

## RECORD OF PROCEEDINGS

Minutes of

REGULAR

Meeting

COLUMBUS BLANK BOOK CO., COL., O.

Form No. 1097

Held

August 3,

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The Council of the City of Centerville, County of Montgomery, State of Ohio, met in Regular Session, Monday, August 3, 1970 at 7:30 P.M. at the Municipal Building with Mayor Paul Hoy presiding. Councilmen present were as follows: Harold Wells, John McIntire, Victor Green, John Davis, Acting City Manager James Smith, City Engineer Frank Williams, Director of Finance Ronald Budzik, and Clerk of Council Marilyn McLaughlin.

The Minutes of the Meeting of July 20, 1970 had been distributed prior to this Meeting. Mr. McIntire moved that the Minutes of the Meeting of July 20, 1970 as distributed, be approved. Mr. Wells seconded the motion. A roll call vote resulted in four ayes in favor of the motion. Mayor Hoy abstained.

Mr. Wells reported on the Planning Commission Meeting held July 27, 1970. He reviewed the Public Hearing held on an Ordinance amending Ordinance Number 15-61, The Zoning Ordinance, Section 19 and Figure 7, Contingent Uses and Requirements. No one at the Public Hearing spoke in favor of or in opposition to the proposed Ordinance. This Ordinance adds to the Zoning Ordinance certain regulations for Contingent Uses, revises parking requirements, and establishes special school site and parking requirements. The Planning Commission recommended that this Ordinance be put to Public Hearing and subsequently adopted by Council. The Ordinance will be placed on the agenda for the next Council Meeting.

Mr. Wells briefly reviewed the Thomas Forsythe Rezoning Request for six lots on the east side of Far Hills Avenue just south of Alexandersville-Bellbrook Road. Requested change is from R-2 to B-1. The Planning Commission recommended that this Rezoning Request be denied.

Mr. Wells reviewed a Variance Application submitted by Mr. William Ahern for two advertising signs to be erected at 33 West Franklin Street. A Public Hearing was set for August 19, 1970 before the Planning Commission.

A Variance Request for the relocation of a 12' x 16' billboard was received by the Planning Commission from the Zengel Construction Company. A Public Hearing was set for August 19, 1970.

Mr. Wells advised that a Rezoning Request has been received from Mr. Nevin Elliott for the property he owns on the south side of East Franklin Street. He has requested a change from R-3 to B-1. A Public Hearing before the Planning Commission has been set for August 31, 1970.

Mr. Wells reported on the elections held in the Planning Commission for the coming year. The following were elected: Chairman - Harold Wells, Vice Chairman - Elmer Tate, and Secretary - Marion Loemker.

The Planning Commission will continue to discuss objectives and goals for the City of Centerville in considering the proposals as set forth by the Master Planner. A report will be before Council in a few months.

Mr. Wells advised that a letter was received on July 31, 1970 from Mr. James McConnaughey in which he requests that his Rezoning Request be submitted to Council for their consideration, he has decided not to resubmit his Application as previously indicated. Mr. Wells reviewed the turn of events while this case was before the Planning Commission. An opinion on the procedure to follow was requested of Municipal Attorney Robert Farquhar before any action is taken by Council.

The Notice of Application from the Ohio Department of Liquor Control for Warehouse Beer Systems Company, Inc., 173 North Main Street for C1 and C2 permits was discussed by Council. Council indicated no objections to the issuance of these permits.

Clerk of Council Marilyn McLaughlin advised that information was received from Mr. E.A. Sweeney, 115 West Ridgeway Road, outlining what other Communities are doing to control the spread of gasoline stations.



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Mrs. McLaughlin read a letter received from Mrs. Frank Lyons, 77 Davis Road, asking Council to do whatever possible to prevent the Ohio Bus Line from discontinuing service through Centerville. Mr. Wells recommended that Council indicate their opposition to any discontinuance of public transportation to this area. A Resolution will be prepared to indicate Council's position in this matter.

A letter was also read by Mrs. McLaughlin received from Mr. Gordon Mundell, 109 Lyons Drive, in which he requested that Council do whatever possible to encourage public transportation in Centerville, to encourage the bus companies to provide it and to help educate the citizens about the need to use it.

Mrs. McLaughlin advised that a Notice of Intent to Appeal the Planning Commission's Decision rendered on July 29, 1970 concerning the case of Thomas Forsythe was received on July 27, 1970.

City Engineer Frank Williams wondered what steps could be taken to extend Bigger Road through the now private Lane of Bigger. City Manager John Griffin was requested to survey the residents on this Lane to get their intentions for the future.

Mayor Hoy read the following Mayor's Report for the month of July, 1970.

#### Mayors Court

Fines and Forfeitures	\$1,169.00
Costs	376.00
Total	<u>\$1,545.00</u>

#### Zoning Permits

14	One Family Residences
9	Additions to Residences
4	Swimming Pools
3	Commercial Buildings
1	Sign

Mr. McIntire moved that the Mayor's Report as submitted, be accepted. Mr. Davis seconded the motion. A roll call vote resulted in four ayes in favor of the motion. Mayor Hoy abstained.

Director of Finance Ronald Budzik reviewed the hearing before the Budget Commission on Centerville's estimated Budget for 1971.

The City Manager's Report was reviewed by Council. Discussion followed concerning Council action to the P.U.C.O. relative to the possible discontinuance of bus service to Centerville. Mr. Green moved that Council request the Municipal Attorney to prepare a Resolution stating their opposition to the discontinuance of bus service to the City of Centerville. Mr. Wells seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

Director of Finance Ronald Budzik reviewed the meeting with the State Examiner after the audit was completed.

In reference to Joint Purchasing with Montgomery County, Mr. McIntire wondered what criteria the County would expect from Centerville as to purchasing on a County basis. He would like to see the advantages of this type of purchasing. Mr. Green requested that James Smith contact Al Florio, County Purchasing Agent, and receive more specific information.

Council discussed the meeting set for August 13, 1970 at the Kettering Government Center at which Mart Kask, Director of T.C.C. will give a presentation on the establishment of a Regional Transit Authority for the Dayton Metropolitan Area. Mr. McIntire stated his interest in the fact that the Municipalities to the north of the City of Dayton do not seem to be as zealous over this and sometimes are not even included.



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The Public Hearing concerning An Ordinance Amending Ordinance Number 15, Dated December 11, 1961, The Zoning Ordinance, By Re-Zoning 7.065 Acres, More Or Less, From Centerville R-2 and R-3 Classification To Centerville B-1 Classification, was held.

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

Planning Commission Chairman Harold Wells reviewed the Rezoning Request and located the property on a map. The property in question is located along the east and west side of Main Street approximately 110 feet south of the intersection of Martha Avenue with Main Street. Requested change is from R-2 and R-3 to B-1. The Planning Commission recommended to Council that this Rezoning Request be denied.

Mr. Fred Izenson, Attorney for the Applicants, presented the following facts: 1. The Applicants joined together in their submission to prevent spot zoning, 2. He reviewed the length of time each Applicant has resided at his respective address, 3. He reviewed traffic volume and proposed widening of State Route 48, 4. Applicants feel the present zoning is not the highest and best use of the land, 5. Saleability of the homes on the subject land have been impaired, 6. He cited various rezoning cases in Ohio Courts and made comparisons with the subject property, 7. The Applicants have requested this change because their property has changed as well as Centerville, 8. He reviewed a letter addressed to the Centerville Council from Mrs. Stanley Howell, 157 South Main Street, asking Council's consideration of the property owners on Route 48. Mr. Izenson concluded his presentation with the fact that B-1 zoning is the highest and best use of the land because of the fiscal nature of the area involved.

Mrs. Nancy Hughes, 67 Westerly Drive, submitted to Council petitions containing 79 signatures of property owners and residents within a short distance of the land in question stating their objection to this proposed rezoning.

Mr. Hubert Ware, 10 Westerly Lane, advised that he bought his home as a residence as did all the applicants. He reviewed the disadvantages he would incur by this change in zoning. He objected to businesses staying open until late in the evening and felt that B-1 zoning adjacent to his property would degrade it's value.

Mr. Joseph Troyan, 121 South Main Street, wondered who signed the petitions and how close they live to the land proposed for rezoning.

Mr. Daniel O'Brien, 45 Benzell Drive, agreed with the Petitions submitted. He asked Council to consider all aspects of this request.

Mr. Daniel Barnard, 35 Benzell Drive, is opposed to B-1 zoning; he is concerned with the permitted uses in B-1. He requested that the zoning remain as is until adjoining property owners can be protected. He asked Council to take the Planning Commission's recommendation.

Mr. George Hughes, 67 Westerly Drive, moved into Centerville because it is a residential community. He feels this change would be detrimental to the entire Peach Grove area.

Mr. Jack Puterbaugh, 101 South Main Street, advised that the property could be developed with proper buffers so as not to disturb adjoining residents.

Mr. Tedd Boomershine, 7546 Normandy Lane, suggested that Council begin to look into other types of zoning to fit these people's needs.

Mr. Patrick O'Neil, 54 Benzell Drive is opposed to this rezoning because there is no protection to the adjacent property owners.

Mr. John Gabriel, 195 Broadripple Road, is opposed to the rezoning because of what would be permitted in B-1 zoning.

Mr. Charles Buchanan, 45 Waterford Drive, indicated his opposition to the rezoning request.

Mr. John Livingston, 195 N. Gracewood Drive, emphasized the fact that it is up to Council to make this decision regardless of the opposition.

Attorney Fred Izenson advised that there is a need for business and tax dollars in Centerville, property owners should be permitted to utilize their property and convert their property to cash at least for what they paid.

Mr. Wells advised that the Planning Commission in making their decision utilized the professional advice of the Master Planner through his study of Route 48 in which he recommended avoiding strip zoning. He recommended clustering the businesses; there is currently a cluster at Main and Franklin, at Spring Valley and Route 48, and at Sheehan and Route 48. The Planning Commission's decision was based on the entire community not just the 12 property owners.

Mrs. Zelma Gaines, 169 South Main Street, advised that Applicant's properties are deeper for parking than those already occupied by businesses on South Main Street.



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Mayor Hoy advised that this item will be on the agenda for the next Council Meeting and submitted to Council will be a copy of the Petitions and Mrs. Howell's letter.

The Public Hearing concerning an Application for a Variance for the property located at the south east corner of Main and Franklin Streets, was held. This was on an appeal of the Planning Commission's decision dated June 10, 1970 filed by City Engineer Frank Williams. Requested was a Variance from Section 15, D-1 and Figure 2 of the Zoning Ordinance to permit erection of a sign nearer the right of way line than 15 feet.

Clerk of Council Marilyn McLaughlin read the Notice of Public Hearing.

Mr. Wells reviewed the Request as submitted by the Shell Oil Company. Shell Oil agreed that their 8 foot square sign would not be rotating and would be located 4 feet inside the revised property line. The Planning Commission approved the location of the sign with the following conditions: 1. the sign would not rotate, 2. it would be on a 45° angle to the property and, 3. it would be moved back to approximately 9 feet from the right of way line.

Mr. Williams located the sign on a plan. He reviewed the visibility of the sign from different directions; the sign is best seen from it's proper location, nothing seems to block it's view. Mr. Williams indicated no hardship existing in this case.

Mr. Bob Reed, Representative of the Shell Oil Company, advised that they will erect the sign as submitted to the Planning Commission on the present base.

Mr. McIntire supported the appeal for the sign to be located 15 feet back from the right of way line.

Mr. Wells advised that the Planning Commission was opposed to a rotating sign because they tend to distract motorists.

Mr. McIntire moved that the appeal concerning this Variance Request to locate the sign 15 feet back from the right of way line, be upheld. Mr. Davis seconded the motion. A roll call vote resulted in four ayes in favor of the motion. Mr. Wells voted no.

Mrs. McLaughlin reviewed a letter received from Margaret Risner, Board of Elections, concerning Resolution Number 11-70, levying a tax in excess of the ten mill limitation. Mrs. Risner recommended changing the Resolution to read a renewal tax and in the amount of .96 mill. Mr. Davis sponsored Resolution Number 13-70, A Resolution declaring It Necessary To Levy A Tax In Excess Of The Ten Mill Limitation, and moved that it be passed. Mr. Wells seconded the motion.

WHEREAS, The amount of taxes which may be raised within the ten mill limitation will be insufficient to provide an adequate amount for the necessary requirements of said City of Centerville, Montgomery County, Ohio; therefore, be it

RESOLVED, By The Council of the City of Centerville, Montgomery County, Ohio, two-thirds of all members elected thereto concurring, that it is necessary to levy a renewal of an existing tax of .96 mill in excess of the ten mill limitation for the benefit of City of Centerville for the purpose of Police Department Maintenance and Operation under Ohio Revised Code, Section 5705.19 (J) at a rate not exceeding .96 mill for each one dollar of valuation, which amounts to 9.6 cents for each one hundred dollars of valuation for 5 years and, be it further

RESOLVED, That said levy be placed upon the tax lists of the current tax year in compliance with the provisions of Ohio Revised Code, Section 5705.34, current tax duplicate starting with first half collection, if the majority of the electors voting thereon vote in favor thereof; and, be it further

RESOLVED, That the Clerk of this Council of the City of Centerville be and she is hereby directed to certify a copy of this Resolution to the Board of Elections, Montgomery County, Ohio, prior to the Fifteenth day of September, 1970, and notify said Board of Elections to cause notice of election on the question of levying said tax to be given as required by law.

A roll call vote resulted in five ayes in favor of the motion.

Acting City Manager James Smith reviewed a proposed Ordinance to amend Ordinance Number 2-70 and 7-70 for a table of organization, personnel classifications, rates of pay, and regulations for employees of the City. Following discussion Mr. McIntire recommended that the Ordinance be redrafted to reflect an increase for only three employees and contain a retroactive clause. Mr. Green requested that current rates of pay be presented when the Ordinance is considered. This item will be on the agenda for a Council Meeting on August 10, 1970.



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Waste Collection in Centerville was discussed by Council. Mr. McIntire requested that information be provided to Council concerning collection service in other Municipalities, pro and con. He further suggested that the manpower currently employed by the City who has experience in garbage collection be utilized to maximum value. He felt the City should investigate providing this as a Municipal service, to be paid for by the residents on a break even basis. Mayor Hoy and Mr. Green endorsed Mr. McIntire's suggestion. Mr. McIntire recommended that if Centerville continues with contract collection service the City should get completely out of the business. Mr. Fred Mayor, 5548 Knollcrest Court pointed out the fact that competition provides for better service to the homeowner. Mr. H.R. McKenzie, Kings Row Avenue, complained about the rough treatment of garbage cans by the collector, he wondered why the rate was increased and why people were not notified. Mayor Hoy advised that information was released to the newspapers and explained why the increase. Mr. Davis felt that if Municipal Collection is considered, Council should make sure that as good or better service is provided at a comparative price with private haulers. Mayor Hoy set a Special Council Meeting for August 10, 1970 to further discuss this matter.

City Engineer Frank Williams reviewed the location of a drainage ditch behind the Activity Center Property. He suggested the following: 1. a large rock currently resting in the center of the ditch be removed, and possibly removing about 4 trees would permit water to run freely, 2. install a 36 inch pipe on the Activity Center Property to redirect the flow of water, 3. install a 4 foot pipe to join the existing 4 foot pipe. Mr. Williams advised that this is on private property and thus is not the City's responsibility. Mr. Paul Brown, 7576 Normandy Lane, reviewed the flow of water through the ditch during heavy rains. Mayor Hoy requested that the City Engineer get more information concerning this matter; widening the ditch and cost of removing the rock for the next Council Meeting. Mr. McIntire suggested that Mr. Williams give a report thus far to the property owners involved in this matter.

The release of the Performance Bond on Country Village Plat, Section One was discussed by Council. Mr. Williams advised that all work has been completed in this Section except for two 5 foot square pieces of concrete being replaced. A note from John Griffin indicated that mud has clogged two catch basins in the plat. Mr. McIntire moved that Country Village Plat, Section One be accepted and the Performance Bond be released subject to the two catch basins, one on Jeanette Drive and one on Westerfield Drive being cleaned out and two sections of concrete being replaced. Mr. Wells seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

The reduction of the Performance Bonds on Black Oak II, Sections One and Three were recommended by City Engineer Frank Williams. Mr. McIntire expressed his displeasure with the construction of the concrete streets in the Black Oak Estates area. Mr. Williams advised that this reduction is in no way an acceptance of these Sections. Mr. Green moved that the Performance Bonds for Black Oak II, Sections One and Three be reduced to 10% of the original Bonds. Mr. Wells seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

City Engineer Frank Williams recommended that the Performance Bonds on Black Oak III, Sections Two and Three be reduced to 10% of the original Bonds. Mr. Green moved that the Performance Bonds for Black Oak III, Sections Two and Three be reduced to 10% of the original Bonds. Mr. Wells seconded the motion. A roll call vote resulted in five ayes in favor of the motion.

The Meeting was then adjourned.

Approved:


  
Mayor

ATTEST:


  
Clerk of Council