

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING DECEMBER 4, 2000**

President of Council Jean Brown called the meeting to order at 7:30 P.M. with the Invocation and the Pledge to the Flag.

President Brown: Thank you. Please take roll call Mr. White.

ROLL CALL

Present were Council Members Larry Overby, Allen Swindig, Karen Borocz, Gail Minnick, Bernadine Butkowski, David Gillock and Jean Brown.

Also, present were Mayor Deanna Hill, Safety-Service Director Jim Johnson, Law Director Eric Zagrans, Engineer Stewart Lovece, Auditor Chris Costin and Clerk of Council Jim White.

MINUTES

Regular Council Minutes of November 20, 2000

motion by Overby to accept, 2nd by Swindig

President Brown: Any discussion? Any corrections? Please take roll.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

President Brown: Thank you.

Please note:

Planning Commission Regular meeting Minutes of November 14, 2000;

Planning Commission Special meeting Minutes of November 28, 2000; and

Parks & Recreation Commission Minutes of October 25, 2000.

COMMITTEE REPORTS

BUILDINGS & LANDS COMMITTEE REPORT #7041 We have considered the matter of vacating a portion of Dodge Avenue and recommend that this request be approved and proper legislation be drawn authorizing the above as approved by the Planning Commission.

Signed: Larry Overby, Dave Gillock and Al Swindig.

motion to accept by Overby, 2nd by Gillock

President Brown: Discussion? Seeing none take roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. That's all the committee reports I have.

Council Member Swindig: Madame Chairman?

President Brown: Yes Mr. Swindig?

Council Member Swindig: At this time I would like to go with a rule change for Council for covering a court reporter in Council meetings that was submitted today to the Members of

Council.

Law Director Zagrans: Point of order Madame President.

President Brown: Yes.

Law Director Zagrans: If Mr. Swindig wishes to offer that, it would have to be by way of a motion to suspend By-Laws to take it up at this point in the meeting and that would have to be passed by two-thirds of Council.

Council Member Swindig: Madame Chairman I'll make that as a motion.

motion by Swindig to suspend By-Laws to take up rule changes, 2nd by Borocz

President Brown: Any discussion?

Council Member Butkowski: Madame President?

President Brown: Did everyone get a copy of it?

~~??: 12:30:~~ Council Member Minnick: I received the rules at 4:30 today.

Council Member Butkowski: 4:45 this afternoon, yes.

President Brown: So did I get mine at that time.

Council Member Butkowski: I don't think that we can, by our By-Laws, discuss this tonight. According to our By-Laws we have to have fourteen days notice.

President Brown: This is a rule change not a By-Law change.

Council Member Butkowski: According to Roberts Rules of Order when they talk about amendments to Constitutions, By-Laws and Rules of Order all seem to be contained under the same heading. I think it's an interchangeable work.

President Brown: Mr. Law Director?

Law Director Zagrans: Roberts Rules governs except when there is a specific provision in the laws of North Ridgeville already that deal with the subject. This is dealt with in Section 3.11 of the City Charter which authorized Council to promulgate By-Laws and rules of procedure for Council so I believe that there is a difference between By-Laws on the one-hand which do require, as Mrs. Butkowski correctly says, fourteen days advance notice for approval and rules, which I believe, has no such requirement.

President Brown: Mr. Gillock?

Council Member Butkowski: Madame President? Under Roberts Rules of Order it says Constitution, By-Laws and Rules of Order that have been adopted and contain no rule for amendment may be amended at a regular business meeting by a vote of the majority. What it suggests that if the amendment was submitted in writing at a previous regular meeting then they may be amended by a two-thirds vote or quorum. But each society should adopt rules for the amendment in Constitution, By-Laws and Rules of Order adapted its own case but always requiring previous notice and a two-thirds vote. So, while Roberts Rules does allow it, it doesn't recommend it and under the circumstances with the volume of pages that is in this, no way do we have time to go over that and vote on anything.

President Brown: Mr. Zagrans?

Law Director Zagrans: What?

President Brown: Would this be violating anything that you feel is. . .

Law Director Zagrans: No, you wouldn't be violating, as Mrs. Butkowski, again, I think,

correctly says, Roberts Rules permits this procedure, however she makes a point that Council may wish to consider about making sure that everybody has a sufficient amount of time to consider these.

President Brown: So we can bring this up then at the 18th meeting?

Law Director Zagrans: If that is the desire of Council, certainly.

President Brown: Mr. Swindig would you want to take back your motion and keep it for the 18th?

Council Member Swindig: No, I would rather, the abuse that we have taken over this, I think it's time we set up what the Ohio Revised Code has said and the research that was done on it that we do handle it.

President Brown: At this meeting?

Council Member Swindig: At this meeting.

Council Member Butkowski: Mrs. Brown?

President Brown: Mr. Gillock had his hand up.

Council Member Gillock: President Brown, I knew that these were coming and I agreed to take a look at them and review them. I think maybe some improvements are needed. I also got them earlier this afternoon. There quite more detailed and comprehensive than what I expected and I would prefer a little more time to take a look at them. I don't see a big rush to rush this through tonight so I would prefer to wait.

Law Director Zagrans: Madame President? May I respectfully point out to Mr. Swindig that it may be possible to take them up at the next meeting if that's the wish of the majority of Council with the understanding that if Council were to improve rules in either this form or some amended form that they would become immediately applicable, that is to say that they would apply starting with the meeting at which they are adopted.

Council Member Swindig: Being that I see that I do not have five votes I will withdraw the motion.

President Brown: Who did the second on that?

Council Member Swindig: Karen.

President Brown: Karen would you withdraw yours?

Council Member Borocz: Yes I will.

President Brown: Do you have anything you want to discuss Mrs. Minnick?

Council Member Minnick: No that will take care of it. Thank you.

President Brown: Moving on to the Mayor's report.

MAYORS REPORT

I am happy to inform Council that we have received approval for our 2001 Recycling Grant in the amount of \$79,000 from the Lorain County Solid Waste Management District. With these funds, we will be able to continue educational programs in cooperation with the schools. The funds will also be used to purchase parking stops, trash receptacles, benches, bleachers, picnic tables and soccer goals, all made from recycled materials, to be used in our city parks. Special

appreciation to Jim Whitlock, our Utilities Department supervisor, for again, writing and submitting a successful grant application.

This past Saturday, several scouting groups in our City came together to decorate the gazebo in the park. While the tree was being decorated, Christmas carols were sung by each of the groups. This is the fifth year we have done this with the Scouts. We thank the leaders and the families for supporting this annual event.

If you have not noticed, the Police Department, Safetyville teachers and others decorated Safetyville for Christmas for the first time and I'll tell you, it looks great. Also, Santa will be in the Community Building that's part of Safetyville on December 16th from 6:00 P.M. to 8:00 P.M. for pictures. Safetyville Village will also be open from 5:00 P.M. to 9:00 P.M. on that same day. So, beginning at 5:00 P.M. Safetyville Village will be opened to walk through and to enjoy and then the pictures begin at 6:00 P.M. and run to 8:00 P.M. And then the Village is open until 9:00 P.M. This will be a fund raiser for Community Care. Any donation would be received gratefully. We are grateful to the Police Department and teachers for their efforts on behalf of Community Care and to individuals like Shirley Firestone who donated the lights and Mould's, Hales Florist, thank you folks sitting right here, and Michael G's Florist who donated decorations.

We have been notified that Northridge has been commended by the HUD office of Multifamily Housing Programs as one of its high performing properties. Just over 1,000 such facilities across the country were honored with this distinction. We congratulate Northridge for its fine job administering their programs and serving the people in our community.

Under new business there's T 149-2000 which authorizes the City to join the Northeast Ohio Public Energy Council of Governments. As of November 30th, eighty-nine other cities, villages, townships and counties have passed the same agreement. The agreement basically enables us to follow through on what the people of North Ridgeville voted for us to do and that is to join with other governments to purchase electricity generation as a group by January 1, 2001. This will definitely save money on the electric bills for individual homeowners. I'm asking that Council suspend By-Laws for the readings and pass this as an emergency so we can meet the required time lines. Thank you. That concludes my report.

President Brown: Okay, Mayor. Any questions of the Mayor's Oral Report? Seeing none, moving on to the Safety-Service Director Mr. Johnson.

SAFETY SERVICE DIRECTOR'S REPORT

Safety-Service Director Johnson: Madame President, the Service Department activities for the two weeks ending December 1st:

We plan on finishing our cleaning of French Creek and some of the tributaries in the Root Road areas by the end of the week.

Catch basin work has been done on Creekside, Woodland, north Main, Olive and Cornell.

Roadside ditching and piping took place at Otten, Olive, Cornell, Woodlawn, Broad and Root.

The following places had water leaks or water breaks: Stoney Ridge, Highland, Cook, Lorain, Sugar Ridge and Hedgerow.

At 34079 Gail, a drain was installed from the front storm sewer to the rear storm sewer. This should alleviate some backyard water.

Crack sealing and patching of roads is taking place as weather allows. December 10th, the asphalt plants will close and that concludes my report.

President Brown: Thank you Mr. Johnson. Are there any questions of the Safety-Service Director's oral report? Seeing none, moving on to the Engineer's report, Mr. Lovece.

ENGINEER'S REPORT

Engineer Lovece: Thank you Madame President. Bainbridge Road reconstruction, recently the road was open to two-way traffic except at the bridge crossing French Creek. What will also take place is we will remove the traffic signal at the intersection of Chestnut and Bainbridge. That was a temporary signal that was placed for the construction activities and it should be removed shortly. The other thing with Bainbridge, what we wanted to do this year yet, was put the last coat of asphalt down. Unfortunately the weather isn't cooperating and what you need is at least pavement temperatures over forty-five degrees and air temperatures over about the same, forty, forty-five degrees, and it doesn't look like in the next two weeks that we'll get that weather. The asphalt plant that is producing asphalt for this project informed me that they will be closing the 15th of December. So, it doesn't look likely that we'll get the top done. But, that's not the end of the world either, I mean, there's still a pretty decent surface to drive on. There'll be a little standing water along the edge of pavement and I talked to the Service Department and they'll make sure that they do what they can to remove the snow carefully and do additional salting as required.

Same thing with Case Road. We still have to put a top coat on Case and I don't think it's going to happen. You know, once again, we don't want to do something that's not right and not going to last so in the mean time what we'll do with Case is where there's a transition between the old and new pavement, there's like an inch to two inch lip, we'll place some temporary asphalt in there and pave it in the spring. Do it right.

Last but not least, the water tower foundation is about sixty percent complete. That's going well. That's all I have this evening. Thank you.

President Brown: Thank you Stewart. Any questions of the Engineer's oral report? Mr. Gillock?

Council Member Gillock: Stewart, on Bainbridge, I've had some reports that some of the, there's some gaps or spaces between the asphalt and the driveways on some of the houses. If we can't pave it can we fill those with some gravel or something?

Engineer Lovece: Yes, they'll be maintaining. They're not going to leave without properly, or at least temporarily dressing up the drive aprons, especially along the south side of Bainbridge.

Council Member Gillock: Thank you.

President Brown: Any other questions of the oral report? Moving on to Mr. Costin, Auditor's report.

AUDITOR'S REPORT

Auditor Costin: Thank you Madame Chairman. There is no written report scheduled for this meeting. I do have a few comments. The first of which is to remind Council for the next meeting there will be several pieces of legislation, one of which will be the year 2000 final amended appropriations, the year 2001 temporary appropriations. We're at that time of the year when we do the cleaning up so you can expect those to be here and we would request your passage at the next meeting.

I also will have comments on T 147-2000 upon it's second reading tonight. No further comments.

President Brown: Any questions of the Auditor's oral report? Moving on, Mr. Zagrans, Law Director's report.

LAW DIRECTOR'S REPORT

Law Director Zagrans: Thank you very much. Emergency ordinances are not subject to referendum under Ohio law. As you may know, Ordinance Number 3621-2000 was adopted by Council on October the 2nd by emergency and Ordinance Number 3628-2000 was adopted by Council on October 16th by emergency. Mr. Phillips, on behalf of committees for the referendum of both ordinances has written me a challenging the emergency clauses in both ordinances and contending that those clauses are invalid. If they are indeed invalid, it would make both ordinances, which are not subject to referendum when they do contain the emergency clause, it would make them subject to referendum if they are not properly emergency clauses. Mr. Phillip's letter on behalf of his clients, the committees for the referendum of those two ordinances and their members, has not only challenged the emergency clauses in them, he has

asked me and demanded of me to take legal action on the subject to invalidate those emergency clauses so that they can be the subject of the referendum petitions which were filed with the Clerk of Council last month. Two of the largest law firms in the State of Ohio and two of the most respected law firms are the Cleveland firms of Squires, Sanders & Dempsey and Calfee, Halter & Griswold. The two leading authorities who are still living on municipal law in the State of Ohio are John Gotherman and Harold Babbit. They are the co-authors of the widely used and respected treatise entitled "Ohio Municipal Law" that has been cited and relied upon by Courts and Judges throughout the State of Ohio including by the Ohio Supreme Court. I asked Mr. Babbit for a legal opinion to guide the Law Director on this controverted topic. I also asked for his legal opinion on an underlying legal issue that Mr. Phillip's and his clients have challenged for several months on the so called one-subject rule which says that any legislation that is passed by Council must deal with one-subject. It's been the contention that our PCD ordinances which authorize Council to pass and approve a preliminary PCD plan and thereby automatically direct the Clerk of Council to notate a change in the zoning map some how violates the one-subject rule of our Charter. I then asked Squire, Sanders & Dempsey which has served as legal counsel for the City off and on for a number of years to provide me with its' legal opinion as to the entire matter and what an appropriate course of action would be for the City to pursue given Mr. Babbit's opinion. I will just read the pertinent excerpts from the three lengthy letters of opinion that I have received from these experts.

The first is from Babbit dated December 1st: (marked "Exhibit A")

Dear Mr. Zagrans:

You have asked whether North Ridgeville's City Council may declare as emergency measures certain ordinances that change the zoning classification of certain properties within the City. Section 3.13 of the Charter provides, in part, that the Council may not declare as an emergency measure any change in any zoning ordinance.

The challenged ordinances, however, do not change the PCD Ordinance nor do they create a new zoning classification. Rather, they change the zoning classification of the acreages referred to in the ordinances. Such ordinances may be declared emergency measures because they are not "zoning, ordinances".

The recently proposed Charter amendment submitted to the City's voters on November 7 makes this distinction clearly.

He goes on to talk about the law about emergency ordinances not being subject to referendum that I've already indicated is the law and that's non-controversial.

In conclusion, he writes, it is my opinion that the Challenged Ordinances may be declared emergency measures because the prohibition in Section 3.13 of the City Charter is not applicable to them.

I received a second letter from Mr. Babbit also dated December 1, 2000: (marked "Exhibit B")

Dear Mr. Zagrans:

You have asked whether Ordinance Nos. 3621-2000, and 3628-2000 adopted by Council on October 2, and October 16, violate Section 3.12 of the City Charter, which requires that an ordinance contain

one-subject matter only.

This letter is much longer and goes into more detail than the first one. I won't read those into the record, I will provide copies of these letters to the Clerk to be appended to the record of this meeting.

Mr. Babbit explains that the primary and universally recognize purpose of the one-subject rule is to prevent logrolling. Logrolling is the practice of several minorities in a legislative body combining several different proposals as different provisions of a single bill and thus consolidating their votes so that a majority is obtained for the omnibus bill where perhaps no single proposal of each minority of legislators could have obtained majority approval separately.

Mr. Babbit opines that the rule, the single subject rule, is not directed at plurality but at disunity in subject matter. Only manifestly fraudulent, blatant violations contravene the one-subject rule. The rule is not violated if provisions within a law are reasonably necessary to carry out a law's purpose though they may be different provisions. In conclusion he states, there is no indication that the ordinances resulted from logrolling, a disorderly or unfair legislative process, nor do they contain any riders. Applying the one-subject rule to invalidate the ordinances would not effectuate the rules purpose, therefore, given the state of the law as announced by the courts in Ohio, it is my opinion that the ordinances do not violate the one-subject rule. The ordinances all have a common purpose, relate to specific topics and include provisions that are reasonably necessary to carry out the ordinance purposes. In conclusion, since courts will invalidate statutes under the one-subject rule only on manifestly gross, fraudulent and blatant violations and since the ordinances all have a common purpose, relate to specific topic, and include provisions that are reasonably necessary to carry out the ordinances purpose, I guess lawyers have to say everything twice, the ordinances contain only one-subject matter and do not violate Section 3.12 of the City Charter.

As I indicated, in light of the legal opinions that I received from an eminent authority on Ohio municipal law, I asked outside Counsel at the law firm of Squire, Sanders and Dempsey for direction as to what they believe to be the most appropriate course of action for the City of North Ridgeville to follow and again I will only excerpt from the letter I received today, dated today, from Squire, Sanders: (marked "Exhibit C")

From our review of the entire situation it is clear that there has arisen a dispute or controversy as to City Council's authority 1) to rezone certain property to PCD from R-1 by the passage of an ordinance approving a preliminary plan for a planned community development pursuant to Section A.06 of Ordinance 3491-99 and 2) to pass such an ordinance approving a preliminary plan for a planned community development as an emergency measure.

We are satisfied there is a genuine dispute regarding the interpretation of the relevant provisions of the City Charter and the ordinances. Because the issues raised relate to procedures being followed under a newly enacted Ordinance 3491-99 and because they affect two major planned community developments and, most importantly, the major interceptor sewer project for the western half of the City and in light of the absence of prior case law interpreting applicable

provisions of the City Charter, we believe that it is important and in the City's interest that the issues be resolved promptly and definitively before further action is taken by Council. Therefore, it would be a reasonable and appropriate course of action for the City to commence litigation in the Lorain County Commons Pleas Court requesting a declaratory judgement to resolve the issues presented so as to provide Council with the guidance it needs with respect to these ordinances, procedures and plans and so the owners of the property have the guidance and assurance they need to proceed or not to proceed with plans for the development of their properties.

In light of the advice that the City has received from these lawyers at the Squire, Sanders & Dempsey and Calfee, Halter & Griswold law firms, the City has asked Lorain County Court of Common Pleas this afternoon, to review the question and to make a definitive interpretation and decision about whether or not emergency adoption of the ordinances in question was appropriate and that action was filed, as I said, this afternoon and hopefully without further delay or much ado the court will provide the guidance to Council that we are asking for and we'll decide one way or the other, once and for all, what the proper interpretation of our Charter and these ordinances should be. Hopefully this will be the most efficient, least costly and least disturbing path to proceed so that this community can get on with its' business and not be further delayed by legal proceedings once this is brought to an end and that concludes my report.

President Brown: Thank you Mr. Zagrans. Any questions of the Law Director's oral report? None, moving on to the Parks & Recreation Liaison report Mr. Overby.

OTHER REPORTS

Parks & Recreation Commission Liaison Report:

Council Member Overby: Our November/December combined meeting will be on Wednesday the 6th, I believe it is.

President Brown: At 6:00?

Council Member Overby: No, not at 6:00, on December 6th at 7:30.

President Brown: Okay. Mr. Gillock, Planning Commission?

Planning Commission Liaison Report:

Council Member Gillock: You have a report of the Special Meeting coming up here shortly.

Senior Citizens Advisory Board Liaison Report:

President Brown: I'd like to give a report on the Senior Citizens Advisory Board. They would like to thank everyone who participated in the Holiday Craft Show. The crafters, the quilters, the individuals who baked or canned goods and everyone who helped set up and take down. It was again this year a very successful fund raiser for us and we thank you. There will be a holiday luncheon on Tuesday, December 19th at 11:15 a.m. Our holiday luncheon will begin with entertainment provided by Lake Ridge Academy under the direction of Cynthia Bush. A special

entree for this luncheon will be prime rib. The cost is only \$5.00 a person. Please make your reservations no later than 10:00 a.m. on Monday, December 18th. We are still in need of additional drivers for our Meals-On-Wheels program for the Grafton and LaGrange route. If you know of any individuals who might be interested, please ask them to contact the Senior Center. That concludes my report.

Going into the Planning Commission. Would you please take care of that, Mr. White?

Planning Commission Report to Council of Special meeting held November 28, 2000
Council Clerk White:

Applicant: Visconsi Companies, Ltd.; Acciarri Draeger & Assoc., 17710 Detroit Avenue,
 Lakewood, Ohio 44070
Owner: Jimmy F. Hales, 33690 Center Ridge Road
 Barry Stumm, 33753 Center Ridge Road
Request: Development of southwest corner of Center Ridge and Lear Nagle Roads for a
 TOPS Supermarket and adjacent retail totaling approximately 60,410 square feet.
Location: 33717 and 33753 Center Ridge Road, in B-3
 Permanent Parcel Nos. 07-00-008-116-009 and -010

The application was unanimously approved contingent upon the turning and deceleration lanes being worked out with the Administration on the traffic issue and upon compliance with the Engineer's recommendations as far as storm water detention and sanitary sewer services. Additional landscaping will be provided by planting Austrian Pines to help with year round screening in addition to the natural vegetation at the Robinson Ditch.

President Brown: Need a motion to accept.

 so moved by Gillock, 2nd by Overby

President Brown: Discussion?

Council Member Gillock: Madame President?

President Brown: Yes, Mr. Gillock.

Council Member Gillock: We did get the traffic study on this particular item and it was demonstrated to the Planning Commission first, that it does meet the proper zoning at that intersection and I believe the applicant demonstrated a willingness to work with our Administration as far as the traffic changes and in making application to the State to obtain funds to help pay for this and the traffic study essentially showed that with these changes we can improve the traffic flow at that intersection tremendously. That's why we approved this unanimously.

President Brown: Okay. Any other discussion? Mrs. Minnick.

Council Member Minnick: I'd just like to stress that that intersection needs to be reworked before the store opens and I'll go along with approving it but that really needs to be done before that store opens.

President Brown: I believe that's the plans Mrs. Minnick.

Council Member Minnick: Yes, I just wanted to state them publicly. It is in my Ward.

President Brown: Thank you. Please take roll.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

OLD BUSINESS

President Brown: We have no old business. Going into new business, Mr. White.

NEW BUSINESS

Request for new C1 liquor permit from Marc Glassman Inc., DBA MARCS , North Ridgeville,
34800 Center Ridge Road

President Brown: I'd like to REFER THAT TO BUILDINGS AND LANDS. Mr. Overby.

T 148-2000 The following ordinance enacted by the City of North Ridgeville of Lorain County, Ohio hereinafter referred to as the Local Public Agency (LPA), in the matter of the stated described project. The purpose of the project is to resurface State Route 10 from U.S. Route 20 to Interstate Route 480 and State Route 10C from the Ohio Turnpike Ramp to State Route 10. Pavement markings and miscellaneous work items are included. The length of the improvement within the City of North Ridgeville is approximately 5.32 miles.

President Brown: Do we need a motion?

Council Clerk White: For what?

President Brown: Nothing. Okay.

T 149-2000 An ordinance authorizing the City to enter into the Northeast Ohio Public Energy Council of Governments and the execution and delivery of the agreement establishing such Council, for the purpose of jointly establishing and implementing an electricity aggregation program.

motion by Swindig to suspend By-Laws to give T 149 a first reading tonight, 2nd by Borocz

President Brown: Is there any discussion? Please take the roll for the first reading.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 149-2000 to receive first reading tonight. That's all the new business that I have.

President Brown: Okay. Correspondence please.

CORRESPONDENCE

Council Clerk White: The only correspondence I received in this period of time.

- 1) Received a letter from Board of Elections Director Marilyn Jacobcik announcing that 526 represents ten percent of the electors who voted in the 1999 general election.

Council Clerk White: This is on the last two referendums that I had. They just were too busy to send me the notice that I needed.

President Brown: Okay.

Council Clerk White: That's what that refers to. That's the only correspondence that I have.

President Brown: Now we'll move on to Lobby. I will allow you two minutes to speak. You can speak on one subject at a time.

LOBBY

- 1) Gerald Phillips, 35955 Detroit Road, Avon, stated that the proposed new rules of Council, although Council has the authority under the Charter, Section 3.11, to make rules and by-laws and ordinances, it doesn't have the constitutional power to make such rules when they conflict with the Charter and are clearly unconstitutional.

Law Director Zagrans: Madame President? May I have permission to ask Mr. Phillips if he would be so kind to provide me with the full citations to all the authorities that he referred to and I will take a look at each of them.

President Brown: Is that possible Mr. Phillips?

Gerald Phillips: I was responding to, I believe, Mr. Swindig, though it looks like he's no lawyer by the memo. Yes, I'll respond to those.

President Brown: Thank you.

Gerald Phillips: In fact I suggest Council have a Public Hearing and get the public involved and get public input on what they think the rules should be before the next meeting.

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

- 2) Joseph Antush, 38500 Otten Road, stated that someone duped or conned the people at Community Care and his parish priest into opposing Issue 57 with false and misleading information, but do not withhold support from them because they do good works.
- 3) Gerald Phillips, 35955 Detroit Road, Avon, stated that he has a difference of opinion about the Waterbury/Meadow Lakes referendums outside opinions and the position that zoning ordinances can be passed by emergency.

President Brown: Thank you. Anyone else? We'll have a recess until twenty after.

RECESS from 8:45 P.M. to 8:55 P.M.

FIRST READINGS

T 138-2000 AN ORDINANCE AUTHORIZING PAYMENT TO FINKBEINER, PETTIS & STROUT, INC. FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES, NOT TO EXCEED \$36,000.00.
First Reading

T 139-2000 AN ORDINANCE AMENDING SECTIONS 438.29(H) AND (J) "USE OF OCCUPANT RESTRAINING DEVICES" OF THE CODIFIED ORDINANCES IN ORDER TO REMAIN CONSISTENT WITH THE OHIO REVISED CODE.
First Reading

T 149-2000 AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO THE
3632-2000 NORTHEAST OHIO PUBLIC ENERGY COUNCIL OF GOVERNMENTS AND THE EXECUTION AND DELIVERY OF THE AGREEMENT ESTABLISHING SUCH COUNCIL, FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING AN ELECTRICITY AGGREGATION PROGRAM.
First Reading

Council Member Swindig: Madame Chairman?

President Brown: Mr. Swindig?

motion by Swindig to suspend second and third readings, 2nd by Borocz

President Brown: Discussion? None? Take roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero to suspend second and third readings.

Council Member Swindig: Madame Chairman?

President Brown: Yes Mr. Swindig?

motion by Swindig to adopt, 2nd by Overby

motion by Swindig to add the emergency due to the time restraints we're under,
2nd by Overby

President Brown: Discussion on the emergency? Roll please on the emergency.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero on the emergency. Now for the adoption.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 149-2000 becomes Ordinance No. 3632-2000 with emergency. That's all the first readings that I have.

Permanent Ordinance 3632-2000

SECOND READINGS

T 141-2000 A RESOLUTION RESCINDING AND REPEALING RESOLUTION NO. 894-2000, ADOPTED MARCH 6, 2000, WHICH GRANTED PRELIMINARY APPROVAL FOR THE PROPOSED PLANNED COMMUNITY DEVELOPMENT KNOWN AS KINGSTON PLACE.

Second Reading

President Brown: I would like to REFER THAT TO BUILDINGS AND LANDS.

T 140-2000 AN ORDINANCE RESCINDING AND REPEALING ORDINANCE NO. 3630-2000, ADOPTED NOVEMBER 6, 2000, WHICH GRANTED APPROVAL OF THE FINAL PLAN OF DEVELOPMENT AREA FOR THE PLANNED COMMUNITY DEVELOPMENT KNOWN AS KINGSTON PLACE.

Second Reading

President Brown: I would like to ASSIGN THAT ALSO TO BUILDINGS AND LANDS, Mr. Overby.

Council Member Overby: Thank you.

T 142-2000 AN ORDINANCE REPEALING ORDINANCE NO. 3630-2000 THE FINAL DEVELOPMENT PLAN PHASE I APPROVAL FOR THE KINGSTON PLACE PLANNED COMMUNITY DEVELOPMENT SITUATED ON APPROXIMATELY 200 ACRES BETWEEN CASE ROAD AND STONEY RIDGE ROAD BORDERING THE CITY OF AVON.

President Brown: That constitutes a second reading and I would like to also ASSIGN THAT TO BUILDINGS & LANDS.

T 143-2000 AN ORDINANCE REPEALING RESOLUTION NO. 894-2000 THE PRELIMINARY PLAN APPROVAL FOR THE KINGSTON PLACE PLANNED COMMUNITY DEVELOPMENT SITUATED ON APPROXIMATELY 200 ACRES BETWEEN CASE ROAD AND STONEY RIDGE ROAD BORDERING THE CITY OF AVON.

Second Reading

President Brown: That constitutes second reading and I also would like to ASSIGN THAT TO YOUR COMMITTEE MR. OVERBY, BUILDINGS & LANDS.

T 147-2000 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A
908-2000 WSRLA LOAN AGREEMENT WITH THE OHIO ENVIRONMENTAL PROTECTION AGENCY AND THE OHIO WATER DEVELOPMENT AUTHORITY.

Second Reading

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

Council Member Gillock: Madame President?

Auditor Costin: If I may Madame?

President Brown: Yes?

Auditor Costin: Madame Chairman, at the last meeting we discussed this ordinance and we had a

sister ordinance that went along with it which we passed and I suggested that we refrain from passing T 147-2000 until we did some due diligence. We have in fact did that due diligence. From a financial standpoint I have discussed this, the provisions of the agreement, with the gentleman with the O.W.D.A. I am satisfied as to the finances. There still are some things that have to be agreed to in terms of the final contract read by other members of our administration. We are in a unique position in that we have the project moving forward and we already have financing for it and accordingly I would suggest that at this time we do move ahead with this T 147 in its' passage with the understanding that we'll move forward until we find out that there would be some reason for us not to want to go ahead and consummate the transaction and what we'll attempt to do is meet their December guidelines for their January approval and if successful we're looking at saving approximately \$200,000 and accordingly, as I said, I would suggest we go ahead and pass this now if Council so chose so we can meet their deadlines beyond their January agenda because there is in fact only so much money available. If for some reason down the line we withdraw from this method of financing, we do in fact still have financing in place in the form of our bond anticipation notes.

President Brown: Okay.

motion by Swindig to suspend 3rd reading, 2nd by Overby

President Brown: Any discussion? Please take the roll on suspension of the third reading.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero to suspend third reading.

motion by Swindig to adopt, 2nd by Gillock

President Brown: Who seconded it? Mr. Gillock. Any discussion?

motion to add the emergency due to the date restraints by Swindig, 2nd by Gillock

President Brown: Second, Mr. Gillock. Now, any discussion? Take roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for the emergency. Now, for the adoption.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 147-2000 becomes Resolution Number 908-2000 with the emergency.

Permanent Resolution No. 908-2000

Council Clerk White: Again, that's all the second readings that I have and I have no third readings.

THIRD READINGS None

UNFINISHED BUSINESS

President Brown: And I see that we have no unfinished business. How about Committee meeting announcements?

COMMITTEE MEETING ANNOUNCEMENTS

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING DECEMBER 4, 2000**

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Council Clerk White: Okay.

Buildings & Lands Committee meeting Wednesday, December 6 at 5:30 in the Conference Room

Next Regular Council Meeting Monday, December 18, 2000 at 7:30 P.M.

Public Hearing to be held Tuesday, January 2, 2001 in regard to the final plan approval and Planning Commission's report and recommendations to Council of Phase I of Meadow Lakes PCD.

Public Hearings to be held Tuesday, January 16, 2001 as follows:

7:10 P.M.	T 140-2000
7:15 P.M.	T 141-2000
7:20 P.M.	T 142-2000
7:25 P.M.	T 143-2000

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

Council Member Swindig: Madame Chairman?

President Brown: Yes?

Council Member Swindig: I have a question on the January 2, 2001 Public Hearing. Is there a time set for that?

Council Member Gillock: Madame Chairman, that was 7:00 P.M. in the Public announcement.

Council Member Swindig: Thank you.

Council Member Overby: Thank you.

ADJOURNMENT

motion to adjourn by Swindig, 2nd by Overby

President Brown: Meeting adjourned. Thank you for coming.

Meeting adjourned at 8:30 P.M.

MOTION _____ Overby _____ 2ND _____ Swindig _____ DATE December 16, 2000 as corrected

YES _____ 7 _____ NO _____ 0 _____ ABSTAIN _____ 0 _____

Jean K. Brown
PRESIDENT OF COUNCIL

Joan White
CLERK OF COUNCIL