

authorize the Mayor of the Village of Centerville to sign the petition so a public hearing for sewers can be had, providing the petition is favorable with the County Commissioners, seconded by Mr. Dutcher and carried, A roll call was ordered which resulted in 6 eyes in favor of the motion.

The Mayor related a call from Don Gahris, for permission of Council to place speakers on the water tower. No action was taken but it was the consensus of opinion that the speakers should stay on church property.

A letter by Mr. Linxwiler was read concerning the property south of Mrs. Boyles, to be furnished with City water. Mr. Arnold was to advise party that the Village sold Water-Works to the County.

Mr. Lynn was advised by Council to prepare an Ordinance regulating parking in the alley between Drug store and Town Hall, for the next regular meeting.

The meeting adjourned.

Attest:

Geo. E. Howe

Approved:

Mayor Jackson

Regular Meeting of Council

The Council of the Village of Centerville, County of Montgomery and the State of Ohio met in regular session Oct. 1, 1956 with Mayor Jackson presiding. Present: Kenneth Poff, Gilbert Neubauer James Presbaugh, Robert Billett and William Dutcher.

The minutes of the previous meeting were read and approved.

The Mayor's report of Fines, Forfeitures and Costs, amounting to \$122.40, State Court Cases amounting to \$112.75, Building permits amounting to \$37., showing that the same had been paid in the Village treasury was submitted. It was moved by Mr. Presbaugh seconded by Mr. Poff and carried that the report be accepted and placed on file. A roll call was ordered which resulted in 5 eyes in favor of the motion.

It was moved by Mr. Poff, seconded by Mr. Billett and carried that the following bills be approved for payment.

St. Maint. Fund.

V.181 Wash. Twp. Trustees-Black top,Use of Equip.	\$109.57
V.182 Edward Gebhart-Labor	7.50
V.183 William F. Fox-15 hrs. Labor	22.50
V.184 Walter Shilt,Jr.-12 hrs. Labor	18.00
V.195 The Republic Asphalt Co.-#6682, #6923 8-T T-137	44.00
V.199 Centerville Lumber CO.-Supplies	12.76
V.201 The Dayton Stencil Works-A 73920 Cones	13.80
V.203 The Moran Paint Co.-#27955	29.50
V.205 The Dayton Power & Light-Sept. traffic light	6.00
V.209 William F. Fox-11 hrs. labor	16.50
V.210 Walter Shilt,Jr.-14 hrs. labor	21.00
V.211 Walter Shilt Jr.-14 hrs. labor	21.00
V.212 William F. Fox-58 hrs. labor	87.00
V.213 Joe James-5½ hrs. labor	8.25
V.215 William F. Fox-16 hrs. labor	24.00
V.216 Walter Shilt, Jr.-11 hrs. labor	16.50

General Fund

V.185 James R. Smith-Oct. Sal plus 1.50 plus 2.28	306.28
V.186 Omer Jackson- 3rd Quarter Sal.	100.00
V.187 Geo. Howe-	187.50
V.188 Kenneth Poff-	6.00
V.189 Robert Billett-	6.00
V.190 James Presbaugh-.. ..	6.00
V.191 Gilbert Neubauer----.. ..	6.00
V.192 William Dutcher-	6.00
V.193 Frank Arnold-	6.00
V.194 Kim Howe- Mowing Park-1956	25.00
V.196 Columbus Blank Book Co.-#1079 Office supplies	4.32
V.197 Frank S. Partlow-Repair radio in cruiser	11.56
V.198 Lawrence Huden-Sept. Ser. on radio in cruiser	5.00
V200 Park Motors Inc.-Check Speedometer	2.00
V.202 The Standard Oil Co.-#15852 & #14861	42.16
V.204 The Dayton Power & Light-Sept. Street Lights	124.17
V.206 The Ohio Bell-Sept. Service 7-7642	7.15
V.207 Internal Revenue Service-3rd Quarter withholding	150.00
V.208 Public Employes Ret. System-3rd Quarter deductions	67.50
V.214 Winters National Bank-Deposit box rental	7.50
	<hr/> 1534.02

The Street committee made their report and discussed the following: The Village engineer to establish grade and alignment for curb and gutters on W. Franklin, Mr. Neubauer suggested a Maint. Bond Ord. for consideration, Suggestion to have house number placed on building permit. Ord. 7-56 concerning Parking & Traffic in Alley between Drug Store & Twp. building be deferred until next meeting

It was moved by Mr. Dutcher, seconded by Mr. Billett, and carried that the 2 Council recind the approval of Galloway Estate Plat Sec I in view of their failure to deliver performance bond. A roll call was ordered which resulted in 5 ayes in favor of the motion.

The Mayor was to contact Mr. Riber to see if a local agent could be obtained to pay water bills in Centerville.

The Police committee recommended new snow tires for the cruiser for winter. Request granted by council.

The Council authorized the following letter be included
in the Village minutes, to the Village from Mr. Lynn.

Sept. 22, 1956

Council of the Village of Centerville
Centerville, Ohio

Gentlemen:

I am addressing this letter to you in connection with the problem of transferring to the General Fund of the Village of Centerville the balances remaining in the Water Fund and in the Mortgage Revenue Bond Retirement Fund after the sale to the County Commissioners of Montgomery County of the Village Waterworks System and the payment of the outstanding bonds and all other charges.

Transfer of funds by governmental subdivisions from one fund to another is controlled in general by Section 5705.14, 5705.15 and 5705.16 of the Revised Code of Ohio.

Section 5705.14 enumerates six special situations wherein transfers may be effected from one fund to another and provides, in each case, for the type of approval which is required.

Section 5705.15 was enacted subsequent to Section 5705.14 and provides generally for the transfer from any fund to any other fund provided that the special procedure set forth in Section 5705.16 is followed.

Both of the proposed transfers to the General Fund appear to come within the purport of Section 5705.14.

The Mortgage Revenue Bond Retirement Fund comes under Section 5705.14 (C) which provides as follows:

"The unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest, and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred, in the case of the sinking fund, to the bond retirement fund, and in the case of the bond retirement fund, to the sinking fund; provided that if such transfer is impossible by reason of the nonexistence of the fund to receive the transfer, such unexpended balance, with the approval of the court of common pleas of the county in which such division is located, may be transferred to any other fund of the subdivision."

It is my opinion, therefore, that because there is no Village of Centerville Sinking Fund presently existing, a transfer of the Mortgage Revenue Bond Retirement Fund to the General Fund is permissible and may be accomplished by resolution passed by the affirmative vote of two thirds of the members of the Council followed by the approval of the Common Pleas Court of Montgomery County in a proper proceeding brought to obtain such approval. Accordingly we have brought such a proceeding.

The Water Fund is a special fund for a public utility operated by the Village of Centerville under Section 5705.09 (G) and therefore comes under Section 5705.14 (D) which provides as follows:

"The unexpended balance in any special fund, other than an improvement fund, existing in accordance with divisions (D), (F), or (G) of Section 5705.09 or Section 5705.12 of the Revised Code, may be transferred to the general fund or to the sinking fund or bond retirement fund after the termination of the activity, service, or other undertaking for which such special fund existed, but only after the payment of all obligations incurred and payable from such special fund."

There is, however, another section of the Revised Code which must be considered in connection with the transfer of the Water Fund to the General Fund, namely Section 743.05 which provides, in part, that after payment of the expenses of conducting and managing the waterworks, any surplus of a municipal corporation may be applied to the repairs, enlargement, or extension of the works or of the reservoirs, the payment of any loan made for their construction, or for the creation of a sinking fund for the liquidation of the debt. This section has been interpreted

by the Supreme Court of Ohio in the case of TheCity of Cincinnati vs. Roettinger, 105 O.S. 145 (1922) to prohibit a transfer of surplus water revenue to the general fund. In this case, however, the Court was treating with an existing municipally owned waterworks. In the instant situation, there is no longer a municipally owned waterworks involved, and it appears that there is no statutory or case law to cover this situation.

It is true that the proposed transfer could be questioned and possibly be upset by reason of the language of Section 743.05. This is a risk which Council must consider. However I do not deem the risk to be a very serious one.

It is my opinion, in the light of the existing circumstances, that a transfer of the Water Fund to the General Fund can properly be made under Section 5705.14 (D) by resolution passed by the affirmative vote of two thirds of the members of the Council, and that for such transfer, there need be no court approval.

Very truly yours,

LACOUTURE, LYNN & WILLIAMS

JTL/jw

The meeting adjourned.

Attest:

L. E. Howe
Clerk-Treas.

Approved:

Omer Jackson
Mayor

Call Meeting

The Council of the Village of Centerville, County of Montgomery and the State of Ohio met in a call session Oct. 16, 1956 with Mayor Jackson presiding. Present: Kenneth Poff, Robert Billett, Frank Arnold, William Dutcher, Gilbert Neubauer, Engineer Chas. Burkhart and contractor Quentin Brenner.

The purpose of the meeting was to correct misunderstandings and procedures with the contractor concerning construction of buildings and streets in the Gorman Plat as to Village Ordinances and street specifications.

Other business pertained to oiling of streets and the accumulation of wrecked autos at filling stations.

The meeting adjourned.

Approved:

Attest:

L. E. Howe
Clerk-Treas.

Omer Jackson
Mayor