moved that it be passed. Mr. Davis seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. Stubbs moved that Ordinance Number 70-73, An Ordinance Accepting The Bid Of Ziehler Road Materials, Inc. For General Contract Work On The Street Resurfacing Program And Authorizing The City Manager To Execute A Contract With Said Contractor On Behalf Of The City Upon The Posting Of The Proper Performance Bond By The Contractor, be set for Public Hearing on September 10, 1973. Mr. McQueeney seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Mr. McIntire sponsored Resolution Number 31-73, A Resolution Designating The Centerville Community Improvement Corporation As The Agency Of The City Of Centerville For The Industrial, Commercial, Distribution, And Research Development For The City Of Centerville, and moved that it be passed. Mr. Davis seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Clerk of Council Marilyn McLaughlin advised that two terms on the Centerville Youth Board have expired and another Member has resigned leaving three vacancies on the Board.

As the Poll of Council was taken, the following comment was received: Mayor Hoy wondered what progress has been made with the TCC concerning a comprehensive study for the City of Centerville. Mr. Smith advised that they currently are reviewing Council's request, a cost proposal will be forthcoming.


There being no further business, the Meeting was adjourned.

Approved:



 Mayor

Attest:



 Clerk of Council