

MAY 15, 2000

President Brown: Roll call please.

Present were Council Members: Allen Swindig, Karen Borocz, Gail Minnick, Bernadine Butkowski, David Gillock and Jean Brown. Larry Overby was sworn in during Recess and took his seat at 8:37 P.M. Also, present were Mayor Deanna Hill, Safety-Service Director Jim Johnson, Law Director Eric Zagrans, Engineer Stewart Lovece, Deputy Auditor Donna Kiraly and Clerk of Council Jim White.

motion by Borocz to accept, 2nd by Swindig

Yes, 6 No, 0

Please note:

COMMITTEE REPORTS

Council Member Gillock: Madam President.

Council Member Gillock: It is my understanding that the original traffic system that's there was partly paid for by an Ohio grant and part of the provisions of that grant is that any time we want to change it we have to follow certain procedures or return the money. Part of those procedures is a traffic study so I would like to make a motion that we approve spending up to \$5000 for a traffic study for that intersection.

motion by Gillock to spend up to \$5,000.00 to conduct a traffic study at the intersection of Route 83 and 20, 2nd by Minnick.

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING**

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President Brown: Okay, is there a second?

Council Member Swindig: Second.

President Brown: Did you second that Mrs. Minnick? You have speak up, sweetie, I can't hear you. Mrs. Minnick seconded.

Council Clerk White: Okay.

President Brown: Mr. Swindig thirded.

Council Clerk White: I don't write down thirds.

President Brown: Is there any discussion regarding it?

Mayor Hill: Madam President.

President Brown: Yes, Mayor.

Mayor Hill: That's a very good thought Council. We do have to have the traffic study or we could possibly have to pay back the million dollars. Secondly, after the traffic study, should it be approved that we can change the light, I want Council to be aware that it will cost approximately \$15,000 to actually institute it. So we're more than happy to do the traffic study, hopefully after Bainbridge Road is open again. Hopefully after Bainbridge Road is open again so that we can get an accurate count. According to our Engineer, Bainbridge Road carries approximately 6,000 cars a day so the number at this intersection due to the rerouting and the detours will be skewed but please be aware that following that, if it's approved by the state, we're talking another \$15,000.

Council Member Gillock: Wouldn't the traffic study basically tell us whether we needed to go forward or not?

Mayor Hill: Yes.

Council Member Gillock: Okay.

President Brown: Take a roll call please.

Council Clerk White: This is on the motion for the traffic study?

President Brown: Yes.

Yes, 6 No, 0

Council Clerk White: Motion carries 6-0.

President Brown: That's all the reports we have, is that correct?

Council Clerk White: You still have the motion on the floor for the Committee Report and you just superceded it with the traffic study.

President Brown: With that traffic study.

Council Clerk White: Okay, I just want to make that clear.

President Brown: Yes. Mayor's report.

Council Clerk White: That's all the reports I have.

MAYORS REPORT

Mayor Hill: Due to the resignation of a Civil Service Commission appointee, I am nominating Diane Seith to fill the vacancy. The term expires on December 31, 2005.

Diane has been a resident of North Ridgeville for nearly twenty years. She has her Master's Degree from Cleveland State. She and her husband are both teachers in another public school system. Diane remarks that is she excited and honored to be asked to accept the appointment and

furthermore that our community has been a wonderful home and place to raise her family. Diane could you just stand and let them see who you are? Thank you. I now am making the motion to appoint Diane Seith to the Civil Service Commission.

motion by Mayor Hill to appoint Diane Seith to the Civil Service Commission, 2nd by Swindig

President Brown: Discussion? Seeing none, roll please.

Yes, 6 No, 0

Council Clerk White: Motion carries 6-0. Welcome Mrs. Seith to the Civil Service Commission.

Mayor Hill: Thank you very much, Diane

The Federal Rail Administration held a Quiet Zone Hearing on May 1st. No promise of a Quiet Zone Pilot Project was made. The major problem that has yet to be solved is how to balance public safety versus the peace of mind and quality of life of the people living along railroad tracks. Any sort of relief is, most likely, years away.

In response to a couple of newspaper reports about investments, all cities are required to adopt a written investment policy and we did that in 1996. The reason the State Senate bill was passed requiring a policy is because a number of public agencies lost a great deal of money with unsafe investments. According to the ordinance, the primary objectives of investment are, in order of priority:

- 1) Safety - We are dealing with public funds and need to make sure we are in securities that will not lose public money.
- 2) Liquidity - We must remain sufficiently liquid to meet our operating requirements.
- 3) Return - Last is our return on investments.

We must remember that our main goal as a City is not to make money, although that's a real nice benefit when you can do it, but to protect the public funds entrusted to us. The City Treasurer, who is by ordinance and charter responsible for investments, disputes the figure in the newspaper that says we could have earned, not that we lost, but that we could have earned \$119,000 more over the last few years. I think actually they cited four years. Our portfolio is diversified, per ordinance, and our interest earnings in the last four years have increased from \$560,358.53 in 1996 to \$840,345.14 in 1999.

A couple people, actually in writing, questioned the presence of the Assistant Fire Chief and a police officer at the last Council meeting. I want to make it very clear that Members of both Departments have been present at other Council meetings. At the last Council meeting, we were told that quite a large number of people planned to attend. The state fire code sets a limit on the number of people who may be in the room. I asked the Fire Department to post a notice more visible to the public although a notice has been posted in the back of this room over the thermostat and down in the hallway on the steps for a number of years. I also asked that a member of the department attend so that if there was any question as to capacity, the officer

could respond. I also asked that an officer from the Police Department attend because of the number expected and because, if capacity was reached, some people might be quite unhappy about being asked to wait in the lobby until space was available. The security and safety of not only public officials but also the public is, should be and will continue to be of utmost importance.

The last item I have, I didn't write it down. I want to welcome Jim Johnson, former Council Member, 30 years in business in North Ridgeville, I think that's right or nearly right. Long before I knew Jim Johnson as a Member of Council, I knew him as a member of the community. Before I even met him actually, other people had referred me to his store because what they said about him generally was that he is a very honest man, a very hard working man. He is a man of integrity. I've learned a great deal of respect for Jim both through being acquainted with him, visiting his store then as a Council Member. I am very pleased to welcome Jim Johnson as Safety Service Director.

Safety Service Director Johnson: Thank you.

Mayor Hill: That concludes my report.

President Brown: Thank you Mayor. Are there any questions for the Mayor? Moving on to the Safety Service Director's report. Mr. Johnson.

SAFETY SERVICE DIRECTOR'S REPORT

Safety Service Director Johnson: Good Evening Madam President, Members of Council, Ladies and Gentlemen. My report is as follows: Accomplishments for two week ending May 14, 2000.

PATCHING, PAVING & CRACK SEALING:

The streets patched with hot asphalt are: Emerald, Pearl, Opal, Birch, and Island.

Spot patching was performed on Lear Nagle, Center Ridge, Ridge Plaza and Stoney Ridge.

Concrete pads were dug up and replaced at Highland, Manning, Poplar and Cary.

On Highland, approximately 60 foot of sidewalk was damaged due to a water break. This has been repaired.

CONSTRUCTIONS & DITCHING:

The Service Department has been cleaning and removing debris in the Ridgeway Creek in the area of Burns Road. That ditch that runs by the south Mills Creek pool has been straightened and cleaned.

Ditch cleaning and pipe installation was performed at 6104, 6110, and 6150 Olive.

A new cross over pipe was installed along with two catch basins at Branch and Olive.

On Olive, near the power lines, the eastside road ditch has been cleaned to Branch Street.

WATER BREAKS AND HYDRANT REPAIRS:

There were four water breaks, two at Route 83 and Lorain Road, one at 6243 Rosebelle and the other at 35904 Laurel Circle.

Two water shut off boxes were replaced at 37148 Center Ridge Road and 9087 Reed.

A hydrant was raised 35666 Chestnut Ridge Road.

CATCH BASINS:

Catch basins were installed at: Helen, two on Highland, Avon Belden and two on Branch.

MISCELLANEOUS:

The sewer jet was used in the following areas: Sanitary Lines: Washington. Storm Lines: Washington, Route 83 by South Central Park, Highland, Manning, and Poplar. Weed whipping and roadside mowing was started in the last two weeks and will continue through the summer.

The Sign Department at the Service Garage is replacing and installing the new flag pole hangers on every other pole on Center Ridge Road and Avon Belden. This is in preparation for the display of our new flags over Memorial Day weekend.

We would like to remind our residents that on May 20th from 9:00 to 3:30 the North Ridgeville Service Department will be open for the recycling of old tires with a limit of eight tires per family. This is a joint venture with Lorain County Solid Waste Management.

I had talked with Jerry Kruger regarding the sale of junk City vehicles. He is requesting By-Laws be suspended to have T 75-2000 to be passed with the emergency so they could be sold at the next Police Auction.

Also, Chief Bauer requested T 42-2000 and T 44-2000, which are in the Third Readings tonight, be adopted with the emergency. The equipment is much needed to aid our officers in the enforcement of our laws. That concludes my report. Thank you.

President Brown: Thank you Mr. Johnson. Is there any questions of our Safety Service Director? None? Moving on to the Engineer's Report, Mr. Lovece.

ENGINEER'S REPORT

Engineer Lovece: Thank you Madam President. Bainbridge Road reconstruction, Root Road and the western end of Bainbridge from 83 to Root was open late last Thursday, May 11th. The contractor was given four additional days for rain, rain days, making the scheduled completion date October 14th. And I want to thank everyone, especially the residents on Bainbridge and Root and all those with their patience. I must say that progress has its' price and the price is inconvenience. We all have to be patient through these times.

The Savannah development, during the engineering of the Savannah development, we asked the developer to provide a water main connecting from Center Ridge Road through his development to Stoney Ridge Road in an effort to not only provide adequate water services in his development but to also make an improvement to the water main on Stoney Ridge. Well, last week, we had the Fire Department test some of the hydrants and they reported that the flows went up anywhere from, this is north of the development, anywhere from 65 percent increase in flow at Barris Road down to 25 percent. But that is still a significant increase in flow. It's still not where we want the water main to be but it's certainly a big improvement. And I thank the people on Stoney

Ridge Road for the inconvenience during the tie-in that where, oh, maybe about 5 to 10 times the pressure fluctuated. You know we had some complaints but the good is we have a better system now.

Lastly, I have the completed Consumer Confidence Report for 1999 for the drinking water. This is something required by the EPA and the Federal Government. I'm pleased to say that we've met or exceeded all EPA requirements and I'll give you some ideas of the parameters. First of all, we used about 709 million gallons of water last year, that's up a little over 3 percent from the previous year, '98. Between the City of North Ridgeville, Elyria, Avon Lake and Rural Water, we test for over 60 contaminants in the water including bacteria, metals and other inorganic contaminants, organic contaminants including pesticides and herbicides and even radioactive contaminants. And all these parameters were very far below the EPA standards I'm pleased to say. That's all I have this evening.

President Brown: Good. Thank you Mr. Lovece. Any questions of our Engineer? Seeing none, going on to the Auditor's Report, Donna Kiraly.

AUDITOR'S REPORT

Donna Kiraly: We have a written report which, I apologize, was not in the boxes on Friday. Council Member Swindig: Madam Chairman, may I make a motion to suspend By-Laws to accept the Auditor's written report?

motion by Swindig to accept Auditor's written report, 2nd by Borocz

President Brown: Mrs. Borocz, I guess. If there any discussion? Seeing none, roll please.

Yes, 6 No, 0

Council Clerk White: Motion carries 6-0 to accept the Auditor's report.

Donna Kiraly: Thank you.

President Brown: Anything else?

Donna Kiraly: That's all that I have.

President Brown: That's all you have?

Donna Kiraly: Yes.

President Brown: Okay, any questions?

Donna Kiraly: Can I, one thing, I don't know whether to bring it up now or at the Ordinance, when we read the Ordinance regarding the part-time auditor. Should I wait till the Ordinance?

Law Director Zagrans: No.

Donna Kiraly: Okay. I have nothing else.

President Brown: Okay. Law Director, Mr. Zagrans.

LAW DIRECTOR'S REPORT

Law Director Zagrans: Thank you. Council will remember that for a variety of reasons, it approved the creation of the position of Magistrate of the Mayor's Court a few meetings ago. I am pleased to announce that Mayor Hill has filled that position and that commencing with the Wednesday, June 7, 2000 session of Mayor's Court of North Ridgeville, the Magistrate for that

Court will be Magistrate Gerald Strait. Magistrate Strait has been a Magistrate of Lorain County Court of Common Pleas, Domestic Relations Division, Juvenile Division, for the last 20 years and I'm happy to say that he is with us in the back of the room. Jerry, would you stand up and let everyone welcome you as Magistrate of Mayor's Court.

Magistrate Strait: It's nice to be here.

President Brown: Welcome.

Law Director Zagrans: That concludes my report.

President Brown: Okay, Any questions of the Law Director?

Council Member Butkowski: Yes, Madam President.

President Brown: Yes Mrs. Butkowski.

Council Member Butkowski: Mr. Zagrans, at the February 24th Council Meeting, during the Second Reading of T 137-99, you wanted T 6-2000 to be read before T 137-99. According to the minutes you stated, "The approval of the Resolution granting the preliminary approval of the PCD plans must be considered by Council first, then if Council approves it, then Council can consider the request to rezone." Then at the March 6th Council Meeting, according to the minutes of that meeting you stated, "Members of Council, later this evening you will be considering the Third and final Reading of T 137-99 which is a proposal to rezone 200 acres of land from its' current R-1 zoning to PCD zoning. And if you consider that proposal, I want to make sure that each of you was reminded and has in mind one of the provisions of Ordinance 3491-99 which you passed last year and that is, should Council vote to approve the change in zoning as requested from R-1 zoning to PCD zoning, the developer would have one year within which to complete and file final plans for development of the PCD district. In the event that a developer failed to file a final development plan within a year of the effective date of the rezoning vote, then that rezoning would be automatically rescinded and the area would automatically revert to R-1 zoning by operation of the Ordinance that was passed last year. So I simply wanted to make sure that everyone in Council had that provision in mind as you consider the proposed legislation later tonight. That's all the report I have." Then at the May 1, 2000 Council Meeting, according to the minutes you said, "The Kingston Place PCD, so called, was the first PCD proposal to come up for consideration by Planning Commission and by Council since the adoption of that Ordinance. There were two pieces of legislation introduced along parallel tracks. They had their First and Second Readings in February of this year and the Third and final Reading on March 6, 2000. They were T 6-2000 which was the legislation approving the preliminary plan that had been approved by Planning Commission to turn 200 acres between Case Road and Stoney Ridge into a Planned Community Development District and T 137-99 which was an Ordinance to rezone those 200 acres from R-1 to PCD zoning. Now prior to the March 6th meeting, Council Meeting, and at the March 6th Council Meeting, I had indicated several times that approving a preliminary plan for a PCD District automatically changes the zoning of that location from whatever the zoning, which is usually R-1, to the new PCD Zoning classification, but that the zoning would revert automatically to its' original zoning if a final plan is not submitted for approval by Council within a year. I indicated that rezoning is automatic, that is to say Council has not discretion to refuse to rezone it. It votes to approve the preliminary

plans for the PCD. We even changed the order in which these two measures would be voted on. Rezoning, one, happened to have the earlier number to it because it had been introduced before legislation to approve the PCD, but we switched that order around in order to put the vote on whether to approve the preliminary plans first as it had to be and then the rezoning Ordinance second, which would be automatic if Council approved the first." Now, Mr. Zagrans, no where before Council voted did you mention that T 6-2000 would rezone the property. You said at the March meeting, T 137-99, which is the proposal to rezone the 200 acres on Stoney Ridge and Case Road from the current R-1 to PCD zoning. My question is which Ordinance rezoned the property to PCD? Is it 137-99? That a public was hearing held as our Charter requires or was it T 6-2000 that no public hearing was held?

Law Director Zagrans: Well, I appreciate your reading all those things. Obviously you did not read the portion of the minutes, if it is there, that had my statement about the automatic rezoning.

Council Member Butkowski: Now, what date?

Law Director Zagrans: The two, the two Ordinances were considered in tandem. The order was changed as you correctly read to make the T 6-2000, approval of the preliminary plan for the PCD, go first, then the T 137-99 Ordinance was voted on second. As I pointed out, at the May 1 meeting, according to the Ordinance that was adopted last October, T 6-2000, approving the preliminary plan for the PCD automatically authorizes the Clerk to make a notation of a change on the Zoning map to change the affected area from R-1 zoning to PCD zoning.

Council Member Butkowski: But you never said that before we voted on March 6th. March 6th you said, T 137-99 which is a proposal to rezone 200 acres of land from its' current R-1 zoning to PCD zoning, that is the rezoning. You said that, but you never said anything about a notation on a map before May 1st.

Law Director Zagrans: Well, that was an Ordinance that went through Committee. It was subject to public hearing, it was subject to intense scrutiny and it says in black and white that is the effect. So I don't know what you want me to say. That's what the Ordinance provides.

Council Member Butkowski: So you are saying T 6-2000 was the rezoning and the approval of the PCD.

Law Director Zagrans: T 6-2000 was the approval of the preliminary plan according to the Ordinance that was passed in October of 1999 and I don't have the Ordinance number in front of me, according to that Ordinance, once Council approved the preliminary plan for the PCD, the Clerk of Council is authorized to note the zoning change on the Zoning map changing the R-1 zoning to PCD zoning for the affected area and that is what the Clerk has done.

Council Member Butkowski: And according to our Charter, you must have a public hearing.

Law Director Zagrans: And there was a public hearing on the zoning change held in February or March of this year.

Council Member Butkowski: You just said T 6-2000 was the note on the record for rezoning. There was no public hearing held for T 6-2000. T 6 the rezoning hearing was 137-99 and you said that didn't rezone the property.

Law Director Zagrans: That is a....

Council Member Butkowski: So what did you do?

Law Director Zagrans: I'm sorry, didn't mean to interrupt. That is a distinction without a difference. There was a public hearing on the question of rezoning that specific area of land and

that is what the Charter requires.

Council Member Butkowski: But the notices sent out to all the residents, the notice in the paper, the notice to the Council Members was on 137-99.

Law Director Zagrans: That may have been.

Council Member Butkowski: So there was no notice sent out to the property owners on T 6-2000.

Law Director Zagrans: I disagree that makes a distinction because notice was sent out to rezone that particular parcel of land regardless of what it's called.

Council Member Butkowski: Well, according to our Charter, it says that it has to be sent out.

Law Director Zagrans: It was. It was sent out.

Council Member Butkowski: It wasn't specific. I could put any numbers on there or anything and it wouldn't, I'd hate to have a will that said, that left my money to Chuck Smith and maybe I give it to Dave Smith. That doesn't make sense. It could be the same money that's supposed to go to Chuck and not Dave.

Law Director Zagrans: Well, I don't....

Council Member Butkowski: It doesn't make any sense.

Law Director Zagrans: I don't want to engage in a debate with you, Mrs. Butkowski, but what we're talking about here, to use your analogy, would be if we were talking about the 200 acres that's located at a specific address that was being rezoned but the notice identified some other property at a different location. That's not what happened here. The notice and the public hearing was held on exactly the 200 acres of property that was rezoned.

Council Member Butkowski: And my question is why was 137-99 even created or voted on?

Law Director Zagrans: You know, as I said at the last meeting, if I had thought that it would have created the controversy that it did, then we would have had something to talk about and I would have been wise to say something. I had no idea that it was going to create the controversy. As I said on May 1st when Council automatically does something because of an Ordinance that was adopted in October of last year, what difference does it make if Council wishes to spell it out in an additional piece of legislation for doing exactly the same thing that was done automatically? I didn't see that created a problem if that was Council's desire.

Council Member Butkowski: I think it was very confusing to the residents.

Law Director Zagrans: Well, the residents got what they asked for which was a reconsideration and repeal of the Ordinance that they asked to be repealed as I talked about at the May 1 Council Meeting.

Council Member Butkowski: Well I think it's still in violation of the Charter.

President Brown: Mrs. Minnick.

Council Member Minnick: Mr. Zagrans, what takes precedence, the Charter or an Ordinance?

Law Director Zagrans: If there is a conflict then the Charter takes precedence.

Council Member Minnick: Would you consider this a conflict?

Law Director Zagrans: What a conflict?

Council Member Minnick: T 6-2000 and T 137-99.

Law Director Zagrans: I do not.

Council Member Minnick: Also, according to Charter there shall be one issue per Ordinance.

Now T 6-2000 would then address two issues and yes it would go according to the PCD if that's

what you're saying. I don't happen to agree with it, but if you're saying that then this would be two issues per Ordinance, the rezoning and the approval of the preliminary plan and according to our Charter there is only one issue per Ordinance.

Law Director Zagrans: The one issue that this Ordinance adopted was the approval of the preliminary plan. And under the ordinance that was adopted last fall, once the approval is made by Council, then it is a ministerial act for the Clerk to notate the zoning change on the Zoning map. That is the structure that Council adopted.

Council Member Minnick: And did you check into another legal opinion for me?

Law Director Zagrans: I did. Section 5.3 of the Charter allows Council to vote to hire special counsel.

Council Member Minnick: Okay, thank you.

Law Director Zagrans: You're welcome.

President Brown: Any other questions of the Law Director? Moving on.

OTHER REPORTS

Mayor's Court Operating Trust Fund monthly report for April of 2000;

Mayor's Court Case Report for April 2000;

Water System Monthly Operation Report for April 2000;

Police Department Monthly Activity Report for April 2000;

Fire Department Monthly Report for March 2000; and

Fire Department Monthly Report for April 2000

President Brown: Moving on.

Parks & Recreation Commission Liaison Report:

Council Member Minnick: No report.

President Brown: No report.

Planning Commission Liaison Report: None. Under Old Business please.

OLD BUSINESS

President Brown: Anything? Moving on to New Business. Mr. White.

NEW BUSINESS

T 74-2000 An ordinance authorizing the Mayor of the City of North Ridgeville, Ohio to purchase a Chevy 3/4 ton pickup truck from the State Co-op, or to advertise for bids and enter into a contract with an outside vendor according to law and in a manner prescribed by law, not to exceed \$20,000.00.

 moved by Swindig to suspend By Laws to give T 74-2000 a First Reading, 2nd by Borocz

President Brown: Seconded by Mrs. Borocz. Discussion?

Council Member Butkowski: Madam President.

President Brown: Yes, Mrs. Butkowski.

Council Member Butkowski: Where is this truck going to be used?

Council Member Swindig: French Creek.

Council Member Butkowski: Okay, that's what I wanted to check.

President Brown: Any other discussion? Roll please, Mr. White.

Yes, 6 No, 0

Council Clerk White: Motion carries 6-0 T 74-2000 will have First Reading tonight.

T 75-2000 An ordinance authorizing the North Ridgeville Service Department to sell four
junk vehicles in a manner authorized by law.
moved by Swindig to suspend By Laws to give T 75-2000 a First Reading, 2nd by
Butkowski

President Brown: Mrs. Butkowski seconds. Any discussion? Seeing none, please take roll.

Yes, 6 No, 0

Council Clerk White: Motion carries 6-0 T 75-2000 will have First Reading tonight.

President Brown: Thank you.

Council Clerk White: That's all the New Business I have.

President Brown: Okay. Correspondence please.

CORRESPONDENCE

- 1) Letter received from Robert Becker, Jr. of the North Ridgeville Firefighters Fireworks Committee explaining sponsor emblems which will be offered for donations towards the Fourth of July fireworks display for the community.
- 2) Letter received from George E. Smith, Memorial Day Parade Co-Chairman, of the North Ridgeville Lions Club, inviting Council Members to participate in the Memorial Day Parade and Ceremonies on Monday, May 29, 2000.
- 3) Received a letter to President Jean Brown received from Council Member James Johnson tending his resignation from City Council.
- 4) Memo received from Mayor Hill stating the position of Safety-Service Director has been vacated and will be filled shortly.
- 5) Memo received from Mayor Hill stating she will nominate Diane Seith to fill the vacancy on the Civil Service Commission.
- 6) Copy of a news release received from David Bogner, President, North Ridgeville Chamber of Commerce, a RESOLUTION OF SUPPORT for the Planned Community Development (P.C.D.) Ordinance.
- 7) Letter received from Gerald W. Phillips, Attorney at Law, on behalf of the Committee for the Referendum for Kingston Place and the Petitioners, demanding and requesting that the North Ridgeville City Council repeal Resolution 894-2000 (T 6-2000) at its next

Council Meeting May 15, 2000.

Council Clerk White: That's all the Correspondence that I have.

motion by Swindig to accept Mr. Johnson's resignation, 2nd by Gillock
President Brown: Second by Mr. Gillock. Any discussion? Please take the roll call.

Yes, 6 No, 0

Council Clerk White: Motion carries 6-0 Mr. Johnson's no longer sitting there.

motion by Swindig to nominate Larry Overby to fill Mr. Johnson's Ward 1 seat, 2nd by
Borocz

President Brown: Mrs. Borocz seconds. Any discussion? Roll call please.

Yes, 6 No, 0

Council Clerk White: Motion carries 6-0 Mr. Overby, welcome to your seat.

Council Member Overby: Thank you.

President Brown: Does Mr. Overby have to be sworn in by you Mr. Zagrans? Before he can take his seat?

Law Director Zagrans: I think we can do that.

President Brown: Can we do that now or do we do it later?

Law Director Zagrans: Let's do it after the Lobby Session, during Recess.

Council Clerk White: Okay.

President Brown: During Recess, Okay. I have something I would like to bring up before we have Lobby. I would like to have Mr. Zagrans look into it for me, a prayer for our Council, the Invocation, I never mention God and Mrs. Klear brought it up in her article that perhaps I'm doing wrong. I'd like to know what I'm doing wrong and if I'm allowed to mention God. I really didn't think I was allowed to because its government and it's supposed to be not associated, so would you please give me an answer then at our next Council meeting so I'll know if I doing right or wrong. Thank you.

LOBBY

There is a form in the back for you to fill out for the Lobby Session. Please bring it to the podium so that our Clerk of Council has it. I will give you two minutes to speak.

- 1) Nancy J. Buescher, 36669 Center Ridge Road, former member of the Building and Lands Advisory Committee, stated City Council Members have sworn to uphold the Charter of the City of North Ridgeville. If Mr. Zagrans' ruling concerning Kingston Planned Community Development Referendum Petition is proper, the general PCD Ordinance conflicts with the City Charter and therefore the Kingston PCD Ordinance is invalid. T 6-2000, permanent 894-2000, contains two subjects, the preliminary plan approval and automatic rezoning, which violates the City Charter. The rezoning was not "clearly expressed in its title" as the City Charter requires. This Ordinance did not receive a public hearing on rezoning before passage which is also required by law. City Council is bound by duty to repeal 6-2000, permanent 894-2000, and must also amend the general

Planned Community Development Ordinance. Thank you.

President Brown: Thank you.

Law Director Zagrans: Madam President, may I just make . . .

President Brown: Yes, you may Mr. Zagrans.

Law Director Zagrans: . . . one correction of a fact in response to Mrs. Buescher. The Law Department did not prepare either of those pieces of legislation. They were introduced by others, not by the Law Department.

Mrs. Buescher: Can you specify what others?

Law Director Zagrans: Yes, by the petitioners for the Kingston Place PCD. The Law Department did not see or rule or pass on those Ordinances or proposed Ordinances until they were introduced. It was the first time I saw them.

President Brown: Thank you. Yes, you may step up to the podium.

- 2) Joseph Antush, 38500 Otten Road, asked if it wasn't the Law Director's job to draft the legislation and what was the purpose in the way it was written and was it after the final approval of it? It diminishes the bargaining power of the City. Somebody's gotta look out for the welfare of the City and I believe it's your job.

President Brown: Thank you, your time is up.

- 3) Renee Regula, 6441 Rosebelle Avenue stated she had seen a lot of things written in the newspapers about personal things being said at Council Meetings but this is constructive criticism about the way you're handling your jobs, which we have a right to do as citizens, we pay you. Somebody said at last Council Meeting that we're getting a lot of bad press, but the only press that's bad is no press at all, any discussion is good and the more things can get resolved and I'm looking forward to the Town Meeting. Thank you.

President Brown: Thank you. Yes.

- 4) Kim Stermole, 37872 Sugar Ridge Road, stated we are reminded constantly that this North Ridgeville Master Plan is a living document. There was not one mention of a PCD in it at the time of approval. What is driving the PCD? Is there money being placed in pockets, individual pockets? There is a group of citizens with concerns who signed petitions against this PCD and I'm here to request Council to repeal 894-2000 which gave preliminary plan approval to the Kingston PCD. If any Council Member decides not to repeal then they will be subject to recall along with the Mayor. Currently the Law Director serves at the pleasure of the Mayor. It looks like a Charter Amendment should be passed to have the Law Director voted on by the people. Thank you.
- 5) Marian Kutchera, 5660 Wallace, stated she was told we're going to fix Wallace Drive.

President Brown: Please watch your language.

Marian Kutchera: Oh, I'm sorry.

President Brown: And talk to me.

Last year I wrote the Mayor a letter. She answers me, you are going to get a new street this year. I didn't get it. We were supposed to have the new street dug up with new pipe lines put in April but nothing is happening. Is anything going to happen down here and if so when? That's all.

President Brown: Thank you. Anyone else like to speak?

- 6) Josephine Perryman, 38565 Sugar Ridge Road. I have some questions. Why are many of the supporters of the PCD's also saying the Master Plan needs to be followed when it has no reference to PCD's. This is certainly a different story than we are getting from PCD supporters. What amenities will the City get from the builders? Where does it say that the parks or play area are going to be public? If they are public, who pays to maintain them? As I read the Ordinance, PCD is a mix of different housing or a blank check for the builders. Everyone knows that any residential development costs the City more in services than is paid in taxes.

President Brown: Mr. Phillips.

- 7) On May 11th . . .

President Brown: What's your name and your address please?

Gerald Phillips, Avon, Ohio. On May 11th a demanding request was made on behalf of the petitioners and the Committee for the Referendum of Kingston Place that North Ridgeville City Council repeal Resolution 894-2000 approving the preliminary site plan at its' next Council Meeting, May 15th. This demand and request was being made on the grounds that the rezoning ordinance for Kingston Place, Ordinance No. 3543-99, was referendum and repealed. If Council decides to ignore this demand or refuse to honor this demand, the petitioners and the Committee will bring forth a taxpayer demand on behalf of the taxpayers of the City of North Ridgeville, placed upon the Law Director, requesting that he bring the necessary legal action to determine that Resolution 894-2000 is illegal. If the Law Director refuses to bring such action, those taxpayers will proceed to bring legal action and upon being successful, they will make a request for attorney's fees. Thank you.

President Brown: Anyone else wishing to speak? Mrs. Buescher, you can't speak on the PCD's again. You can speak on another subject. You're not allowed to speak twice. I have the By-Laws right here and that's what the By-Laws say. I'm sorry. I would be nice lately letting you speak

- 8) Nancy Buescher, Center Ridge, excuse me.

President Brown: Thank you.

Nancy Buescher: The situation we are in today is a consequence of the mistaken belief that elected City officials and their appointees should be free to make City related decisions without input from the taxpayers. Serious errors have been made and must be repaired. We are in the process of violating the City Charter of North Ridgeville and when the City Charter is abused and allowed to stand, there is virtually nothing left to protect the citizens from abusive power because at that very point we will have officially crossed the line from being a Charter City of the people into a dictatorship. Make no mistake about it, this City is in serious crisis. Thank you.

President Brown: Thank you. Anyone else?

Mary Ann Miles: Am I allowed to speak on PCD's?

President Brown: Yes you can.

Mary Ann Miles: Thank you.

- 9) Mary-Ann Miles, 34582 Lorain Road, North Ridgeville. PCD's, open spaces may not be used for public use. Clubhouses, swimming pools, recreational facilities will most likely be controlled by an association which gives the citizens of North Ridgeville absolutely nothing. Also left out is that Kingston can put in apartment complexes. A.02 of the procedures for Planned Community Development says other uses deemed appropriate and compatible by Planning Commission and Council, so therefore if Planning and Council deem it appropriate you can have apartments in a PCD unit. I encourage all citizens to read Procedures for Planned Community Development Districts.

President Brown: Anyone else?

- 10) Gerald Phillips, Avon, stated in connection with Ordinance 3543-99, it contains the standard provision in it concerning the form and on the bottom it has approve as to form and the signature line for the Law Director, Mr. Zagrans. So as all Ordinances, it is the duty of the Law Director to approve the form. Thank you.

President Brown: Okay. I will call a 10 minute recess so that Mr. Overby can be sworn in please.

RECESS from 8:27 to 8:37 P.M.

FIRST READINGS

President Brown: Thank you. We'll go into First Readings please, Mr. White.

T 73-2000 AN ORDINANCE SETTING THE PAY FOR CITY EMPLOYEES WHO ARE

**MEMBERS OF THE ARMED FORCES RESERVES WHILE ON ACTIVE
DUTY.**

First Reading.

Council Member Butkowski: Madam President, how many employees do we have that this would affect?

President Brown: I have no idea. Does anyone have an idea how many employees it would affect? I think it's just something to have it in the contract so that it

Deputy Auditor Kiraly: In the past we've had one.

Mayor Hill: Yes, and it's not, excuse me, Madam Chairman.

President Brown: Yes.

Mayor Hill: It's not based on the number of employees. If you read the Ordinance again as it was submitted, the legislation, it make it very clear that it is to avoid double pay for one day, so whether it's one employee or 300 employees is not what is important.

President Brown: That's like those that are in the Reserves?

Mayor Hill: Yes.

President Brown: Thank you. Does that answer your question Mrs. Butkowski?

Council Member Butkowski: Yes, I just wondered how many we had that were in that.

T 74-2000 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH
RIDGEVILLE, OHIO TO PURCHASE A CHEVY 3/4 TON PICKUP TRUCK
FROM THE STATE CO-OP, OR TO ADVERTISE FOR BIDS AND ENTER
INTO A CONTRACT WITH AN OUTSIDE VENDOR ACCORDING TO LAW
AND IN A MANNER PRESCRIBED BY LAW, NOT TO EXCEED \$20,000.00
First Reading.

Council Clerk White: Do they want this with emergency?

T 75-2000 AN ORDINANCE AUTHORIZING THE NORTH RIDGEVILLE SERVICE
3574-2000 DEPARTMENT TO SELL FOUR JUNK VEHICLES IN A MANNER
AUTHORIZED BY LAW.

First Reading

motion by Swindig to suspend Second and Third Readings, 2nd by Borocz

President Brown: Seconded by Mrs. Borocz. Is there any discussion? Roll please, on the suspension of the By Laws

Yes, 7 No, 0

Council Clerk White: Motion carries 7-0 to suspend Second and Third Reading.

motion by Swindig to adopt, 2nd by Borocz

motion by Swindig to add the emergency so they can get these sold at the Police
Auction, 2nd by Borocz

President Brown: Any discussion on the emergency? Take roll please.

Council Clerk White: On the emergency?

President Brown: On the emergency.

Yes, 7 No, 0

Council Clerk White: Motion carries 7-0 on the emergency. Now for the adoption.

President Brown: Now the adoption.

Yes, 6 No, 0 Abstain, 1 (Overby)

Council Clerk White: Motion carries 6-0-1 becomes Ordinance No. 3574-2000 with emergency.
Permanent Ordinance No. 3574-2000

SECOND READINGS

President Brown: We have no Second Readings. Go on to Third Readings.

THIRD READINGS

T 40-2000 AN ORDINANCE AMENDING ORDINANCE NO. 2371-89, BY CHANGING
3575-2000 "ARCHITECT" TO "PLANS EXAMINER" AND INCREASING THE
CONTRACTUAL AMOUNT THE CITY PAYS FOR THE EMPLOYMENT OF
A CITY PLANS EXAMINER.

Third Reading

moved by Swindig to adopt, 2nd by Gillock

President Brown: Any discussion? Roll please.

Yes, 6 No, 0 Abstain, 1 (Overby)

Council Clerk White: Motion carries 6-0-1 T 40-2000 becomes Ordinance No. 3575-2000.
Permanent Ordinance No. 3575-2000

T 41-2000 AN ORDINANCE AMENDING SECTION 232.01 (A) OF THE CODIFIED
3576-2000 ORDINANCES BY CHANGING THE POSITION OF CITY AUDITOR TO
PART-TIME.

Third Reading

Deputy Auditor Donna Kiraly: Move to, I'm sorry

President Brown: Yes, Donna Kiraly.

Donna Kiraly: I'd just like to clear up one (inaudible) of this Ordinance. There was an
Ordinance back in 1988 that did make the Auditor a part-time position. It was inadvertently left
out of the last Codification. That's the reason we have this Ordinance. Our Auditor is part-time.

motion by Swindig to adopt, 2nd by Borocz

President Brown: Second by Borocz, any discussion? Roll please.

Council Clerk White: Sure.

Yes, 6 No, 0 Abstain, 1 (Overby)

Council Clerk White: Motion carries 6-0-1 T 41-2000 becomes Ordinance No. 3576-2000.
Permanent Ordinance No. 3576-2000

T 42-2000 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH
3577-2000 RIDGEVILLE, OHIO, TO PURCHASE 5 MOBILE DATA TERMINALS
FROM THE STATE CO-OP, OR TO ADVERTISE FOR BIDS AND ENTER
INTO A CONTRACT WITH A PRIVATE VENDOR ACCORDING TO LAW
AND IN A MANNER PRESCRIBED BY LAW, NOT TO EXCEED IN THE
AGGREGATE \$22,000.00.

Third Reading

motion by Borocz to adopt, 2nd by Swindig

President Brown: Any discussion?

motion by Swindig to add the emergency, 2nd by Borocz

Council Member Swindig: May I question the Mayor, Madam President?

President Brown: Yes, you may.

Council Member Swindig: This is for the Police Department am I correct?

Mayor Hill: Yes, it is and it was a specific request from the Chief to pass both 42 and 44 by emergency.

Council Clerk White: So we can.....

President Brown: Any discussion? None, okay.

Council Clerk White: On the emergency.

President Brown: On the emergency.

Yes, 7 No, 0

Council Clerk White: Motion carries 7-0 to add the emergency, now on the adoption.

Yes, 6 No, 0 Abstain, 1 (Overby)

Council Clerk White: Motion carries 6-0-1 T 42-2000 becomes Ordinance No. 3577-2000 with emergency.

Permanent Ordinance No. 3577-2000.

T 44-2000 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH
3578-2000 RIDGEVILLE, OHIO, TO PURCHASE A NEW DIGITAL
 COMMUNICATIONS RECORDING SYSTEM, INCLUDING CERTAIN
 OPTIONS, FOR THE POLICE DEPARTMENT FROM THE STATE CO-OP,
 OR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT WITH
 AN OUTSIDE VENDOR ACCORDING TO LAW AND IN A MANNER
 PRESCRIBED BY LAW, NOT TO EXCEED \$31,000.00, PLUS THE TRADE-
 IN OF A 24-CHANNEL DAT RECORDER SYSTEM.

Third Reading

motion by Gillock to adopt, 2nd by Swindig

Council Clerk White: Who was adopt?

President Brown: Mr. Gillock adopted

Council Clerk White: I'm sorry.

President Brown: Seconded by Mr. Swindig.

motion by Swindig to add the emergency, 2nd by Gillock

President Brown: Second by Mr. Gillock.

Council Clerk White: Okay.

President Brown: Any discussion? None. Vote on the emergency please.

Yes, 7 No, 0

Council Clerk White: Motion carries 7-0 on the emergency, now on the adoption.

Yes, 6 No, 0 Abstain, 1 (Overby)

Council Clerk White: Motion carries 6-0-1 T 44-2000 becomes Ordinance No. 3578-2000 with emergency.

Permanent Ordinance No. 3578-2000.

Council Member Swindig: Madam Chairman.

President Brown: Yes, Mr. Swindig.

Council Member Swindig: I would like to state on both 42 and 44 that it is emergency to give our Police Department the proper updated equipment.

President Brown: Proper equipment, yes. Next.

T 45-2000 AN ORDINANCE AUTHORIZING THE CITY OF NORTH RIDGEVILLE TO
3579-2000 CHARGE A RESUBMITTAL FEE FOR COMMERCIAL PLANS REVIEW.

Third Reading

motion by Swindig to adopt, 2nd by Borocz

President Brown: Second by Mrs. Borocz. Any discussion? Roll please.

Yes, 6 No, 0 Abstain, 1 (Overby)

Council Clerk White: Motion carries 6-0-1 T 45-2000 becomes Ordinance No. 3579-2000.

Permanent Ordinance No. 3579-2000

T 69-2000 AN ORDINANCE AMENDING ORDINANCE NO. 2522-91 BY INCREASING
3580-2000 THE FEES CHARGED FOR RETURNED CHECKS.

Third Reading

motion by Swindig to adopt, 2nd by Borocz

President Brown: Second by Mrs. Borocz. Discussion? Roll please.

Yes, 6 No, 0 Abstain, 1 (Overby)

Council Clerk White: Motion carries 6-0-1 T 69-2000 becomes Ordinance No. 3580-2000.

Permanent Ordinance No. 3580-2000.

Council Clerk White: That's all of the Third Readings I have.

President Brown: Okay.

UNFINISHED BUSINESS

President Brown: We have no Unfinished Business from the last meeting. Before we make Committee Meeting Announcements.

Council Member Minnick: I have some Unfinished Business. The Committee Report Mr. Zagrans that was just kind of left with a motion, is that correct?

Law Director Zagrans: I'm sorry, what Committee Report?

Council Member Minnick: The Committee Report on the traffic light at Center Ridge and 83. We had a motion on the floor.

President Brown: Don't we have to wait until we have the studies?

Law Director Zagrans: Yes, that was my understanding that there was a motion....

Council Member Minnick: But do we then, do we withdraw that motion?

Law Director Zagrans: Was there another motion made?

Council Member Minnick: There was a second. A motion was made and seconded to accept the Committee Report.

Council Clerk White: There was a motion made to accept the Committee Report and there was a second.

Council Member Gillock: Madam President.

President Brown: Yes, Mr. Gillock.

Council Member Gillock: If I recall correctly I made a motion to spend up to \$5,000.00 and there was never a motion made to accept the Committee Report itself.

Law Director Zagrans: Yes, I did not hear one either.

Council Member Minnick: Okay, I thought I did and then

President Brown: Do we have to have one to accept it and then the spending part?

Law Director Zagrans: No, the study has to go first.

President Brown: Study first. You made the motion, was there a second on that motion?

Council Member Gillock: Yes.

President Brown: Who seconded it?

Council Member Gillock: That was seconded and voted on to spend the money.

Council Member Minnick: I thought that was a motion to accept the Committee Report and seconded and then if they subject to spending \$5,000.00 it was put in there before the motion was rescinded. I could be wrong, but that's what I thought.

Council Clerk White: That's what I thought but....

Council Member Minnick: Did you think that too?

Council Clerk White: I have written on my piece of paper that Karen made a motion to accept the Committee Report and Al seconded.

Law Director Zagrans: Did we vote on it?

Council Clerk White: No, we didn't, we let him make a motion, too. A motion was made for the traffic survey, that's why I asked after the vote was made 6-0-1. What are you going to do about the Committee Report motion?

Council Member Minnick: Right.

Law Director Zagrans: Well, the motion for the traffic survey I take as not an amending motion but a superceding motion because the traffic study would logically come first before there would be a vote to approve what is being done at the intersection.

Council Member Minnick: Right, but wouldn't the motion to approve the Committee Report have to be withdrawn is my question?

President Brown: Does it have to be rescinded?

Council Member Swindig: Madam President.

Council Member Borocz: Then I'll rescind my motion.

Council Member Swindig: And I'll rescind my second.

President Brown: Okay.

Law Director Zagrans: Okay

President Brown: Until we have the study made.

Council Member Swindig: Until the traffic study is made.

Council Member Minnick: And then I have one other Unfinished Business.

motion by Minnick to repeal 894-2000, 2nd by Butkowski.

Law Director Zagrans: Madam President.

President Brown: Yes.

Law Director Zagrans: I will rule that motion Out of Order, however, let me tell you how this would need to be done. As with any piece of legislation, Council is free to repeal or rescind any piece of legislation that it wishes to do so. But the repeal of legislation takes legislation so there would have to be a Resolution introduced in Council and go through the normal legislative process of being placed on the Agenda for Readings unless the By Laws are suspended.

Council Member Minnick: Okay, in that case, could I request that it go into Committee to be considered and then have that talked about and then have a Committee Report written and then legislation be drawn up if that is so desired?

Law Director Zagrans: Well certainly, that's within the purview of the President to decide for any issue to go into Committee. What Mrs. Minnick is asking is instead of a piece of legislation being introduced and then be sent to Committee to have it be sent to Committee for discussion of whether or not legislation or a Committee Report, I guess, will be introduced.

Council Member Minnick: Exactly.

President Brown: Isn't that something we already discussed many, many times? Mr. Law Director.

Law Director Zagrans: Yes, but as I said, Council can any time it wants to change or repeal any existing Ordinance that is on the books if it chooses to do so. But it has to be done through the normal legislative process.

President Brown: So then it should go to a Committee?

Law Director Zagrans: Well, normally legislation would be introduced, would be referred to Committee, would be discussed in Committee, a report would be written sometimes and then it would go through the process of going through votes in Council.

President Brown: I would like to refer it then to Buildings and Lands.

REFER 894-2000 BACK TO BUILDINGS AND LANDS.

Council Member Minnick: Thank you.

President Brown: I also have an announcement where we have, are you done?

Council Member Minnick: Yes, thank you.

President Brown: Before we have the Committee Meeting Announcements, I have some changes that I'd like to make on Committees, please, because of Mr. Overby. Let's see.

Buildings and Lands, Chairperson would be Larry Overby. Buildings and Lands would be Dave Gillock. Planning Commission would be Dave Gillock. Streets and Sidewalks is Gail Minnick. Mrs. Minnick I'm going to remove you from Park and Recreation because you said you didn't have enough time to go on that master committee, master plan, and we really do need you because we need someone representing our Council, so Mr. Overby has been kind to accept that position. Okay?

Council Member Minnick: Okay, that's fine.

President Brown: Alright.

Council Clerk White: Would you give me copies of those changes?

President Brown: I sure will.

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REGULAR MEETING**

MAY 15, 2000

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Council Clerk White: Thank you.

President Brown: I sure will. That's the end of that.

Council Clerk White: Committee Reports.

COMMITTEE MEETING ANNOUNCEMENTS

Council Member Gillock: Madam President.

President Brown: Yes.

Council Member Gillock: There will be a meeting of the Utility Committee at 7:00 P.M., Monday May 22nd in the Conference Room.

President Brown: Now have you checked to make sure that room will be available? I think that's normal procedure now you have to go through Robin.

Council Member Gillock: We checked.

President Brown: Thank you, May 22nd at what time.

Council Member Gillock: 7:00 P.M.

President Brown: Okay, any other Committee Meetings?

Council Clerk White: Next Regular Council Meeting will be June 5, 2000 at 7:30 P.M.

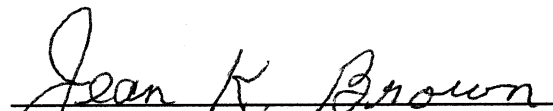
ADJOURNMENT

motion by Swindig to adjourn, 2nd by Borocz

Meeting adjourned at 8:55 P.M.

MOTION Swindig 2ND Borocz DATE June 5, 2000
as corrected June 5, 2000

YES 7 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL



CLERK OF COUNCIL