

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING NOVEMBER 20, 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: Roll call, please.

ROLL CALL

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

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

Absent was Mayor Deanna Hill.

Law Director Zagrans: Madame President?

President Brown: Yes Sir?

Law Director Zagrans: I note the fact that despite the Council vote at the last meeting, Mr. Phillips has brought again a court reporter to take down what transpires at tonight's Council meeting. I continue to believe as I expressed to Council last time that that is inappropriate to attempt to create a competing record since this Council maintains an official record to these proceedings. However, as with last time, it is entirely up to Council whether Council wishes to allow a court reporter to take down what happens here or not. Therefore, if any Member of Council feels that it is inappropriate, he or she, I believe, would be in order to make a motion at this time.

President Brown: I will entertain a motion.

Swindig so moved,

President Brown: Is there a second?

Council Member Overby: I'll second it.

2nd by Overby

Council Member Overby: I have a question in discussion.

President Brown: Yes.

Council Member Overby: There's a real good chance that we're going to end up having to pay for this guy being here because of the Supreme Court ruling and Mr. Phillips billable hours or something like that. That's why I'm inclined to do so.

Law Director Zagrans: Madame President, if I may respond.

President Brown: Mr. Zagrans.

Law Director Zagrans: Mr. Overby, I don't know that that is the case. I would certainly object strenuously if Mr. Phillips attempted to bill the City in any way shape or form for this, but I don't know that that would be case. I don't believe it would be appropriate for the City to have to pay

for Mr. Kotoch's time and services that would be rendered privately to Mr. Phillips and his clients.

President Brown: Any other discussion?

Council Member Butkowski: Madame President?

President Brown: What? Mr. Gillock had his hand up. Mr. Gillock?

Council Member Gillock: Just one quick question. We often have, people could take tapes and we also film the meeting, they could film it at home, yet, would you say that because this is a court reporter it carries more weight or legal weight than just the average person making a tape?

Law Director Zagrans: That's exactly the concern, Mr. Gillock, that I expressed last meeting when Mrs. Butkowski made the same observation. Of course anyone is perfectly free to take notes of the public discussions that go on at our public Council meetings. As you point out they are broadcast. People at home can make tapes, etcetera. But there's a fundamental difference between those activities on the one hand which don't carry with them any official stamp of imprimatur in a court proceeding and something that would purport to be an official transcript taken down by a certified court reporter. There should be one and only one official transcript of what goes on at Council meetings and that are the duly approved minutes of the Council meeting and the official record taken down by the Clerk of Council and that's the point. There can only be one use for a court reporter here and that is an attempt to some how establish a competing record and I suggest to Council that a competing record would be opening a can of worms that I think better be left closed.

President Brown: Thank you. Any other discussion?

Council Member Butkowski: Madame President?

President Brown: Yes?

Council Member Butkowski: This is the month of November where we celebrate and honor our Armed Forces living and deceased. Twenty-five people from the City of North Ridgeville over the years have died for our freedom of speech. For us to take away, for whatever reason we think, this man has freely walked into this room and is sitting down, taking down what no one should have any problem discussing in a free and open meeting. We do have laws in this country to prevent people from not having a freedom of speech and a freedom to record that in a public meeting. I think it would be a travesty and a dishonor to every person that has served to protect our nation for that right and who has died for it.

President Brown: Thank you. Mr. Zagrans?

Law Director Zagrans: Madame President, let me make it absolutely clear what I understand Mr. Swindig's motion to be and what I advocated both at the last meeting and this. In no way is anyone asking this Gentlemen or anyone else not to participate in this meeting, not to listen to the meeting, not to be able freely to express his views on any subject. He can stay for as long as he wishes. The motion is merely to prohibit him from taking down a transcript of the proceeding. That does not implicate in any way shape or form any first amendment rights or freedom of speech rights that I am aware of.

President Brown: Any other discussion? I call for the vote.

Yes, 5 No, 2 (Minnick, Butkowski)

President Brown: I will ask you to please leave.
Law Director Zagrans: No, not leave Mrs. Brown, simply to refrain.
President Brown: Stop recording.
Law Director Zagrans: He's welcome to stay.
President Brown: You're welcome to stay.
Law Director Zagrans: Thank you Sir.

President Brown: I would like to continue with the meeting.

MINUTES

Public Hearing Minutes of November 6, 2000

motion to accept by Swindig, 2nd by Borocz.

President Brown: Any discussion? Mr. Zagrans?

Law Director Zagrans: I have two typos to point out on page 3 of the minutes. The first is about a third of the way down, President Brown says, "Right. Please cease and", the next word should be desist, not "decease". Finally at the very bottom of the page there's an X before President of Council that should be deleted.

President Brown: Thank you.

Council Clerk White: So done.

President Brown: I don't want no one to be deceased. Any more discussion? Take roll on the T 123-2000.

Council Clerk White: Overby?

Council Member Overby: Yes.

Council Clerk White: Swindig?

Council Member Swindig: Yes.

Council Clerk White: Borocz?

Council Member Borocz: Yes.

Council Clerk White: Minnick?

Council Member Minnick: Yes.

Council Member Butkowski: Are we voting on the Public Hearing or the Regular Minutes?
You said . . .

President Brown: T 123-2000.

Council Member Butkowski: We're voting on the Public Hearing Minutes there.

President Brown: Yes, T 123-2000, November 6th.

Council Member Butkowski: Yes.

Law Director Zagrans: Madame President?

President Brown: Yes?

Law Director Zagrans: I show that it's T 131-2000 as Mrs. Butkowski, I think, indicated on the minutes.

Council Clerk White: It's incorrect.

Council Member Gillock: The agenda says 123.

President Brown: Yep. The agenda says 123.

Council Clerk White: I said 123, it says 123 but on the minutes itself it says 131.

President Brown: So, it's 131.

Law Director Zagrans: I believe that's right.

Council Clerk White: I believe that's correct.

President Brown: Thank you. Thank you Mrs. Butkowski. Now, we're voting on the minutes from the Public Hearing November 6th, 131-2000.

Council Clerk White: Let's re-vote.

President Brown: Let's re-vote. Mr. Overby.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for the amended minutes of the Public Hearing.

Regular Council Minutes of November 6, 2000

President Brown: I need motion to accept?

motion by Borocz to accept, 2nd by Overby

President Brown: Any discussion? Mr. Zagrans.

Law Director Zagrans: I wish to correct two typographical errors on page eight and nine. On page eight, about two-thirds of the way down the page, sections A.06 and A.08 rather than 8 point.

Council Clerk White: Those are A's.

Law Director Zagrans: Yes, those should be capital A's.

Council Clerk White: Okay.

Law Director Zagrans: And then, page nine, four lines from the top, "his demand is not futile", nor, n-o-r, rather than "not". Thank you.

President Brown: Corrections are made?

Council Clerk White: Corrections are made or will be made.

President Brown: Any other discussion? Mrs. Minnick.

Council Member Minnick: Page eleven, the eighth line down in the first paragraph where it says President Brown, so it would be the eighth line down, "is" should not be there.

Council Clerk White: The President Brown should not be there?

Council Member Minnick: No, no, no, no. I asked this Council and you to get another legal opinion, there's "asked is", "is" should not be in there, that's on the one, two, three, four, five, six, seven, eighth line down.

Law Director Zagrans: Eighth line down from where it says President Brown.

Council Clerk White: Oh, okay.

Law Director Zagrans: Not from the top of the page.

Council Clerk White: I follow you.

Council Member Minnick: Yes, actually the first paragraph.

Council Member Minnick: Thanks.

President Brown: Is that the only correction that you have? You'll make the corrections Mr.

White?

Council Clerk White: I will get it made, yes ma'am

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. Regular minutes seven, zero with corrections.

President Brown: Please note:

Planning Commission Special meeting Minutes of September 27, 2000 and

Civil Service Commission Minutes of November 15, 2000

President Brown: Committee reports Mr. White, please.

COMMITTEE REPORTS

Council Clerk White: I have no committee reports.

President Brown: Moving on to Mayor's report.

MAYORS REPORT

President Brown: Mr. Johnson is setting in for the Mayor. The Mayor is not feeling well today.

Safety-Service Director Johnson: There is no Mayor's report.

President Brown: You don't look like Deanna.

Council Clerk White: Let's don't get into looks please.

Safety-Service Director Johnson: There's a Safety-Service Director's report.

President Brown: Okay.

SAFETY SERVICE DIRECTOR'S REPORT

Safety-Service Director Johnson: Wallace Boulevard has been paved and bermed, the raising of manholes will be done as soon as the risers arrive from the manufactures.

Street pads, sidewalks and drive apron work has been performed on Gate Moss, Ridge Plaza and Albert.

The following roads have been patched: north end of Case, parts of Barres, Cornell, Emerald, Pearl, Opal, Eastview and some of Lee Street.

There were several water problems since the last report. There were two on Case Road, two on Center Ridge. A hydrant was replaced at 34396 Highland Drive.

Ditch cleaning and piping took place on Cornell, Otten and Glendale.

Spot berming took place on Center Ridge, Route 83 and Chestnut Ridge and that concludes my report.

President Brown: Thank you Mr. Johnson. Any questions of the Safety-Service Director's oral report? Moving on to the Engineer's report, Mr. Lovece.

ENGINEER'S REPORT

Engineer Lovece: Yes Madame President, thank you. Bainbridge Road reconstruction, today they paved the south side of Bainbridge Road from Wil-Lou to about a thousand foot shy of Chestnut. As we're all aware, the weather is unseasonably cold. We're looking at the next available date completing that south side. It may take a day, it may take two days to complete the south side of Bainbridge Road. So that will be available to two-way traffic. Weather permitting also with intent to pave the top coat next week. From what I hear long range forecast is that the weather is going to pick up a little bit next week in temperature. The bridge is progressing. I would still estimate a completion date of January. The only thing that I think will be undone at the end of this year besides the bridge is the sidewalk on the south side of Bainbridge. But, the main goal, obviously, is to get it open to two-way traffic and expedite the bridge as well and get that open in January.

Case Road reconstruction, we've done everything except the top coat of asphalt due to the same problem with the weather. In fact we foresee, we, if I'm using the right grammar, we saw bad weather coming and we had the contractor work on a Sunday to expedite and get both lanes paved, everything but the top coat and pavement markings. So, when the weather permits, we'll complete the top coat on Case.

Before you tonight is two resolutions regarding applying for a loan from the Ohio E.P.A. for our two million gallon water tower. Now, what we're trying to do. Let me just backtrack what happened. In about 1998 we applied for a loan from the Ohio E.P.A. because we knew there was a possibility of getting funding, although slim. Since then we've been put on, actually the top of the list and currently their interest rate is 4.28 percent which is a super rate. I will let the Auditor elaborate on that. But, we have the possibility of saving perhaps up to \$200,000 over the life of the loan which is twenty years. So, we already have the funding in place, but if there's a more economical way to do it, it's certainly worth doing. The only draw back is that some of the paper work is quite involved and so what I'm asking for tonight is just the first reading so we get this thing progressing. But, we'll probably apply for a loan in January and we'll take it from there, we'll see how it, we have to weigh the situation out but it looks like we can save money using the E.P.A. and last but not last...

The new water tower is under construction. They started the excavation for the foundation and things are going quite smooth. That's all I have this evening.

President Brown: Any one have any questions of the Engineer's oral report?

Council Clerk White: The resolutions that you're referring to will have to be...

President Brown: Given a number.

Council Clerk White: ...will have to be introduced.

Engineer Lovece: Oh yes. If they could be introduced that would be appreciated and have it's first reading.

Council Clerk White: Okay, I'm just saying they're not introduced as of yet.

Council Member Butkowski: Madame President? I wanted to ask the Engineer a question. This resolution was introduced by the Mayor but I guess you probably started it. How come this stuff didn't meet closure?

Engineer Lovece: Well, like I said, the paper work is so involved and we didn't know we needed to do it at this specific time otherwise I would have done it in advance. Some of the paperwork is very involved to do this. That's the draw back.

Council Member Butkowski: Closure was Thursday at 4:30.

Engineer Lovece: We didn't get it done until Friday.

Council Member Butkowski: Just wondering.

Council Member Gillock: You'll have to suspend By-Laws.

Engineer Lovece: But I'm not asking for passage so.

President Brown: Any other questions? Mrs. Minnick.

Council Member Minnick: Is there anything in the works for constructing Gloria Avenue?

Engineer Lovece: That'll be next years project.

Council Member Minnick: Is anything being done to make it smoother?

Engineer Lovece: I believe the Service Department has added some stone along Gloria.

Council Member Minnick: Okay, thank you.

Engineer Lovece: Your welcome.

President Brown: Anyone else have any questions of the Engineer? Moving on to the Auditor's report, Mr. Costin.

AUDITOR'S REPORT

Auditor Costin: Thank you Madame Chairman. First item is, Council should have received the October 31st of 2000 Financial Report and I request your passage.

Auditor's Written Report for October 2000

so moved by Swindig, 2nd by Butkowski

President Brown: Discussion. Roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero

Auditor Costin: If I might just take another minute and delineate on the financial aspect of these resolutions. What happen was, originally when Council saw fit to pass the ordinance for the water tower we also deemed it necessary to have financing in place which we were going to do through bon anticipation notes which have in fact been issued. Since that time we were actually

approached by Ohio E.P.A. or some representative of the organization indicating that there was this loan monies available. They haven't had tremendous success on takers and that's one of the reasons we're trying to figure out why. They have a lower interest rate and the fact is over the twenty year term it would save us somewhere between \$150,000 and \$200,000, which sounds like a lot, it is a lot, but also keep in mind it's over a twenty year period. However, it does come with some strings attached and that's what takes the time to go through and figure out. Are they controlling our rates? What is our flexibility with rate increases we need? There are projections we have to do. There's a significant amount of work we have to do to meet this. Now, there is no particular rush to get it completed except to say that finally the construction of the water tower is beginning. So, we are attempting to try and meet the next meeting of the committee that would approve this loan which would be mid December sometime, I believe December 12th. We were unaware that they had certain deadlines which we had to meet for them to consider it at this meeting. Well, with the packet of information we have that's about an inch and a half thick, I'm not comfortable in actually going that route just yet until we examined all the other information which is going to be a requirement of not only our office but the administration including the Engineer. What we would like to do is start the process. I'm not even entirely sure we have to consider this until the next meeting but if we do see it fit to pass we probably want to pass it with the emergency at the next meeting so we'd be considered at the Ohio E.P.A. January meeting. I will assure you that we don't want to go that route until we've examined all the other information that is related hereto to determine if we are in fact going to save \$200,000. Because as I said, there are other fees attached and certain requirements including controls over construction and so forth that we just want to make sure that we're familiar with before we move forward. But, the urgency was as of last Thursday or Friday we were going to attempt to get to meet their December deadline. As of this point, the Engineer and myself both are not yet totally comfortable to ask you to pass this by emergency tonight. That's a delineated explanation that I probably didn't need to go into but I thought it was important for you to know what's going on. We're not trying to rush this thing through and if in fact we can save the City some additional money through this loan program we'll encourage you to do so but it will probably be at the next meeting. Thank you that concludes my report.

President Brown: Thank you Mr. Costin for explaining that. Moving on to the Law Director's report, Mr. Zagrans.

LAW DIRECTOR'S REPORT

Law Director Zagrans: Thank you Madame President. Since last Council meeting on November 6th there have been the following developments in three litigation matters and in two legislative matters implicating the City. The first litigation matter is the City of North Ridgeville versus Lorain County Board of Elections. As I indicated we would do during my Law Director's report at last meeting, on November 13th the City voluntarily withdrew its appeal because, given the November 7 General Election, the appeal is moot. The STAMP Committee and their attorney, Mr. Phillips, have yet to withdrawn their appeal. We continue to hope and assume they will do

so.

Second, the Ohio Supreme Court case dealing with Kingston Place. On November 7, Mr. Phillips filed his bill for almost \$32,000 in attorneys fees that he is seeking to be paid, not by his clients the STAMP Committee who hired him, but by all the taxpayers of the City of North Ridgeville. He is attempting to charge the City \$175 an hour for 182 hours supposedly spent working on the case. On behalf of the people I have filed objections to what I believe to be an inflated and unreasonable bill. The City pays me \$150 an hour for litigation matters and Ohio cases say that when a privately retained lawyer files a suit in the name of the City because the Law Director has declined to do so, the private lawyer should not be paid at a higher hourly rate than the Law Director. With the blessing of his clients, Mr. Phillips seeks to charge the City for large amounts of money that were simply not important to the lawsuit he filed. Let me give you just three examples to illustrate what I'm talking about. First, he's charging the taxpayers over \$1,600 just for attending four City Council meetings which lasted all together almost ten hours. These Council meetings were in three cases months before the lawsuit was brought. Second, because the minimum charge he bills for is fifteen minutes, in other words, even for a one minute telephone call he charges fifteen minutes minimum, he is billing the City \$350 for making eight one minute phone calls to the Ohio Supreme Court to check on whether the City had yet filed its briefs. Third, he's apparently trying to charge the taxpayers of North Ridgeville \$3,500 for drive time, that's right, for almost twenty, for about twenty hours spent driving for different pleadings on four different days from Avon to Columbus and then driving back from Columbus to Avon, we're being billed for that at \$175 an hour. But, most significantly, Mr. Phillips has four time entries for August 24, 2000. Two and a quarter hours for doing the first thing, thirteen and three quarters hours for the second, nineteen and three quarters for the third and two and three quarter hours for the fourth. Add them all up and Mr. Phillips seeks to charge the City for thirty-eight and a half hours he spent on this case on August 24, 2000 and that's not the only day he worked more than twenty-four hours in a day. On August 31, 2000 his bill lists twenty-eight and three quarter hours he worked that day on this case, supposedly. If anyone doubts me, I have his fee bill right here and we'll make it available for any one to see. It's a public document. Parathetically, I requested the very brief depositions of four of Mr. Phillips clients and himself to ask limited and focused questions about these and some other discrepancies in his fee bill. Maybe I'm reading it wrong, although it doesn't seem likely to me. However, Mr. Phillips refused to produce his clients for deposition and put so many restrictions and conditions on what questions he would and would not answer that it wasn't worth even trying to depose him under those circumstances. Mr. Phillips asked the Ohio Supreme Court to protect him and his clients from my attempt to depose them. On Friday November 17th, the Supreme Court denied his request for a protective order. Accordingly, I intend to take these short and specific depositions within the next week and to supplement our objections to his fee request with whatever new information I may learn. No doubt you will hear Mr. Phillips and his clients try to blame me for the taxpayers having to incur the cost of his attorneys fee. If only I had ruled differently last April, they will say. But I do not, and will not, take credit for his charging for more than twenty-

four hours in a day or for the other unreasonable entries that he has placed on the fee request that he filed with the Ohio Supreme Court. Obviously, I hope the Court rejects out of hand his request for attorneys fees that I believe outrageously insults the taxpayers of North Ridgeville and we await the Court's decision.

The final litigation matter involves the Ohio Elections Commission. Unbeknownst to us, when Council last met, Mr. Phillips and his client, an entity called the Your Neighbor Your Vote Committee, filed an election fraud complaint against the Citizens for Equal Votes Committee with the Ohio Elections Commission. Mr. Phillips did not identify who comprises the Your Neighbor Your Vote Committee other than to identify its Chairman, John Prajzner. Let me tell you who Mr. Phillips, Mr. Prajzner and their cohorts accuse of committing election fraud. The co-chairs of the Citizens for Equal Votes Committee are Father David Hyland of St. Peter's Parish, June Yost, the Executive Director of Community Care, Bob Schmidt, the respected business man and builder, Mayor Hill and School Board Member Robin Hrabik. Then, when all five of those individuals drove two and a half hours to Columbus for a hearing that had been scheduled on Thursday November 9 to clear themselves of the charges of election fraud, they arrived in the Columbus area only to learn that Mr. Phillips had withdrawn the charges that morning while they were in route. Given the fact that Mayor Hill's work day in public duties were adversely impacted by a complaint that was withdrawn at a time that would impose the maximum inconvenience on her, Father Hyland, Mrs. Yost and the others, I intend to launch an investigation into the circumstances surrounding the activities I have just described.

Now, let's move on to the two legislative matters that I referred to. First Members of Council, on Kingston Place there are four pieces of legislation dealing with the repeal of all of the facets of the Kingston Place PCD in the wake of Mayor Hill's successfully persuading the developers of Kingston Place to withdraw their application for PCD status. Mayor Hill introduced two pieces of legislation. T 140-2000, an ordinance to rescind and repeal the final plan of area development for Kingston Place and T 141-2000, a resolution to rescind and repeal preliminary plan approval for Kingston Place. Council Member Minnick introduced two pieces of legislation. T 142-2000, an ordinance to repeal the final plan for Kingston Place and T 143-2000, an ordinance to repeal the preliminary plan approval of Kingston Place. Obviously these are redundant pairs of legislation. Since the repeal of Kingston Place as a PCD must go to Planning Commission, have a public hearing and receive three readings, I recommend to the Council that you give all four of the proposed pieces of legislation a first reading tonight under suspension of By-Laws and that all four be referred to Planning Commission and scheduled for a Public Hearing on the same day, the two introduced by the Mayor, the two introduced by Mrs. Minnick. I echo the sentiments of The Chronicle Telegram editorial on Thursday, November 16 that Mayor's Hill decision to secure the agreement of the developers to stop the Kingston Place PCD that she had previously supported was quote, the right thing to do. Even though she could have continued to support the project and it could have gone forward, Mayor Hill rose above the partisan rhetoric and took the more farsighted and statesmanly course. As the editorial said, and I quote, an elected official

who bows to the will of the electorate, even if it runs counter to her own views, serves the interests of democracy, end quote. It seems to me that it's long past time to stop the distractions and acrimony and get back keeping our eyes on the prize. The prize here is to ensure that the inevitable growth and development of the City of North Ridgeville is accomplished in the most beneficial manner possible for all the Citizens of this community. This does not mean that only one particular group's views, no matter how vocal or influential that group may be, should be implemented or ignored. It means being able to control and regulate the growth and ensure that the City and not the developers, and not the STAMP Committee, is in control of the planning and of the process. That is precisely the purpose of Planned Community Developments. It seems to me time for the opponents of Kingston Place and the supporters of Kingston Place to put their differences behind them and close ranks for the greater benefit of North Ridgeville. Kingston Place as a PCD is about to be history. It is time for STAMP and the other opponents of Kingston Place to pay more than lip service to their oft repeated statements that they do not oppose the idea of PCD's just the way that Kingston Place, this particular PCD was designed. It is time for them and others in the City to step up and support, for example, the plans for a nine million dollars 6.2 mile long interceptor sewer for the western half of North Ridgeville and particularly support the plan negotiated by the Mayor to have the private developers pay over eighty percent of that cost instead of the taxpayers of North Ridgeville. Finally, as The Chronicle editorialized, North Ridgeville needs to keep debating these issues and projects crucial to the City's future, quote, and it can now do so thanks to Mayor Hill in a less poisoned climate, end quote.

The final legislative matter that I want to call to Council's attention deals with Meadow Lakes and Waterbury, the other PCD projects that I just eluded to. On November 15, 2000 Council Clerk Jim White certified as having a sufficient number of signatures the referendum petition directed at Ordinance No. 3621-2000 adopted on the October the 2nd, that is the Waterbury preliminary PCD plan approval, as well as the referendum petition against Ordinance No. 3628-2000 adopted on October 16, that's the preliminary plan approval for the Meadow Lakes PCD. As I told you last meeting, these referendum petitions ask City Council to reconsider both of those ordinances and either repeal them or place them on the ballot at the November 6th, 2001 General Election which is the next regular election as that term is defined by Ohio law. So, what the petitioners are seeking is either the rescission, which means the death now, of those two PCD projects or to put them on hold for a year until the next general election. The two ordinances that are the subjects of the two referendum petitions were enacted in October with the emergency clauses. Emergency legislation is not subject to referendum according to Ohio law. On November the 2nd Mr. Phillips demanded that I render a legal opinion to the effect that the emergency clauses were improper and should be removed. He went on to insist that I file a lawsuit against the City and against City Council in order to force Council to remove the emergency clauses if Council would not willingly follow my legal opinion. I told Mr. Phillips then, that I was uncertain of the basis of his position that the emergency clauses weren't proper or contrary to City Charter. I am uncertain because all Mr. Phillips said in his November 2 letter was that in his opinion the City Charter did not allow changes in zoning to be made by

emergency legislation. However, Mr. Phillips is also on record as stating his belief that the approval of the preliminary PCD plans for Waterbury and Meadow Lakes did not accomplish a change in zoning under our law from the R-1 to the PCD zoning classifications. So which is it? Are they emergency because they don't accomplish the zoning? Are they not emergency because they do accomplish the zoning or what? I have asked Mr. Phillips four different times for clarification of his legal position on these two ordinances and all he has done is parrot my Kingston Place legal opinion, an opinion by the way that is now moot with the withdrawal of the PCD application, back to me. That is not helpful. I told Mr. Phillips I wanted his clients legal position by the middle of last week so that I could render an informed legal opinion as he requested at tonight's meeting. Mr. Phillips refusal to cooperate means that my decision will be delayed until the next Council meeting on the December the 4th so that I can research all the possible meanings and implications of Mr. Phillips's statements in his letters. It would have been preferable just to answer my straight forward question and tell me what they contend rather than make me guess at their legal arguments and positions. In the meantime, Council Member Minnick has introduced two ordinances that are on the agenda for tonight, T 144-2000 and T 145-2000, to repeal ordinance numbers 3621 and 3628 respectively. Those proposed ordinances are appropriate and they are in order regardless of whether the two ordinances they seek to repeal are the proper subject of referendum. That is because Council can always reconsider its prior decisions whether or not a referendum petition has been filed. Therefore, I respectfully recommend to Council that it suspend By-Laws to give Mrs. Minnick's two proposed ordinances a first reading tonight. Thank you. That concludes my report for this evening.

President Brown: Thank you Mr. Zagrans. Questions? Mrs. Minnick?

Council Member Minnick: Well, I don't know where to begin because the report was full of twistedness and misleading information. But, one thing I will address is, are you saying that Mayor Hill's legislation to withdraw Kingston was because she persuaded Kingston to withdraw or is it because of the November 7th vote?

Law Director Zagrans: Both. Mayor Hill after the November 7th vote contacted the developers of Kingston Place and asked them and persuaded them to withdraw their PCD application.

Council Member Minnick: But, whether she would have persuaded them or not, it still should have been repealed because that's what the referendum petition was all about. There's a rumor that Kingston lost the option on 70 acres. Do you know anything about that?

Law Director Zagrans: I do not. I have not heard that rumor.

Council Member Minnick: Okay. The emergency that you're talking about on Waterbury and Meadow Lakes is inappropriate if we go by your opinion that the preliminary plan approval automatically rezones. Now, since you will not write up an ordinance or consider an ordinance to approve for a preliminary plan and for a rezoning then since there is a vote of five to two here that goes along with your decisions, the STAMP Committee and I know myself and probably Mrs. Butkowski, have no other alternative but to go by your legal opinion. We're in a catch twenty-two situation. We have, the referendum had to be on the preliminary plan approval because you are considering the preliminary plan automatically rezoning. Now, if we go to the

City Charter it states specifically in Section 3.13 that any change of zoning cannot have the emergency added. Now, whether or not the Committee or myself or Mrs. Butkowski agree with your legal opinion, we have to play by your rules because we're out numbered, so I would like to make that perfectly clear. Also, in your ordinances written for Mayor Hill, I'm going to assume you wrote them, you talk about the preliminary plan automatically rezoning. Now I don't agree with that and I'm glad you're sending that to committee because then we can whittle down which two of these ordinances should be appropriate. But, I have to state on record that I do not and never have agreed with your legal opinion that the preliminary plan automatically rezones. Our Charter states that you need two specific ordinances, you have stated in the past that we need two specific ordinances, and with this flip flop decision has gotten this City in the problems that it has and the legal bills that have mounted up.

Law Director Zagrans: May I?

President Brown: Yes Mr. Zagrans.

Law Director Zagrans: If there was a questions there Mrs. Minnick, I will try to divine it. I have not rendered a flip flop legal opinion when it comes to the issues before Council presently. The Waterbury and Meadow Lakes PCDs are what is before Council. There has been no flip flop by me. Indeed, as I said in my report, I will render my legal opinion that I have been requested to render and that the referendum petitions require me to render at next Council meeting. That will be the first legal opinion that anyone in this City will have heard from me on Meadow Lakes and on PCD preliminary plan approvals.

Council Member Minnick: I have one question then. Do you consider Meadow Lakes and Waterbury's preliminary plan approval a rezoning issue.

Law Director Zagrans: That will be part of the legal opinion that I am being called upon to render, which I will render at the December 4 meeting. I intend to consider the arguments that Mr. Phillips and you and others have made in that regard very carefully before I render my opinion because I see and fully recognize the importance of the issue.

Council Member Minnick: Then if you decide that there needs to be a rezoning ordinance, then are you saying that the residents or the STAMP Committee or whoever needs to go and referendum that ordinance.

Law Director Zagrans: I don't want deal in hypotheticals because I don't know what my decision is going to be two weeks before I give it. I intend to spend the next two weeks considering it extremely carefully. That's why, frankly, it would have been a great benefit to me to of had Mr. Phillips give me a very straight legal position to my very straight questions to him of what you and he and his clients contend in this regard. That would have helped me greatly. In the absence of that, in the absence of him just parroting back this flip flop legal opinion that I made for Kingston Place over and over again doesn't advance the ball for our deciding what to do about Waterbury and Meadow Lake, two different PCD applications.

Council Member Minnick: But, Mr. Zagrans, you made a legal decision several months ago when you said that that no rezoning ordinance needed to be written because the PCD automatically rezoned and that question was brought up on the floor and it was brought up between you and Mr. Phillips I know and now you're changing your mind.

Law Director Zagrans: Not necessarily Mrs. Minnick. Don't you acknowledge that there had been a whole lot of developments that have happened since April of this past year that have a direct bearing on this. I need to consider those very carefully. I'd be remiss in my duty and obligation if I didn't consider all of those developments that have happened since April the 17th of this year very carefully.

Council Member Minnick: Yes, I will agree that there have been a lot of changes of opinion about the rezoning and a preliminary plan and a lot of legal fees have been incurred because of that and now we're going to incur more because there still undecided. That's what I understand.

Law Director Zagrans: I wouldn't, you know, unless you're telling me that there's going to be litigation that's being threatened regardless of what I decide, I wouldn't necessarily predict that Mrs. Minnick. There's been no changes in legal opinions with respect to Waterbury or Meadow Lakes because there hasn't been a legal opinion yet. That's what's coming on December the 4th.

Council Member Minnick: Well, I guess those legal opinions were used when referendum petition was circulated because of your decision on rezoning and preliminary plans for Kingston so, since you did not write rezoning ordinances when you wrote preliminary plan ordinances for Waterbury and Meadow Lakes it was assumed that your decision would carry over from Kingston to Meadow Lakes and Waterbury. You were so adamant that we only needed one ordinance. That...

President Brown: Okay, moving on.

Council Member Minnick: Yes, please.

OTHER REPORTS

President Brown: We have:

Fire Department Report for October 2000;

Building Department Report for October 2000;

Police Department Support Car Report for October 2000;

Water System Operation Report for October 2000; and

Police Department Report for October 2000.

Is there a report Mr. Overby on the:

Parks & Recreation Commission Liaison Report:

Council Member Overby: Next meeting is December 6th.

President Brown: Thank you. Planning Commission, Mr. Gillock, do you have?

Planning Commission Liaison Report:

Council Member Gillock: You'll see several items coming up soon from Planning. In addition, just mention it now, there's a Special Planning Commission meeting scheduled for November 28th, special meeting to consider the TOPS application.

Council Clerk White: November 28th?

Council Member Gillock: Yes.

President Brown: At what time?

Council Member Gillock: I believe it's at 7:00 P.M.

President Brown: Is it in here?

Council Member Gillock: It's in your packet but I should have it here.

President Brown: Okay, it's already been posted.

Council Member Minnick: 7:00 P.M.

President Brown: 7:00 P.M., okay.

Senior Citizens Advisory Board Liaison Report:

President Brown: I am the Senior Citizens Advisory Board Liaison from Council and I have a few things I would like to say. I attended the Advisory meeting last Thursday and I am proud to announce that there was over 1,000 flu shots given in four hours at the Senior Center on November 14th. I am also proud to say that the Police Department did a terrific job in handling the traffic that came forward when we had the flu shots and that they did an excellent job. I also would like to tell you that the Spaghetti Dinner that was held at the Senior Center, we had a profit of \$1,000 thanks to all the people that participated, thanks to Kerry Mueller who did the cooking for it, for all the volunteers who came forward and participated. Also, there is on December 2nd a craft show at the Senior Center from nine to four and we are hoping that you will come and buy your Christmas gifts from the Senior Center. Also we have meals on wheels and we are in need of volunteers for Grafton and for LaGrange. We have approximately 15 people that are receiving meals on wheels in that area and the people who were supplying them has moved to Florida so we are in dire need of volunteers. You know you can come to the Senior Center whenever and volunteer for anything there. We're always grateful to see you. We'll greet you with open arms. Thank you.

Council Clerk White: Madame Chairman, I have a question.

President Brown: Yes.

Council Clerk White: When will the flu shots be given again? There's several of us senior citizens that didn't get ours.

President Brown: You're not going, they're not going to have it again.

Council Clerk White: Why?

President Brown: You'll have to get in touch with the Lorain County Health Department.

Council Clerk White: Why?

President Brown: Because they can't get the serum. It's very difficult. In fact they had them at several other locations in Lorain County and they went through so fast. There was people from North Ridgeville who went there because they couldn't get them here.

Council Clerk White: Yeah, I know. They were in line here. We just didn't get one.

President Brown: In the paper it was a mistake. They said it started at 10:00, but it didn't. It started at 10:30. It was a mistake made by the newspaper.

Council Clerk White: Okay.

'President Brown:

Planning Commission Report to Council of meeting held November 3, 2000

A Special Planning Commission meeting was held November 3, 2000 to consider the Westerly Sewer Project.

The concept of the Westerly Sewer Project was unanimously approved. Finalized facts and figures will be presented to the Planning Commission at a later date for project approval.

motion to accept by Gillock, 2nd by Overby

President Brown: Any discussion? None? Take the roll please.

Yes, 5 No, 1 (Minnick) Abstain, 1 (Butkowski)

Council Clerk White: Motion carries five one, one.

President Brown: You didn't take my vote.

Council Clerk White: Mrs. Brown?

President Brown: Yes.

Council Clerk White: Five, one, one.

President Brown: How about let's get into the other reports with the Planning Commission and let's read them please.

Council Clerk White: Okay.

Planning Commission Report to Council of meeting held November 14, 2000

Applicant: Keith M. Payne, 34009 Dodge Avenue; submitted by City Council

Owner: City of North Ridgeville

Request: Vacate unimproved portion of Dodge Avenue; 30 feet by 40 feet on the north side, 30 feet by 107 feet on the south side of Dodge Avenue

Location: West end of Dodge Avenue
(Postponed from meeting of October 10, 2000.)

Application was unanimously approved contingent upon making termination of the Dodge Avenue right-of-way a straight line at the 107 foot point and upon allowing snow plowing onto grassy area at the dead end. Mr. Payne agreed to plant trees along the ditch to buffer the adjacent property owners on Wil-Lou.

motion to approve by Gillock, 2nd by Overby

President Brown: Discussion? Vote please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

Applicant: North Ridgeville Community Care, 6287 Lear Nagle Road

Owner: Mark Giaco; Normark Enterprises, Inc., 34011 Center Ridge Road

Request: Construct 50 foot by 100 foot building

Location: 34011 Center Ridge Road, on 5/8 acre of land behind Arby's
Permanent Parcel No. 07-00-017-130-005

Application was unanimously approved. Planning Commission recommends approval of the ordinance to rezone the R-1 Residence District portion of the property, 0.6061 acres, to B-3 Highway Commercial District and same is recommended to Council.

motion to approve by Gillock, 2nd by Swindig

President Brown: Discussion? Mrs. Minnick?

Council Member Minnick: Because this is in my Ward I am concerned that the buffering that protects abutting residents will be reduced. If any rezoning is considered we need to address this concern before we are asked for final approval of the rezoning.

President Brown: Any other discussion? Take roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

Applicant: Visconsi Companies, Ltd.; Acciarri Draeger & Assoc., 17710 Detroit Avenue, Lakewood, Ohio 44070

Owner: Jimmy F. Hales, 33690 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.

Application was tabled at applicant's request until the traffic study is completed and can be considered by Planning Commission.

motion to approve by Gillock, 2nd by Borocz

President Brown: Discussion?

Council Member Butkowski: Yes, while I'm in favor of TOPS, I shop there every week, I do hope that this traffic study is taken under consideration before anything goes ahead because otherwise, we have a major problem there now. It'll only get worse.

President Brown: Any other discussion? Roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero

Applicant: Beckett Air, Inc.; Clark & Post Architects, Inc., 6125 South Broadway, Lorain

Owner: R. W. Beckett Corporation, P. O. Box 1289, Elyria, 44036

Request: 60,000 square foot addition to manufacturing building; 15,360 square foot addition to parking lot; 22,425 square foot paved loading area

Location: 37850 Taylor Parkway, Permanent Parcel No. 07-00-038-000-126

Application was unanimously approved contingent upon Taylor Parkway being recorded and dedicated.

motion to approve by Gillock, 2nd by Swindig

President Brown: Any discussion? Seeing none, vote please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

Applicant: Frank J. Dettore, 37000 Center Ridge Road

Owner: All-Purpose Construction, Inc., 37000 Center Ridge Road
Request: Final plan approval of Phase I of Meadow Lakes PCD
Location: Property located east of Case Road, West of Stoney Ridge Road, north of Center Ridge Road and south of the border with Avon,
Permanent Parcel No. 07-00-043-000-019 and -032, 07-00-042-000-005 and -007

Application for Phase 1 was unanimously approved contingent upon:

- 1) The street names being resolved to the satisfaction of the Building Department, Police and Fire Departments,
 - 2) The water main must be connected to the 42 inch rural water main under construction or to Stoney Ridge Road as part of this Phase, and
 - 3) The sanitary sewer being constructed as part of this Phase.
- motion to approve by Gillock; 2nd by Swindig

President Brown: Discussion? Roll please.

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. That's all of the Planning Commission report.

OLD BUSINESS

President Brown: Old business, I don't think we have any old business. Moving on to new business.

NEW BUSINESS

Council Clerk White:

T 138-2000 An ordinance authorizing payment to Finkbeiner, Pettis & Strout, Inc. for professional engineering consulting services, not to exceed \$36,000.00.

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.

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.

(Tape end) (Tape begin)

Council Member Gillock: ...this be assigned a T number for this evening, have a first reading this evening.

Council Clerk White: Would you please repeat that?

Council Member Gillock: Excuse me. We want to make sure it has it's first reading tonight. It all ready has a T number. I'm sorry.

Council Clerk White: You want to suspend By-Laws to have the first reading?

Council Member Gillock: Suspend By-Laws to have first reading

Council Member Swindig: I'll second that.

motion to suspend By-Laws to have a first reading by Gillock, 2nd by Swindig

President Brown: Discussion? Is that T 140-2000?

Council Clerk White: T 140-2000, suspend By-Laws to have first reading tonight.

President Brown: Please take the vote on the suspension.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 140-2000 will have first reading tonight.

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.

motion by Swindig to suspend By-Laws to give it its first reading tonight, 2nd by Borocz

President Brown: Discussion? Take roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 141-2000 will have first reading tonight.

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.

motion by Swindig to suspend By-Laws to give it its first reading tonight, 2nd by Gillock

President Brown: Discussion? Take roll on the suspension.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 142-2000 will have first reading tonight.

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.

motion by Borocz to suspend By-Laws to give this a first reading tonight, 2nd by Swndig

President Brown: Any discussion? Roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 143-2000 will receive first reading tonight.

T 144-2000 An ordinance repealing Ordinance No. 3621-2000 the preliminary plan approval for the Waterbury Planned Community Development situated on approximately 640 acres located between Sugar Ridge, Bender and Chestnut Ridge Roads and adjacent to the border with Eaton Township.

motion by Minnick to suspend By-Laws for first reading tonight, 2nd by Swindig

President Brown: Discussion? Take roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 144-2000 to have first reading tonight.

T 145-2000 An ordinance repealing Ordinance No. 3628-2000 the preliminary plan approval for the Meadow Lakes Planned Community Development situated on approximately 595 acres located east of Case Road west of Stoney Ridge Road, north of Center Ridge Road, and south of the border with Avon.

motion by Minnick to suspend By-Laws for first reading tonight, 2nd by Gillock

President Brown: Discussion? Roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 145-2000 to have first reading tonight.

Council Member Swindig: Madame Chairman?

President Brown: Yes?

Council Member Swindig: We have two ordinances that was, tonight that we need T numbers assigned to or two resolutions for T numbers. The resolutions for the Mayor filing application with the Ohio Water Supply Revolving Loan for the two million elevated storage tank project.

Council Member Gillock: You have to suspend By-Laws first.

Council Member Swindig: I'm doing that, I'm leading up to suspend By-Laws to give it its T number and a first readnig. T number first.

Council Member Gillock: Madame President, we need to suspend By-Laws to introduced them to even assign the number. They're not on the agenda, legally.

President Brown: Okay, who makes the motion to suspend.

Council Member Swindig: That's what I was leading up to.

Council Clerk White: He would like to suspend, he's making a motion to suspend By-Laws for the first resolution to get a T number.

Council Member Gillock: Point of order, that's out of order. I will make a motion that we suspend By-Laws to consider both ordinances submitted by the Mayor, or resolutions.

Council Member Swindig: I'll second that. I was leading up to it, you said it shorter.

motion by Gillock to suspend By-Laws to consider both resolutions submitted by the Mayor, 2nd Swindig

Council Member Gillock: We can't even discuss them unless we suspend By-Laws to discuss them.

Council Member Swindig: I was putting in the title in with the discussion, that's all.

Council Member Gillock: You can't do that.

President Brown: You were putting the horse before the cart. Any discussion? Take a roll please.

Yes, 7 No, 0

Council Clerk White: Now you can consider it.

Council Member Swindig: Madame Chairman?

President Brown: Yes?

Council Member Swindig: Taking them one at a time, can we, I'm making a motion to assign T numbers to file for the application for the two million gallon water tank project.

President Brown: Is that the one that ends with storage tank project.

Council Member Swindig: Yes.

President Brown: Second?

Council Member Butkowski: I'll second that.

motion by Swindig to assign T numbers to file for the application for the two million gallon water tank project, 2nd by Butkowski

President Brown: Discussion? Take a roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 146-2000.

Council Member Swindig: Madame Chairman?

President Brown: Yes?

Council Member Swindig: I move that we suspend By-Laws to give it its first reading tonight also.

President Brown: Is there a second?

Council Member Overby: I'll second that.

motion by Swindig to suspend By-Laws to give it its first reading tonight, 2nd by Overby.

President Brown: Discussion? None, roll please for a first reading.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 146-2000 to have first reading tonight.

Council Member Swindig: Madame Chairman, I move for the resolution for the Mayor, authorizing to enter into loan agreement with W.S.R.L.A., that we receive a T number tonight.

President Brown: Is there a second?

motion by Swindig to receive a T number tonight authorizing the Mayor to enter into a loan agreement with WSRLA, 2nd by Overby

President Brown: Discussion? Roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 147-2000.

motion by Swindig to Suspend By-Laws to give T 147-2000 a first reading tonight, 2nd by Overby

President Brown: Discussion? Seeing none, take the roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 147-2000 to have first reading tonight. That's all I have.

President Brown: Correspondence please.

CORRESPONDENCE

Council Clerk White: I have two pieces of correspondence.

- 1) Received a letter from Clerk of Council Jim White in regard to his responsibilities under Section 13.2 of the Charter, certifying the Referendum Petition regarding Ordinance No. 3621-2000 as legally sufficient.
- 2) Received a letter from Clerk of Council Jim White in regard to his responsibilities under Section 13.2 of the Charter, certifying the Referendum Petition regarding Ordinance No. 3628-2000 as legally sufficient.

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

LOBBY

President Brown: Thank you. We'll go into Lobby Session. I'll allow you two minutes to speak. Your name and your address please.

- 1) Gerald W. Phillips, 35955 Detroit Road, Avon, stated Law Director Zagrans had billed the City for attorney fees for September, regarding the Ohio State Supreme Court case, for 88 hours, \$15,000.00, October bill also for \$15,000.00 and the November bill is not available. He further stated he was at Zagrans office on November 14 for a deposition with his own court reporter and Zagrans refused to take his deposition. Mr. Phillips further explained his billing to the City and that Mr. Zagrans failed to appear for his deposition on November 20.
- 2) Josephine Perryman, 38565 Sugar Ridge Road, stated Mr. Zagrans praises the Mayor for changing the Kingston PCD back to R-1 with little mention of the 64 percent voter opposition, proving the need for amending the general PCD ordinance but still you march forward with two more PCD's the same as Kingston Place.
- 3) John Prajzner, 35140 Mildred Street, responded to Mr. Zagrans requesting STAMP to make a legal opinion, stating they are not attorneys and it is Mr. Zagrans job to make legal opinions for the City and requested his resignation.
- 4) Nancy Buescher, 36669 Center Ridge Road, stated court reporters attend Council meetings regularly throughout this area and she questioned whether this court reporter's civil liberties are being violated.
- 5) Gerald Phillips, 35955 Detroit Road, Avon, asked why Mr. Zagrans was down in Columbus representing the North Ridgeville Citizens for Equal Vote Committee and if he is going to bill the City for his time for a political action committee?
- 6) Joseph Antush, 38500 Otten Road, stated Mr. Zagrans makes legal opinions and dares the people to keep their right through referendum, forcing the taxpayers to pay about

\$60,000.00 in attorney fees for Kingston Place, asking that he not do this to our City.

- 7) Gerald Phillips, 35955 Detroit Road, Avon, stated in connection with Waterbury and Meadow Lakes, he does not agree with the Law Director's opinion that the preliminary plan automatically rezones the property.

President Brown: I will call for a recess until five to nine.

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

President Brown: First readings, please, Mr. White.

FIRST READINGS

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.

First Reading

President Brown: I would like to ASSIGN THIS TO THE PLANNING COMMISSION.

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.

First Reading

President Brown: I would like to also put that INTO THE PLANNING COMMISSION, please.

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.

First Reading

President Brown: I would like that TO GO TO BUILDINGS & LANDS, please.

Council Member Gillock: Do you mean Buildings & Lands or the Planning Commission?

President Brown: Buildings & Lands. The first two go to the Planning Commission. The last two go to the Buildings & Lands.

Council Member Minnick: I don't think that's correct.

Council Member Gillock: Why would you do that?

Council Member Butkowski: Why would you put them in two separate...

Council Member Gillock: They should all go before Planning Commission.

President Brown: Because they've already seen the other two. This new one has not been brought before the Planning Commission that Mrs. Minnick has just submitted.

Council Member Gillock: No, we've not...

President Brown: Mr. Zagrans?

Law Director Zagrans: Madame President, with respect, I think that for the four pieces of legislation that deal with the repeal of Kingston Place, T 140, T 141, T 142 and T 143, that they all need to be referred to Planning Commission.

President Brown: Well, I thought that, well that's right because Mrs. Minnick just presented them. Well, that's right. Okay. So, they go to Planning Commission. Sorry.

Council Clerk White: T 142-2000 TO PLANNING COMMISSION.

President Brown: TO PLANNING COMMISSION.

Law Director Zagrans: Mrs. Brown?

President Brown: Yes?

Law Director Zagrans: If I may. All four of them also need to be scheduled for a Public Hearing.

President Brown: And that Public Hearing will be held, I wrote it down in my minutes here, let me see. The 16th of January because we can't have one with the Christmas Holiday and so forth and thirty days will give us January 16th. The 15th is Martin Luther King Day so our meeting will be on a Tuesday same as the 3rd, the meeting January 3rd will be on a Tuesday because of New Year's being...

Council Clerk White: Did you notify my office?

President Brown: Yes. I talked to Paula today.

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.

First Reading

President Brown: Referred to Buildings & Lands.

Council Clerk White: No, T 143-2000 gets referred to Planning.

Law Director Zagrans: That's right, Planning.

President Brown: PLANNING.

Council Clerk White: Thank you.

President Brown: Thank you Mr White.

T 144-2000 AN ORDINANCE REPEALING ORDINANCE NO. 3621-2000 THE
PRELIMINARY PLAN APPROVAL FOR THE WATERBURY PLANNED
COMMUNITY DEVELOPMENT SITUATED ON APPROXIMATELY 640
ACRES LOCATED BETWEEN SUGAR RIDGE, BENDER AND CHESTNUT

RIDGE ROADS AND ADJACENT TO THE BORDER WITH EATON
TOWNSHIP.

First Reading

President Brown: This one I will put IN BUILDINGS & LANDS, also.

T 145-2000 AN ORDINANCE REPEALING ORDINANCE NO. 3628-2000 THE
PRELIMINARY PLAN APPROVAL FOR THE MEADOW LAKES PLANNED
COMMUNITY DEVELOPMENT SITUATED ON APPROXIMATELY 595
ACRES LOCATED EAST OF CASE ROAD WEST OF STONEY RIDGE
ROAD, NORTH OF CENTER RIDGE ROAD, AND SOUTH OF THE
BORDER WITH AVON.

First Reading

President Brown: This also GOES TO BUILDINGS & LANDS.

T 146-2000 A RESOLUTION AUTHORIZING THE MAYOR TO FILE A LOAN
907-2000 APPLICATION WITH THE OHIO WATER SUPPLY REVOLVING LOAN
ACCOUNT NECESSARY FOR THE TWO MILLION GALLON ELEVATED
STORAGE TANK PROJECT.

First Reading

Council Member Swindig: Madame Chairman?

President Brown: Yes Mr. Swindig?

motion to suspend second and third readings by Swindig,

Council Member Butkowski: Madame President, I think he didn't want us to vote on that.

Council Clerk White: Wait a minute, he just made a motion, we need a second.

2nd by Overby

Council Member Swindig: Madame Chairman?

President Brown: Yes?

Council Member Swindig: May I refer to the Auditor.

Auditor Costin: Yes, thank you. At the recess I did ask Mr. Swindig if he would consider suspending second and third for the reason that upon further review of these two resolutions, what I observed was that the first actually allows us to file the application and the second would allow us to consummate the final agreement. Now, these two resolutions apparently are both required by Ohio E.P.A. These were not written by us, these were requested that they be passed by you. So to allow us to at least investigate further, and that would include, so you're aware, the administration is going to be employing CT Consultants which are familiar with these types of agreements so that we can thoroughly review this and see if we in fact will be saving the approximate \$200,000. If we can do that we will go ahead and, as I said earlier, suggest that we enter into this agreement and then ultimately pay back our bond anticipation notes that we've issued. Again, until we're perfectly satisfied I don't believe we should pass the second resolution but I would request, as I have asked of Mr. Swindig at the recess, to go ahead and consider passing with the emergency T 146-2000. Thank you.

President Brown: Discussion?

Council Member Butkowski: No, that's fine, it's okay.

President Brown: On the suspension.

Yes, 7 No, 0

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

motion to adopt by Swindig, 2nd by Borocz

motion to add the emergency due to the restraints of getting this filed for the welfare of the City by Swindig

President Brown: Any other discussion? Mr. Gillock?

Council Member Gillock: Yes, I've got one question.

Council Clerk White: I need a second first, please.

2nd by Overby

Council Member Gillock: One question of the Auditor on T 146-2000. Tonight is the first time we've seen this. Section two of the resolution states that if approved the Mayor is hereby authorized to execute any and all documentation that may be required to secure and administer such funds. I don't have a problem with making a loan application and investigating and seeing what strings are attached and whether we're going to save, could save \$200,000, but does this authorize the Mayor to go ahead?

Auditor Costin: I thought it did also and I've been reading this thing over and over and over, but if you look at the next one, T 147, there appears to be one final step and that's what's in section one there that says the Mayor's authorized to enter into the actual WSRLA loan agreement with the Ohio Environmental Protection Agency and the Ohio Development Authority. So it appears, for my understanding, that we need to pass both in due time. I think that to proceed and to obtain, if you'll read the third Whereas, it says, Whereas, the application submitted by the City to the WSRLA Loan Fund has been approved and the City must now enter into an agreement with the Ohio E.P.A. We're not that far yet. I think that these were given to us so that if we wanted to try and proceed expeditiously and make the December meeting of their's, this is what we have to follow. Again, as I said, the Engineer and myself are not totally comfortable yet. We would like to have, simply, 146 to proceed with the application.

Council Member Gillock: Would there be any problem with removing section two?

Auditor Costin: This is their request. I would hesitate to do that.

Engineer Lovece: I would rather not change the language. This language came from the O.E.P.A. to CT Consultant and to us.

Auditor Costin: There again, as I may say, there appears to be a distinct difference between authorizing her to enter into any and all documentation that may be required by the Ohio Water Supply Revolving Loan account to secure and administer such funds and then finally, the Whereas, after the application has been approved authorizing the Mayor to enter into the loan agreement with O.E.P.A. and the O.W.D.A. That seems to be the final piece of the puzzle that will be required.

Council Member Gillock: Okay, in your opinion as our financial adviser, we have to have both of these authorized before we proceed with accepting that loan money.

Auditor Costin: With the limitation that's the best of my knowledge is that they asked us to pass them both.

Council Member Gillock: That's all we can rely on.

Auditor Costin: If we didn't need them both they wouldn't ask us to pass them both. So with that understanding I would like to proceed with the application, do our investigation and then determine if there's sufficient flexibility in their other provisions to go ahead and apply for the money.

Engineer Lovece: Madame President, there's always a safeguard too. Until we actually sign the agreement with the E.P.A., I mean, the loan isn't there. We could always backout until we sign the agreement and the Auditor and I and the administration are going to make sure that before we sign the agreement that it's advantageous to the City.

Auditor Costin: If I might Madame Chairman. Let me just explain my hesitancy. We have a large document here and we're 26 on the list and the reason we've been moved up is because 25 cities ahead of us haven't proceeded and now there have to be good reasons why they have not proceeded. But, what I'd like to make sure that none of them involved things that we don't want to commit to and because this document is so thick and some of it I just got by fax today. I thoroughly am not comfortable enough to go ahead and say, well let's be the first genuine pig in this project. Hopefully there's other ones out there and that's why the administration has engaged CT assistance and that's because apparently they've been involved in helping with other applications with other cities. If this is as good a deal as it is we'll save \$200,000. That sounds pretty good to me. But if this is that good of a deal then what happen to the other 25 cities? Why aren't they just jumping in line? Now, the Engineer tells me he's under the understanding that their preliminary plans are not far enough along, that may be the case. But, we certainly want to make sure that we don't lock ourselves into other items like inability to increase our water rates if we need to. I don't know. But, you understand by hesitancy. There's a lot of documentation that just simply hasn't been read yet and before I suggest we go through with this financing, I'd like to make sure that we've covered every base. So, I would request again that T 146 to allow us to incur some expense to do our investigation and to file the applications and we'll come back to the next Council meeting with our findings, discuss and suggest whether we should proceed with T 147.

Council Clerk White: Excuse me, could I ask a question? Am I understanding that you want 146-2000 to go emergency tonight.

Auditor Costin: I'm sorry, 146 with the emergency and 147 for first reading, correct. That would be my request.

President Brown: Any other discussion? Are you satisfied Mr. Gillock?

Council Member Gillock: I trust Chris. It's all on you.

Auditor Costin: Well, I appreciate that.

President Brown: Any other? Take roll please.

Council Clerk White: On the emergency.

President Brown: 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 146-2000 becomes Resolution No. 907-2000 with the emergency.

Permanent Resolution No. 907-2000

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

First Reading

Council Clerk White: That's all the first readings that I have. I have no second readings. I have one third reading.

SECOND READINGS None

THIRD READINGS

T 134-2000 AN ORDINANCE ACCEPTING FOR RECORDING PURPOSES ONLY THE
3631-2000 PLAT OF RIDGEFIELD SUBDIVISION VI.

Third Reading

motion to adopt by Overby, 2nd by Swindig

President Brown: Discussion? None, take roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 134-2000 becomes Ordinance No. 3631-2000.

Permanent Ordinance No. 3631-2000

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

UNFINISHED BUSINESS

President Brown: I don't have any unfinished business. May I have committee meeting announcements please?

COMMITTEE MEETING ANNOUNCEMENTS

Council Clerk White:

Buildings & Lands Committee meeting on Monday, November 27, 2000 at 5:30 P.M. on T 112-2000, vacating a portion of Dodge Avenue.

Planning Commission Tuesday, November 28, 2000 at 7:00 P.M. in regards to TOPS.

Next Regular Council Meeting Monday, December 4, 2000 at 7:30 P.M.

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
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That's all that I have.

President Brown: Need a motion to adjourn.

Council Member Gillock: Madame Chairman, I have one other meeting.

President Brown: Yes.

Council Member Gillock:

Board of Zoning & Building Appeals meets November 30, 2000 at 6:30 P.M. Half an hour before the regular meeting there again will be a work session of the combined Planning and Building & Zoning Appeals to review ordinances for improvement.

President Brown: Thank you. Now, motion to adjourn.

ADJOURNMENT

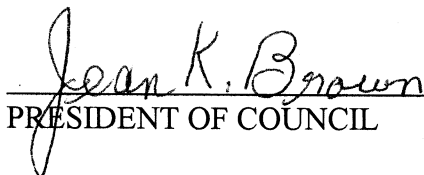
motion to adjourn by Swindig, 2nd by Overby

President Brown: Adjourned.

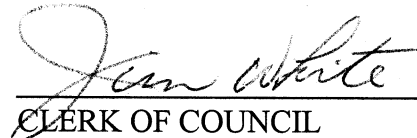
Meeting adjourned at 9:14 P.M.

MOTION Overby 2ND Swindig DATE December 4, 2000

YES 7 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL



CLERK OF COUNCIL