

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING MARCH 18, 2002**

CALL TO ORDER: 8:00 P.M.

President of Council David Gillock: I would like to call this Regular meeting of the North Ridgeville Municipal Council to order. Please stand for the Invocation and the Pledge of Allegiance.

INVOCATION: lead by Council Member Denny Johnson.

PLEDGE OF ALLEGIANCE: by all.

CALLING OF THE ROLL - ROLL CALL:

Present were Council Members Nancy Buescher, Allen Swindig, Josanne Pagel, Bob Olesen, Bernadine Butkowski, Denny Johnson and David Gillock.

Also, present were Mayor Deanna Hill, Law Director Eric Zagrans Engineer Tom Beutler, Auditor Chris Costin and Clerk of Council Chuck Norris.

Absent was Safety-Service Director Jim Johnson.

President Gillock: We need to have a motion to suspend By-Laws to allow the tape to be played for the appropriation ordinance.

so moved by Butkowski, 2nd by Johnson

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

President Gillock: Mr. Costin, please start the tape.

MINUTES - Corrections and Approval:

Public Hearing Minutes of March 4, 2002 (Ziegan Agricultural District Application)

motion to approve by Olesen, 2nd by Butkowski

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Regular Council Minutes of March 4, 2002

motion to approve by Butkowski, 2nd by Johnson

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Minutes are approved seven, zero.

President Gillock: Please note Board of Zoning and Building Appeals Minutes of February 28,

2002.

COMMITTEE REPORTS:

SAFETY COMMITTEE REPORT #7143. We have considered the matter of North Ridgeville Codified Ordinance Section 246.01, Composition of Department. Reasons for this decision:

- 1) Cost effectiveness - The fifth lieutenant is less cost than a Captain by eleven percent. The eleven percent will be put towards the cost of the fourth lieutenant bringing both within budget.
 - 2) Promotes leadership skills building among lieutenants who will rotate through all lieutenants positions to ready them for future promotion to the Captain, commander position.
- And recommend that this request be approved and proper legislation be drawn authorizing the change in composition to read:

- 1 - Chief of Police;
- 1 - Captain;
- 5 - Lieutenants; and
- 4 - Sergeants.

The fourth lieutenant's position, over the Detective Bureau, to be filled immediately when the ordinance becomes law.

The fifth lieutenant's position, over Services, will be filled upon the retirement of the Captain over Services.

Signed: Josanne K. Pagel, Bob Olesen and Allen C. Swindig.

motion to accept by Pagel, 2nd by Swindig

President Gillock: Discussion?

Council Member Pagel: Mr. President, we included all the information that was given to us from Chief Thomas as far as the organization structure. It's pretty self explanatory with the possible resignation of a Captain's position. The composition for the future would like to be changed in order to ensure that we have leadership potential and for having all the lieutenants rotate through all the different departments to give them better skills for promotion in the near future.

President Gillock: Is there any other discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Report is accepted by a seven, zero vote.

motion by Pagel, 2nd by Swindig to suspend By-Laws to give the ordinance amending Section 246.01 first reading tonight

President Gillock: Any other discussion?

Council Member Swindig: Mr. President, I move that you assign a T number to that ordinance.

President Gillock: Do we need a motion for that? Al made a motion, I don't know if we need a motion to assign a T number.

Council Member Swindig: It doesn't have a T number, by making a motion that we assign a T number, that we get a vote on it.

motion by Swindig, 2nd by Buescher to assign a T number

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion carries seven, zero. T number is T 29-2002.

President Gillock: That will have its' first reading.

Council Member Pagel: Mr. President, Point of order, you have a motion on the floor for this to have its' first reading tonight.

Clerk of Council Norris: We have a motion.

Council Member Pagel: That was a secondary motion.

President Gillock: We have a motion by Pagel, second by Swindig to give this its' first reading tonight. Is there any further discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion carries seven, zero for first reading.

QUESTIONS FOR THE FOLLOWING WRITTEN REPORTS:

President Gillock: We now come to the written reports. You have before you the written report submitted by the Mayor.

Mayor: Mayor's Report - March 12, 2002

President Gillock: Are there any questions of the Mayor's written report? We have no written reports from the Safety-Service Director, the Engineer or the Law Director. Auditor's report.

Safety-Service Director: None

Engineer: None

Law Director: None

AUDITOR'S REPORT:

Auditor Costin: Yes Mr. Chairman. You should have all received your February year to date report.

Auditor's Written Report for February, 2002

motion by Butkowski to approve, 2nd by Swindig

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Report is accepted seven to zero.

OTHER REPORTS:

President Gillock: Please note:

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING MARCH 18, 2002**

Page 4

Police Department Activity Report for January and February 2002
Service Department Report for two weeks ending February 23, 2002
Mayor's Court Operating Trust Fund/Bail Trust Fund Report for February 2002
Building Department Report for January and February 2002
Mayor's Court Case Report for January 2002
Water System Monthly Operation Report for February 2002
Fire Department Report for February 2002

President Gillock: Mrs. Butkowski, do you have a Seniors report?

Senior Citizens Advisory Board Liaison Report:

Council Member Butkowski: Yes, I do. The Singing Angels will be in concert on Sunday, April 7th at 2:00 P.M. at Lake Ridge Academy, Fetchler Hall. The tickets are five dollars and the Senior Center has them in advance or at the door.

President Gillock: Thank you. Any other reports? Old business. No old business, we'll move right into new business.

OLD BUSINESS: None

NEW BUSINESS:

Clerk of Council Norris:

T 26-2002 An ordinance adding language to North Ridgeville Codified Ordinance Section 1044.02(c), (d), (e), and (f) establishing the charge for a change of use or for increased use in the use benefit calculation.

President Gillock: Mayor Hill, that was introduced by you, would you like to address that?

Mayor Hill: Yes, I'd like to make a motion first.

 motion by Mayor Hill to suspend By-Laws for a first reading, 2nd by Swindig

President Gillock: Is there any discussion? If not, please call the roll.

 Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend carries seven, zero.

Mayor Hill: I'll ask Mr. Beutler to explain. I think we've already explained this once but, we can do it again.

Engineer Beutler: These ordinances are basically being brought forward to address some problems that we've had with (inaudible). This ordinance is brought forward in order to address some problems that we've had in addressing some of the issues with the sewer ordinance and right now, we're having a lot of sewer taps being requested. With this clarification, with this ordinance, will help straighten out the problems we've been having.

President Gillock: Any questions? We've already moved to give this its' first reading this evening. Read T 28-2002.

Clerk of Council Norris:

T 28-2002 An ordinance establishing a procedure in the matter of hiring or contracting for outside legal and professional services

 motion by Butkowski to suspend By-Laws to give a first reading tonight, 2nd by Buescher

President Gillock: Is there any discussion? If not, please call the roll.

 Yes, 6 No, 1 (Swindig)

Clerk of Council Norris: Motion to suspend carries six, one.

CORRESPONDENCE:

Clerk of Council Norris: We have eleven items in correspondence.

- 1) Received a letter from Lia Muir, Committee Chairperson, filing a certified copy of a proposed ordinance for Mobile Frozen Desserts Sales prior to the circulation of the initiative petition on said proposed ordinance.
- 2) Received an announcement from the Lorain County Community Alliance that ODOT District 3 officials will be presenting their project plans for the upcoming construction season at the next meeting of the Lorain County Community Alliance April 5, 2002 at 9:00 A.M. at the Spitzer Conference Center.
- 3) Received a letter from John Gasior, Board of Zoning and Appeals Chairman, Ron Schwachenwald, Planning Commission Chairman, Guy Fursdon, Chief Building Official recommending amendments to the Codified Ordinances that were approved and recommended to City Council for consideration at a joint meeting of the Board of Zoning and Building Appeals and Planning Commission on January 24, 2002.
President Gillock: REFERRED TO BUILDINGS & LANDS.
- 4) Received correspondence from Mayor Hill in regard to two requests made by Mr. Krueger, Service Department Superintendent at the Finance Committee.
- 5) Received correspondence from Mayor Hill in regard to Mr. Krueger's request for additional employees and a street sweeper.
- 6) Received a copy of the Secretary of State of Ohio Proclamation proclaiming that the municipality of North Ridgeville in Lorain County, Ohio according to said Federal Census of Two Thousand has a population of 22,338.
- 7) Received a memo from Safety-Service Director Jim Johnson in regard to touring the water tower.

- 8) Received a letter from Katie Torok of Papa Johns inviting Council Members to attend their Grand Opening at 33105 Center Ridge Road.
- 9) Received a journal entry in regard to Case No. 01CV128177, Joseph Antush vs North Ridgeville, pretrial conference is hereby set for May 14, 2002 at 2:30 P.M.
- 10) Received a letter from Heidi Ehret, Clean Air Campaign Coordinator announcing a statewide effort to improve Ohio air quality and the lives of our Citizens and encouraging the City of North Ridgeville to pass a resolution calling on the State and Federal government to help clean up coal-fired power plant pollution.
- 11) Received a letter from James Vargo submitting a letter to Engineer Beutler in regard to his concerns on property graded higher than his allowing water to flow directly into his property.

LOBBY:

President Gillock: We now move into our lobby portion of our meeting. Anyone wishing to address Council may do so. Approach the podium and there are sign up sheets in the back. We request your name and address. Is there anyone this evening who wishes to address Council?

No one spoke.

RECESS:

President Gillock: I think we can move ahead and skip recess tonight with the short agenda that we have and move right into the first readings.

Mayor Hill: Point of order. I believe that requires a motion and passage by Council.

motion by Butkowski, 2nd by Olesen to dispense with recess

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion carries seven, zero.

FIRST READINGS:

Clerk of Council Norris:

T 24-2002 AN ORDINANCE AMENDING CERTAIN SECTIONS OF NORTH
RIDGEVILLE CODIFIED ORDINANCE CHAPTER 452 REGARDING
PARKING TO INCREASE AND TO STANDARDIZE THE WAIVERABLE
FINES AS FAR AS PRACTICABLE.
First Reading

T 27-2002 AN ORDINANCE PROVIDING FOR THE APPROPRIATIONS OF MONEY
3779-2002 FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE CITY

OF NORTH RIDGEVILLE, OHIO FOR THE PERIOD COMMENCING
JANUARY 1, 2002 AND ENDING DECEMBER 31, 2002.

First Reading In Full

motion by Swindig, 2nd by Johnson to dispense with second and third reading.

President Gillock: Is there any discussion? I should point out that this ordinance has to pass by March 31st, which is the reason we are dispensing with second and third.

Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend carries seven, zero.

motion to adopt by Swindig, 2nd by Buescher

motion by Butkowski to add the emergency, 2nd by Johnson

President Gillock: Is there any discussion on the emergency?

Council Member Butkowski: We have to have the emergency because this has to be taken care of by the first of, well actually, 3/31, because our temporary appropriations end then.

Law Director Zagrans: Mr. President, and as, as a consequence of Section 232.04(e) of the Codified Ordinances of the City which makes what Mrs. Butkowski said, a legal requirement. Thank you.

President Gillock: Any further discussion on the emergency clause? There was a motion by Butkowski and seconded by Johnson. If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Emergency passes seven, zero.

President Gillock: On the adoption, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Adoption carries seven, zero. Becomes Ordinance 3779-2002.
Permanent Ordinance No. 3779-2002

T 26-2002 AN ORDINANCE ADDING LANGUAGE TO NORTH RIDGEVILLE
CODIFIED ORDINANCE SECTION 1044.02(C), (D), (E), AND (F)
ESTABLISHING THE CHARGE FOR A CHANGE OF USE OR FOR
INCREASED USE IN THE USE BENEFIT CALCULATION.
First Reading

T 28-2002 AN ORDINANCE ESTABLISHING A PROCEDURE IN THE MATTER OF
3780-2002 HIRING OR CONTRACTING FOR OUTSIDE LEGAL AND PROFESSIONAL
SERVICES.
First Reading

motion by Butkowski to suspend second and third readings, 2nd by Olesen

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 6 No, 1 (Swindig)

Clerk of Council Norris: Motion to suspend carries six to one.

motion by Butkowski to adopt, 2nd by Buescher

President Gillock: Is there any discussion? Mr. Zagrans?

Law Director Zagrans: As I informed you this afternoon when I first saw this proposed ordinance, it is the opinion of the legal department that section two of the ordinance is contrary to the City Charter. Let me explain briefly, if I may. State law requires that all expenses, whether it is for goods and services or whether it is for professional services, over fifteen thousand dollars in amount, go to Council for approval in a statutory city. So, if we did not have a Charter, that would be the status of the law according to the Ohio Revised Code. Section 11.6 of our Charter changed the way that State law operates. If it had not changed, if it had not said anything at all about the subject, then the State law as I've just described it would control and there would be no need for an ordinance such as the one that's under consideration. But, the Charter changed that. The Charter says that purchases of goods and supplies of more than fifteen thousand dollars requires coming to Council for an ordinance and omits to provide what the State law provides which is also for professional services coming to Council. It is therefore, the opinion of the law department, since I have no evidence to indicate to me that the drafters and framers of the Charter didn't know what they were talking about or made a mistake or goofed in the way that they drafted this Charter provision, it's the opinion of the law department that that omission was deliberate and intentional and works a change in the State law. Therefore, it would take a Charter amendment to change and do what it is Council is seeking to do in this ordinance. Now, please understand Mr. President, that I am not saying that what Council is trying to do is wrong or bad in any way. I'm not suggesting this would be a bad policy to make. I am, however, suggesting that this is not the correct procedure to follow given our Charter provision in Section 11.6.

President Gillock: Thank you. I think the evidence as we discussed in the meeting that Squire, Sanders and Dempsey pointed out was when the Charter was originally written there was some language in it that in subsequent issues was changed that appeared to be a typo which when they corrected it, changed the original meaning of the Charter which was that all expenditures for contracted services over fifteen thousand dollars would come to Council, therefore our Auditor is kind of working under a gray area. It is our intent to clear that up and give him some guidance how we would like that to be handled and I would refer it to Administrative Committee to review doing a Charter amendment to correct 11.6 of the Charter. Mr. Costin, do you have a comment.

Auditor Costin: If you're asking me for my thoughts on the matter, I also attended that same meeting where we had a member of Squires's who actually precedes myself. I've been here for eighteen years and he did a research of our ordinances back prior when I was here. I think I heard him draw a conclusion that's contradictory, with due respect, to what the Law Director just said and it kind of hits me as a surprise because, coming from that meeting I thought that the Law Director and the outside counsel, in this case, agreed that we have an issue here with our Charter and in the fact that I understood was that it was silent is that particular issue and as a result this ordinance would appear to clarify the, what's been really the past practice. What we've done historically in this City, as long as I've been here, is that any expenditure of funds in excess of fifteen thousand dollars or more, for whatever purpose, has required City ordinance and we

discussed several issues related thereto including contracts that had subcontracts under them and I think the intention was number one, communication with Council and obviously funding by Council and the result has been that over the years that is what we've practice because of the ambiguity in our Charter. We've also had this discussion with prior Law Directors and we felt that the conservative approach in as much as we had what I thought was understood ambiguity. The result was that, historically, we've done it as I just said and this ordinance the Council's requesting seems to mirror our past practice. So, I'm kind of surprise that, I know we had discussed about it possibly being in conflict with the Charter but, I didn't also perceive that that would be the end result and perhaps this issue is going to have to be studied a bit more thoroughly and Mr. Larson, quite frankly, who was our representative, I mean, he's bipartisan, I don't anticipate that he was trying to do anything other than give us some nice historical advice. The issue that is before us and before myself now is, what is our practice. Unless directed otherwise, I would feel secure in continuing the practice that we've had for the last several years and that is that any expenditure of fifteen thousand dollars or more require council manic action in a form of an ordinance regardless of whether it requires bidding or whether it doesn't require bidding. Unless so directed, I think that is, as the Law Director so stated, is of nothing else, a good practice to follow, good fiscal management.

Law Director Zagrans: Mr. President, following that meeting and by the way, Mr. Larson's opinion was based, not so much as I understood it on his review of the Charter over time, because as Mr. Gillock correctly points out, there did appear to be a typo in one of the provisions of that, one of the sentences of that Charter provision, however, that typo does not affect or impact the point that we are now discussing. But, I didn't understand Mr. Larson's opinion to be based so much on his reviewing the history of that provision in the Charter as a Supreme Court, Ohio Supreme Court decision and in my looking at that decision, I frankly, read the decision differently from the way Mr. Larson did. But, after the meeting I took the liberty of contacting our former Law Director Mr. Serazin to see whether this issue had come up during his tenure and if he could tell me what his interpretations and rulings on this subject had been. Mr. Serazin informed me that he ~~interrupted~~ **interpreted** our Charter the same way that I did, and that in his recollection, the practice had been for requiring Council manic authorization by specific ordinance for purchases or goods and supplies at fifteen thousand dollars or more. But, not for professional services because, as I say of this difference in the way that our Charter reads. Again, let me stress, I'm not suggesting that this is a bad or inappropriate decision for Council to make, I am saying however, that we can't go against our Charter if our Charter has made a contrary choice to do what it is that I understand you want to do, requires an amendment to the Charter, in the opinion of the Law Department.

President Gillock: Is there any other discussion?

Council Member Johnson: As I understand the Law Director's opinion, because professional services is not mentioned in the Charter, we're precluded from including it?

Law Director Zagrans: Not quite. The Charter takes the language of the Ohio Revised Code and adopts and incorporates that language in major part with the conspicuous omission of

professional services and another provision of the Charter, which is at the outset of the Charter, Section 1.2 says, and I quote, the powers of the municipality may also be exercised, and here's the critical clause Mr. Johnson, except as a contrary attempt or implication appears in this Charter in such a manner as may now be provided by the general laws of Ohio, meaning the Ohio Revised Code. So, ~~accept~~ *except* a contrary intent or implication, as appears in the Charter and that is the provision of the Charter that I am suggesting must be upheld by this Council.

President Gillock: When we had the meeting, John Larson from Squire, Sanders and Dempsey, I felt, did rely heavily upon the apparent language change due to the typo and felt that changed the whole flavor of 11.6 on what it was trying to address and I think he made the statement that he felt we should rely on the Ohio Revised Code which basically says, expenditures in excess of fifteen thousand dollars or the state statutory limit does have to go to Council. I haven't seen anything or heard anything from Mr. Serazin, I'm not doubting your input at all but, based on what I'm getting from Squire, Sanders and Dempsey, the way the practice has been around here in the past and that we're looking at just trying to give the Auditor here some guidance in what appears to be a gray area, I think we should go ahead with it.

Law Director Zagrans: One last thing Mr. President, again I have no problem with giving surety, assurance to the Auditor and clear direction to the Auditor. The question is only, what is the legal way to do that and may I just remind the President, that at the conclusion of the meeting, I don't know whether you were still there or whether you had left by that point, Mr. Larson deferred to the Law Director and to the legal department for the proper interpretations of our Charter and said so explicitly.

President Gillock: Any other comments.

Council Member Pagel: Mr. President, it's raised quite a bit of questions in my mind and I don't know if it has in anybody else's mind but, what is the intent of the ordinance other than for the Auditor to have more clear guide lines. Is it to qualify the Charter which is not, in my opinion, what the intent an ordinance should be if the Charter is ambiguous and there are a lot of ambiguities in the Charter, then perhaps it needs to be Charter reviewed and not in a questionable ordinance here. I just think, we've already, there's a motion on the floor to adopt after suspending second and third readings and I just believe those motions should be taken back and possibly referred to a committee so that this can be studied for the next two weeks again and answer my questions because I just have too many questions about this now.

Council Member Johnson: I think the safe way to go here would be to pass the ordinance, give the Auditor the discretion he's had all along, before this issue was brought up, if there is a problem with it, it could always be addressed some time in the future.

Council Member Butkowski: Mr. President, I think when we've already gotten an opinion from Mr. Larson, who has been involved in this thing for a number of years, far longer than anybody in this room that is involved in this type of litigation and also the fact that this has been a past practice for the City for as long as our Auditor, present Auditor, has been here, I think we should because we've just passed appropriations that becomes effective on April 1st. I think we should adopt this to go right along with it. If in the future and I think you're correct in referring this to a

committee to go over this for a Charter revision but, I think we need this right now to continue on with what the practice has been just to give our Auditor a little bit more meat to work with. Auditor Costin: Maybe I could address a couple of the issues that were just raised in terms of Ms. Pagel's question. We have a Charter form of government and when our Charter is void a particular subject, we defer to Ohio Revised Code. In addition to the Charter, Council also as the legislative body, has the right to pass laws in the form of ordinances. Accordingly and I think where I differ with and from a financial aspect, I differ with the Law Director's opinion is, the question is whether or not we should defer to Revised Code on personal services or whether or not it was explicitly excluded or incidentally excluded from discussion herein. Where there's a question then, in the Charter, we can either revert to Ohio Revised Code or complement it with a City ordinance, your choice. Now, the Law Director indicated that the ordinances that we passed cannot supercede our Charter nor in many aspects can they supercede Revised Code but, you're not precluded from passing an ordinance if it's not otherwise contradictory. Now, let's go to the real reason why this is an issue and I think it has to go back to past administrations when I first came here. What would happen is, we would have appropriation ordinances like we passed tonight but, they would be limited in the amount that we set in various line items so that every time the administration would want to spend monies on a particular issue, not only would we have to approve the issue in some form, we'd have to run around and re-appropriate the money again and come back with another appropriation ordinance. In early years we had appropriation after appropriation after appropriation so, what we decided to do was to take a hard look at fixing this and enhance the spirit of cooperation so that if we set a certain number in a line item, it was intended to be used for those purposes and what we followed was the fifteen thousand dollar threshold which is currently the threshold. When I started, it was five thousand dollars for the amount of expenditure that required Council ordinance and that came under the paragraph which referred to bidding requirements. So, as time moved on, the five thousand became five, became ten and became fifteen but, the ultimate issue becomes and the problem I'd like to avoid is Council has the right and authority and responsibility to pass appropriation ordinances and the administration then, goes about their administrative function, spends the money you so allow but, if for whatever reason you would put in a line item a certain amount of money and appropriate that money, if the fifteen thousand dollar threshold isn't, if that practice isn't allowed, then the administration, and I'm not going to attempt to accuse this administration, that's not the issue, it's the past practice we're addressing, but the administration would have the right to spend that money on anything they want without any Council communication and that may not be what Council intended when you passed these ordinances. Now, the problem is, if we're going to get back to the old days where we're going to be passing ordinance after ordinance after ordinance, that's not going to be efficient either for the administration or for Council. I think the simple solution to the problem is to come up with the appropriate definite answer and move on as we've moved on for the last several years in that you set your appropriation ordinances and if the money, for whatever reason doesn't require bidding or is under fifteen thousand dollars, that discretion relies with the administration and if it's fifteen or more, it requires Council manic

input. That would be a financial recommendation and just that. Thank you.

President Gillock: Anyone else.

Council Member Olesen: I just have one question. If we do pass this ordinance tonight, what are the implications of passing it? I'd like to address that to our Law Director.

President Gillock: What we're doing is not changing the practices that we've followed for the last several years. We're just trying to eliminate a gray area and keep things as they are.

Council Member Olesen: Is, as they are, if we find out that we may be not doing something correctly as we are, is there implications on this?

President Gillock: Part of the issue is, Squire, Sanders and Dempsey has ruled one way, our Law Director has ruled another way and he is the legal authority for the City. However, if he is correct and it does carve out an area in the Charter as he has laid out, I still believe that is because of an accidental or incidental typographical error in the Charter. From a practical standpoint, this allows, gives us a way to correct it so we can make a Charter amendment. If we don't follow this, our only option is if we want to specifically say, you have to come to Council for expenditures over fifteen thousand dollars, as we would have to reduce the appropriations to a point, that the money would not be appropriated. That would hamstring the ability of the City to operate if it had to come to Council every time they wanted to expend money. So, I think from a practical standpoint, this is the answer also. We are not trying to change the practices and procedures we've been following for the last several years. Mr. Costin?

Auditor Costin: Mr. Chairman, just a point of clarification. The meeting that we had was to address several issues and resolve several questions. The firm of Squire, Sanders actually was not asked for legal opinion. You have the right to do that but, he did not give a legal opinion, he was giving us advise based on his experience. The Law Director in any municipality is the final authority on rendering legal opinions. So, when we get opinions from any other attorney that cross our desks, they really become irrelevant. It's the Law Director's opinion we need to follow. It's his authority. But, with that comes responsibility to render the proper opinion. So, what Mr. Larson was doing was, basically, just giving us advice. Not an opinion.

President Gillock: Any other questions or comments? We have a motion to adopt T 28, please call the roll.

Clerk of Council Norris: This is a motion to adopt T 28-2002.

Yes, 4 No, 3 (Swindig, Pagel, Olesen)

Clerk of Council Norris: Motion carries by a vote of four to three and becomes Permanent Ordinance 3780-2002.

Permanent Ordinance No. 3780-2002

President Gillock: I will REFER THAT ISSUE TO ADMINISTRATIVE FOR REVIEW FOR A CHARTER AMENDMENT. There are no second readings. There are no third readings.

Law Director Zagrans: Point of order Mr. President.

Council Member Pagel: Point of order.

Law Director Zagrans: We still have T 29-2002.

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING MARCH 18, 2002**

Page 13

President Gillock: I missed that, T 29.

Clerk of Council Norris:

T 29-2002 AN ORDINANCE AMENDING SECTION 246.01, COMPOSITION OF THE
POLICE DEPARTMENT
First Reading

SECOND READINGS: None

THIRD READINGS: None

UNFINISHED BUSINESS:

PROPOSED AMENDMENTS TO 2002 - 2003 COUNCIL BY-LAWS
(written notification March 4, 2002)

SECTION 9: PRESENTATION OF MINUTES: **Proposed Amendment No. 1:**

Change "4:30 P.M. of the Tuesday" to "4:00 P.M. of the Wednesday"
motion to amend Olesen, 2nd by Butkowski

President Gillock: Is there any discussion? If not, please call the roll.
Yes, 7 No, 0

SECTION 17: REPORTS OR CORRESPONDENCE: **Proposed Amendment No. 2:**

First paragraph, delete "with the exception of the Auditor's Report"

President Gillock: Do we have a motion to amend? Fails for lack of a motion.

Proposed Amendment No. 3:

First paragraph, last line, create a new paragraph to read "The Auditor's Report shall be in the Clerk's Office no later than 4:00 P.M. Wednesday prior to a Regular Council meeting."

motion to amend by Mayor Hill, 2nd by Swindig

President Gillock: Is there discussion?

Council Member Pagel: Mr. President, I believe at the last Council meeting there was a lot of discussion about the cloture times for the Auditor and also for the other reports and since that time, my belief is that, we would, I would like this to fail so that the Auditor, or possibly we can talk about it more in Administrative Committee that was referred of the other cloture times. Possibly moving the Auditor's report back to Friday and then making all the other reports on one time.

Mayor Hill: Then, I withdraw my motion.

President Gillock: Yes, you may.

Council Member Swindig: I'll withdraw my second.

President Gillock: Both motions are withdrawn. The subject fails for lack of a motion.

Proposed Amendment No. 4:

Second paragraph, change to 4:00 P.M.

motion to amend by Johnson, 2nd by Buescher

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Amendment passes seven to zero.

SECTION 24: CLOTURE DEADLINE:

Proposed Amendment No. 5:

Second paragraph, change to 4:00 P.M.

motion to amend by Butkowski, 2nd by Johnson

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion to amend carries seven, zero.

Proposed Amendment No. 6:

Third paragraph, after minutes add "from other organizations"

motion to amend by Butkowski, 2nd by Johnson

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion to amend carries seven to zero.

Proposed Amendment No. 7:

Fourth paragraph, change to 4:00 P.M.

motion to amend by Johnson, 2nd by Butkowski

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion to amend carries seven, zero.

Proposed Amendment No. 8:

A new paragraph, insert after fourth paragraph, "Planning Commission reports to Council must be received by the Clerk of Council no later than 4:00 P.M. Wednesday prior to a Council meeting

motion to amend by Johnson, 2nd by Buescher

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion to amend passes seven to zero.

SECTION 2: REGULAR MEETING B. to read as follows: Proposed Amendment No. 9:

2) Meetings shall convene at 7:30 P.M. and adjourn to later than 10:00 P.M. unless extended by a two-thirds vote of the members present.

motion to amend by Swindig

President Gillock: Motion fails for lack of a second.

Proposed Amendment No. 10:

D. Delete this paragraph in its' entirety.

motion to amend by Mayor Hill, 2nd by Swindig

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 1

No, 6 (Buescher, Pagel, Olesen, Butkowski, Johnson,
Gillock)

Clerk of Council Norris: Motion fails by a vote six to one.

President Gillock: Also, under unfinished business last meeting in regard to ordinance T 22-2002, I referred that to a committee of the whole at Mr. Swindig's request. We have received a copy of a prior legal opinion from prior Law Director Scott Serazin that we cannot do that. To have a committee of the whole you have to have a motion and a second and a vote during a regular meeting to hold that meeting.

motion by Swindig to have a committee of the whole following this meeting

President Gillock: Is there a second? It has to be during the meeting, can't be following it. It has to be in the meeting. Is there a second? Motion fails for a lack of a second and I will REFER T 22-2002 TO ADMINISTRATIVE COMMITTEE.

COMMITTEE MEETING ANNOUNCEMENTS:

Clerk of Council Norris:

Next Council Work Session Monday, April 1, 2002 at 7:30 P.M.

Next Regular Council Meeting Monday, April 1, 2002 at 8:00 P.M.

ADJOURNMENT:

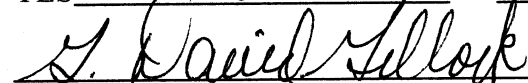
motion to adjourn by Swindig

President Gillock: Meeting adjourned.

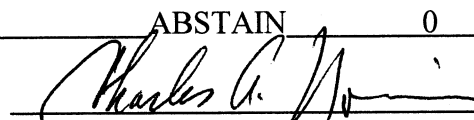
Meeting adjourned at 8:57 P.M.

MOTION (as corrected) Butkwoski 2ND Buescher DATE April 1, 2002

YES 6 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL



CLERK OF COUNCIL