

RESOLUTION NO. 38-92

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILPERSON Brooks Compton ON
THE 7th DAY OF December, 1992.

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE REAL ESTATE OWNED BY AND WITHIN THE CORPORATE LIMITS OF THE CITY OF CENTERVILLE, OHIO FOR THE PURPOSE OF EXTENDING CLYO ROAD, SUCH REAL ESTATE BEING SITUATED EAST OF AND BOUNDED BY BIGGER ROAD AT THE TERMINUS OF CLYO ROAD AND EXTENDING IN AN EASTERLY DIRECTION TO A POINT APPROXIMATELY 1,589.75 FEET AND ALSO SITUATED WEST OF AND BOUNDED BY WILMINGTON PIKE AT THE TERMINUS OF CLYO ROAD AND EXTENDING IN A WESTERLY DIRECTION TO A POINT APPROXIMATELY 2,493.59 FEET, SUCH IMPROVEMENTS TO INCLUDE GRADING, CURBING, PAVING, SIDEWALKS, STORMWATER DRAINAGE SYSTEM, SANITARY SEWER SYSTEM, WATER MAINS, TRAFFIC CONTROL, LANDSCAPING, AND OTHER FACILITIES AND APPURTENANCES THAT ARE NECESSARY AND PROPER THEREFOR.

THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That it is necessary to extend Clyo Road in the City of Centerville, Ohio from its present terminus at Bigger Road in an easterly direction approximately 4,083.34 feet to connect with Wilmington Pike, excluding a section of Clyo Road approximately 927 feet in length situated on real estate not owned by the City of Centerville, Ohio that is bounded to the north by the Thomas Paine Settlement and Thomas Paine Woods Condominium Developments. The aforementioned improvement shall have a five-lane profile and shall align Clyo Road to intersect Wilmington Pike across from Clyo Road in the County of Greene, Ohio. The aforementioned improvement shall include grading, curbing, paving, sidewalks, stormwater drainage system, sanitary sewer system, water mains, traffic control, landscaping, and other facilities and appurtenances that are necessary and proper therefor.

Section 2. That it is hereby determined and declared that the improvements described in Section 1 hereof are conducive to the public health, safety, convenience, and welfare of the City of Centerville, Ohio and the inhabitants thereof.

Section 3. That the grade of said road shall be the grade as shown by the plans and profiles prepared by Woolpert Consultants which are by this reference made a part hereof.

Section 4. That the plans, specifications, estimates of cost, and profiles of the improvement, heretofore prepared by Woolpert Consultants and now on file in the office of the Clerk of Council, are hereby approved.

Section 5. That a portion of the cost of the west section of said improvement, being that portion beginning at Bigger Road and extending east 1,589.75 feet, shall be assessed, in proportion to the benefits which may result from the improvement upon the lots and lands bounding or abutting upon the improvement and other lots and lands to be benefitted thereby. Such portion of the cost of the improvement, excepting those costs attributable to improvements to the sanitary sewer system, traffic control, water mains, and facilities and appurtenances necessary and proper therefor, shall be assessed as follows:

36.30 % of such cost shall be assessed upon the lots and lands at one time solely owned by John G. Black Enterprises, Inc. and now having been platted into 115 lots recorded in the Montgomery County Recorder's Plat Books as the Nestle Creek Plat, Sections 1, 2, 3, 4, 5, 6, 7, and 8, hereinafter referred to as the John G. Black Enterprises, Inc. lots and lands (Ref. Montgomery County Auditor's Books, Centerville Book no. 6, Page 5, Index 19 containing 55.1 acres, and Centerville Book no. 16, Page 17, Index 2 containing 4.768 acres). Although referred to as the John G. Black Enterprises, Inc. lots and lands in this Section 5, the owner of each of the 115 lots in Nestle Creek Plat Sections 1, 2, 3, 4, 5, 6, 7, and 8, shall be assessed one/one hundred fifteenth (1/115) of the amount described in this Section 5 as to be assessed upon the John G. Black Enterprises, Inc. lots and lands. The lots and land presently owned by John Black Enterprises, Inc. and presently being platted as Nestle Creek Two (Montgomery County Auditor's Books, Centerville Book no. 6, Page 5, Index 3, containing 40.415 acres) shall specifically be excluded from any assessment under this resolution.

18.70 % of such cost shall be assessed upon the lots and lands at one time solely owned by Hills Building and Construction Services #3, Inc. and now having been platted or to be platted in the future into 208 condominiums known as the Lexington Meadows condominium plat and recorded in the Montgomery County Recorder's Office plat books, hereinafter referred to as the Hills Building and Construction Services #3, Inc. lots and lands (Ref. Montgomery County Auditor's Books, Centerville Book no. 6, Page 5, Index 2 containing 34.393 acres, excluding the part of Index 2 north of the Clyn Road right-of-way and not being platted as part of the Lexington Meadows condominium plat). Although referred to as the Hills Building and Construction Services #3, Inc. lots and lands in this Section 5, the owner of each of the 208 condominium units platted from the Hills Building and Construction Services #3, Inc. lots and land and

recorded in the Montgomery County Recorder's Office shall be assessed one/two hundred and eighth (1/208) of the amount described in this Section 5 as to be assessed upon the Hills Building and Construction Services #3, Inc. lots and lands.

The cost attributable to the sanitary sewer system and water mains and facilities and appurtenances necessary and proper therefor (less any payment and oversize reimbursement received from the County of Montgomery, Ohio, with respect thereto), shall be assessed, in proportion to the benefits which may result from the improvement, upon the following:

66.00 % of such cost shall be assessed upon the John G. Black Enterprises, Inc. lots and lands.

34.00 % of such cost shall be assessed upon the Hills Building and Construction Services #3, Inc. lots and lands.

Section 6. That a portion of the cost of the east section of said improvement, being that portion beginning at Wilmington Pike and extending west 2,493.59 feet, shall be assessed, in proportion to the benefits which may result from the improvement, upon the lots and lands bounding or abutting upon the improvement and other lots and lands to be benefitted thereby. Such portion of the cost of the improvement, excepting those costs attributable to improvements to the sanitary sewer system, traffic control, water mains, and facilities and appurtenances necessary and proper therefor, shall be assessed, in proportion to the benefits which may result from the improvement, as follows:

27.50 % of such cost shall be assessed upon the lots and lands presently owned by Society Bank, N. A., Trustee, hereinafter referred to as the Society Bank, N. A., Trustee, lots and lands (Ref. Montgomery County Auditor's Books, Centerville Book no. 6, Page 3, Index 2, 3, 26, and 27 containing 69.197 acres, and Centerville Book no. 6, Page 3, Index 12 and Centerville Book no. 6, Page 4, Index 16, 27, and 28 containing 29.138 acres).

16.368 % of such cost shall be assessed upon the lots and lands presently owned by the Far Hills Baptist Church, hereinafter referred to as the Far Hills Baptist Church lots and lands (Ref. Montgomery County Auditor's Books, Centerville Book no. 6, Page 4, Index 23 containing 19.614 acres and Index 24 containing 19.614 acres).

7.26 % of such cost shall be assessed upon the lots and lands presently owned by Joseph F. Rippe, Trustee, hereinafter referred to as the Joseph F. Rippe, Trustee, lots and lands (Ref. Montgomery County Auditor's Books, Centerville Book no. 6, Page 4; Index 15 containing 0.661 acres and Index 3 containing 6.106 acres excluding that part of Index 3 that is south of Index 17 that fronts on Wilmington Pike and has no frontage along the Clyo Road right-of-way to be improved).

3.872 % of such cost shall be assessed upon the lots and lands presently owned by the B. P. Oil Company, hereinafter referred to as the B. P. Oil Company lots and lands (Ref. Montgomery County Auditor's Books, Centerville Book no. 6, Page 4, Index 1 and 2 containing 2.0196 acres and Index 22 containing 1.5034 acres).

The cost attributable to the sanitary sewer system and water mains and facilities and appurtenances necessary and proper therefor (less any payment and oversize reimbursement received from the County of Montgomery, Ohio, with respect thereto) shall be assessed, in proportion to the benefits which may result from the improvement, upon the following:

50.00 % of such cost shall be assessed upon the Society Bank, N. A., Trustee, lots and lands.

29.76 % of such cost shall be assessed upon the Far Hills Baptist Church lots and lands.

13.20 % of such cost shall be assessed upon the Joseph F. Rippe, Trustee, lots and lands.

7.04 % of such cost shall be assessed upon the B. P. Oil Company lots and lands.

Section 7. That a portion of the cost of engineering of said improvement and facilities and appurtenances necessary and proper therefor, and such cost for other incidental cost and facilities and appurtenances necessary and proper therefor shall be assessed, in proportion to the benefits which may result from the improvement, as follows:

12.85 % of such cost shall be assessed upon the John G. Black Enterprises, Inc. lots and lands. Although referred to as the John G. Black Enterprises, Inc. lots and lands in this Section 7, the owner of each of the 115 lots in Nestle Creek Plat Sections 1,2,3,4,5,6,7, and 8, shall be assessed one/one hundred fifteenth (1/115) of the amount described in this Section 7 as to be assessed upon the John G. Black Enterprises, Inc. lots and lands.

6.62 % of such cost shall be assessed upon the Hills Building and Construction Services #3, Inc. lots and lands. Although referred to as the Hills Building and Construction Services #3, Inc. lots and lands in this Section 7, the owner of each of the 208 condominium units platted from the Hills Building and Construction Services #3, Inc. lots and land and recorded in the Montgomery County Recorder's Office shall be assessed one/two hundred and eighth (1/208) of the amount described in this Section 7 as to be assessed upon the Hills Building and Construction Services #3, Inc. lots and lands.

15.265 % of such cost shall be assessed upon the lots and lands presently owned by Society Bank, N. A., Trustee.

9.08 % of such cost shall be assessed upon the lots and lands presently owned by Far Hills Baptist Church.

4.035 % of such cost shall be assessed upon the lots and lands presently owned by Joseph F. Rippe, Trustee.

2.15 % of such cost shall be assessed upon the lots and lands presently owned by B. P. Oil Company.

Section 8. The balance of such costs (except to the extent attributable to water mains, sanitary system or sewer construction, and facilities and appurtenances necessary and proper therefor), being the amount deemed just by this Council, shall be paid by the City of Centerville, Ohio, from funds lawfully available therefor or from the proceeds of general obligation bonds and/or notes to be issued in anticipation thereof.

Section 9. The lots and lands to be so assessed are hereby determined to be specially benefitted by said improvement. The cost of said improvement shall include the cost of preliminary and other surveys, plans, specifications, profiles, and estimates of cost and of printing, serving and publishing notices, resolutions, and ordinances, the total amount of damages resulting from the improvement assessed in favor of any owner of land affected by the improvement, and interest thereon, the costs incurred in connection with the preparation, levy and collection of special assessments, the cost of purchasing and otherwise acquiring therefor any required real estate or interest therein, expenses of legal services including obtaining approving legal opinions, costs of labor and material, and interest on bonds and notes, which the City intends to issue in anticipation of the levy and collection of the special assessments, together with all other incidental costs directly connected with the improvement.

Section 10. The Director of Finance be and is hereby authorized and directed to prepare and file in the office of the Clerk of Council the estimated assessment of the cost of the improvement described in this resolution. Such estimated assessment shall be based upon the estimate of costs of said improvement now on file in the office of the Clerk of Council and shall be prepared pursuant to the provisions of this resolution. When such estimated assessment has been so filed, said Clerk of Council shall cause notice of the passage of this resolution and the filing of said estimated assessments to be served on the owners of all the lots and lands to be assessed as provided in Section 727.13 of the Ohio Revised Code, unless such service shall be effectively waived.

Section 11. The assessments to be levied shall be scheduled to be paid in such number of substantially equal annual installments (not to exceed 20) as shall be equal to the weighted average maximum maturity, in years, of the bonds to be issued in anticipation of the collection thereof, calculated in accordance with Section 133.20 of the Ohio Revised Code, with interest on deferred payments at the same rate or rates as shall be borne by the bonds to be issued in anticipation of the collection thereof; provided, that the owner of

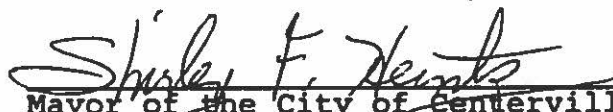
any property assessed may, at its, her, or his option, pay such assessment in cash within 30 days after passage of the assessing ordinance.

Section 12. That bonds of the City of Centerville, Ohio shall be issued in anticipation of the collection of assessments by installments and in an amount equal thereto and notes of said City shall be issued in anticipation of the issuance of such bonds and the levy of such assessments.

Section 13. Attached to and hereby incorporated into this resolution are copies of the Montgomery County Auditor's Books, Centerville Book 6 pages 3,4, and 5 and Centerville Book 16 page 17.

Section 14. That this resolution shall take effect upon its passage in accordance with Section 5.08 of the Charter of the City of Centerville, Ohio.

PASSED THIS 7th DAY OF December, 1992.



Mayor of the City of Centerville, Ohio

ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 38-92, passed by the Council of the City of Centerville, Ohio, on the 7th day of December, 1992.

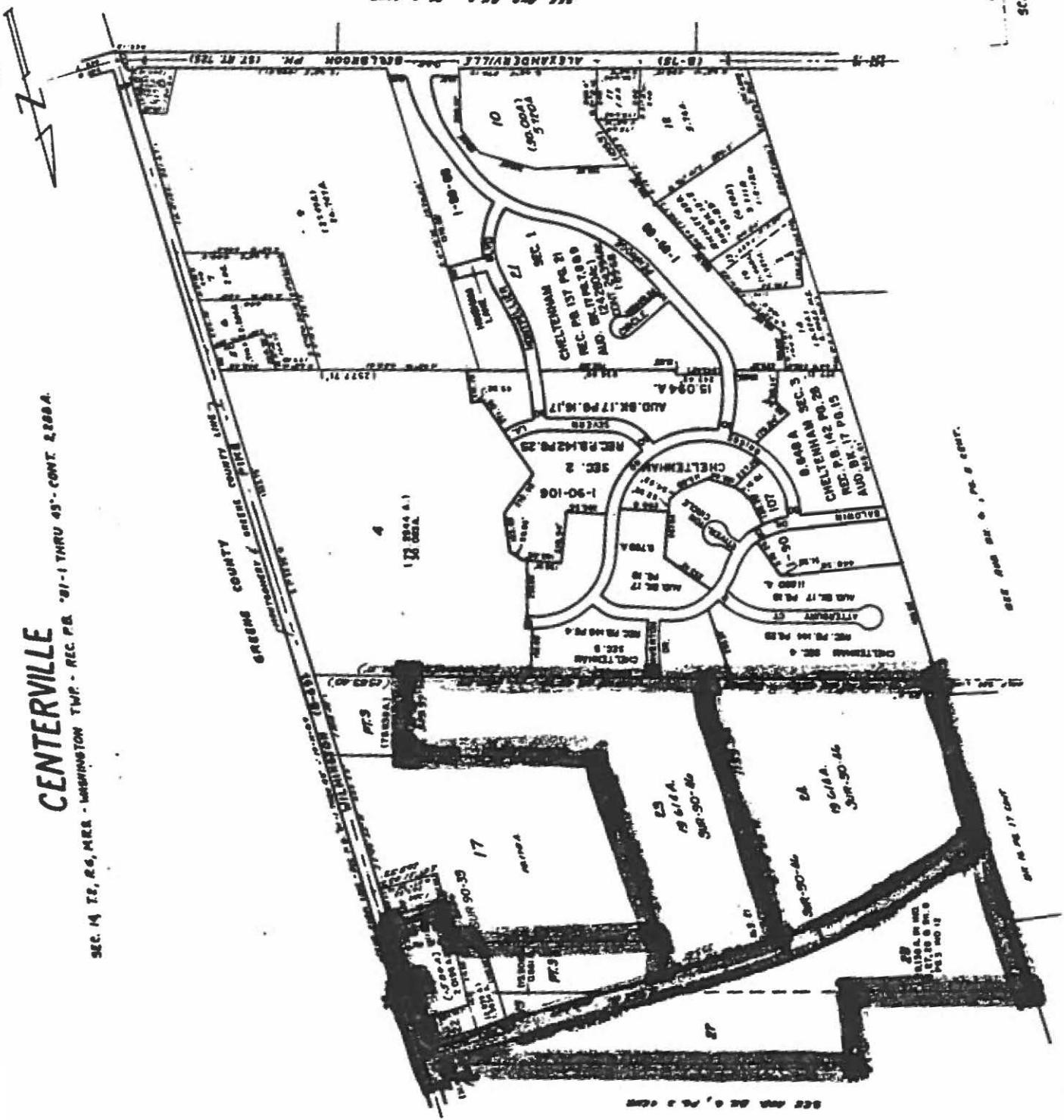


Clerk of Council

Approved as to form, consistency with existing ordinance, the charter and constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

SEC. 14, 15, 16, MER. - WASHINGTON TWP. - REC. PB. '81-1 THRU 45'-CONT. 2, 208A.
CENTERVILLE



SEE MAP BK. 6, PG. 3 CONT.

SEE MAP BK. 6, PG. 3 CONT.