

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING NOVEMBER 7, 2005**

CALL TO ORDER: 7:30 P.M.

President Ronald Arndt: The Chair calls to order tonight, the North Ridgeville Municipal City Council regular meeting dated Monday, November 7, 2005.

INVOCATION: lead by President Arndt.

PLEDGE OF ALLEGIANCE: by all.

CALLING OF THE ROLL - ROLL CALL:

Present were Council Members Nancy Buescher, Richard Jaenke, Bob Olesen, Bernadine Butkowski, Andy Young and President Ronald Arndt.
Absent was Council Member Allen Swindig
Also, present were Mayor David Gillock, Safety-Service Director Denny Johnson, Law Director Andrew Crites, Engineer Larry Griffith, Auditor Chris Costin and Clerk of Council Charles Norris.

President Arndt: Before we go any further and for the benefit of our Council Members, Mr. Swindig has been called out of town because of a death in the family. Dr. Norris will you begin with our minutes.

MINUTES - Corrections (if any) and Approval:

Clerk of Council Norris: Minutes that Council has before them this evening include:

Council Minutes of regular meeting held October 3, 2005

 moved by Olesen, seconded by Jaenke to approve the minutes of the regular Council meeting held October 3, 2005

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

 Yes, 6 No, 0

Council Minutes of regular meeting held October 17, 2005

 moved by Butkowski, seconded by Jaenke to approve the minutes of the regular Council meeting held October 17, 2005

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

 Yes, 6 No, 0

Clerk of Council Norris: Council will also note

Board of Drainage and ~~Floor~~ Flood Control Minutes of meeting held August 10, 2005;

Civil Service Commission Minutes of regular meeting held October 18, 2005;

Board of Zoning and Building Appeals Minutes of special meeting held Oct. 27, 2005 and regular meeting held October 27, 2005; and

Planning Commission Minutes of regular meeting October 11, 2005

MAYOR AND DIRECTORS REPORTS:

President Arndt: We now move to the Mayor and Director's reports. The Chair invites the Mayor and the Department Directors the opportunity to provide Council with an oral report. We would like to begin tonight with our Mayor, Mr. Gillock.

• **Mayor**

Mayor Gillock: Thank you, Mr. President. Good evening, Mr. President and Council members. Many of you may have received information informing you that as of December 31, 2005, Green Mountain Energy will no longer be supplying electrical energy through the Northeast Ohio Public Energy Council, also known as NOPEC. Questions have been asked as to what this means to our individual users. It is true that Green Mountain Energy has announced that it will discontinue it's contract with NOPEC. Today, I spoke with a representative of NOPEC and was informed of two significant developments in response to this action taken by Green Mountain. First, NOPEC has, or will be, filing suit against Green Mountain for breach of contract, which answers my question as to "How can they do that"? Apparently, they can't.

More importantly, is what happens now. NOPEC has contracted with First Energy Solutions to take over that contract effective January 1, 2006 and fulfill the contract through 2008. The only change will be a slight increase. Under Green Mountain, we received a six percent credit, whereas with First Energy we will receive a five percent credit to that portion of your electric bill covered by them. Keep in mind your electric bill is made up of three parts, the generator, the transmission; which is covered by NOPEC and the local delivery. In the last four years, NOPEC's retail electric aggregation customers have realized an estimated 50 million dollars in savings. So, in summary, it appears that we will see a very small increase in our electrical bills, but overall will continue with most of the savings that NOPEC has been able to negotiate.

We have received information advising us what our Issue 2 projects will be funded for next year. Our number one priority was repaving of Mills Industrial Parkway and our number two priority was repaving of Taylor Woods Industrial Parkway. Both of these busy Industrial streets are in terrible shape as some of our others are and we understand that. We can work on the residential streets with our own crews. However, these are concrete commercial streets that have not been repaired for many, many years and we felt they were very important. We received a grant in the amount of 195,600 dollars for Mills and an interest free loan for 115,200 dollars for Taylor Woods. Both are 60 percent of the total estimated costs. In addition, Council will recall approving 25,000 dollars towards repairing the bridge on Mills Road, east of Lear Nagle. That project was also approved with a total cost of 300,000 dollars. Through the Issue 2 funding, we will spend 207,200 dollars next year as our part of 818,000 dollars of work to be done on these three projects. The 115,200 dollar loan can be spread up to 20 years.

Lastly, tomorrow is election day, this is the most important thing one can do to have a say in your local, State, and Federal governments and how they are run. Please get out and exercise this most important freedom that we have. That concludes my report.

President Arndt: Thank you, Mr. Mayor. We now have the opportunity to hear from our Safety-Service Director, Mr. Johnson.

• **Safety-Service Director**

Safety-Service Director Johnson: Thank you, Mr. President. While we welcome the warmer than usual weather, we all know snow and cold are right around the corner. Our Service Department has been preparing for snowfall these past few weeks. They will be ready, but we ask that motorists also be prepared. It's hard driving those big trucks through residential areas in good weather, it's even harder when your pushing snow, dodging parked cars and dealing with tailgaters. Please help our plow drivers do their jobs swiftly and safely. Stay back at least 100 feet when you follow a plow truck. If at all possible, keep parked cars in the driveway whenever it is snowing, especially in cul-de-sac's. And check your mailbox posts while the weather is still fair. rotted or loose posts will not stand up to the weight of snow being thrown from the plow blades.

I'd also like to remind everyone that this Friday, November 11th is Veterans Day. Fly your American flags and thank a vet for your freedom.

And finally, I ask Council to consider passing T 141-2005 tonight with the emergency clause. This ordinance is needed to get our recycling grant submitted and approved. That concludes my report.

President Arndt: Thank you, Mr. Johnson. We now have the opportunity to hear from our Engineer, Mr. Griffith.

• **Engineer**

Engineer Griffith: Thank you, Mr. President. You would not generally think that switching to daylight-savings time would have any bearing on storm water quality. When we turn our clocks back one hour at the end of daylight-savings time, energy bills generally get bigger in part, because people keep their lights on longer. However, most of the electrical power in this area is generated from burning coal. This in turn results in acid rain. While touring the Gettysburg Civil War battlefields a couple of years ago, the tour guide remarked about how many millions of dollars it was going to take to repair the monuments and plaques from acid rain damage. With energy prices expected to soar this winter, finding ways to keep energy bills in check will not only save you money, but also help the environment.

Here are a few tips to keep your autumn and winter days glowing without your energy costs growing:

1. Try to replace all high-wattage bulbs and with lower-wattage models or energy-efficient fluorescent bulbs. Most homeowners will never notice the lower wattage bulb output, but it can add up to make a real difference in energy cost savings. Hallway lights might be a good place to try this.
2. Consider replacing an existing fixture with an energy-efficient fluorescent model.

3. Change dark lampshades to lighter ones to allow more light into the room. This alone can significantly brighten a room.
 4. Consider lighting products that feature "Full Spectrum" capabilities, which provide highly cost-efficient illumination.
 5. Too many people leave lights on all day to avoid arriving home in the dark. Instead, install a light sensor or timer to your existing lighting. That way, the light will come on after it gets dark or just prior to your arrival home.
 6. Take advantage of perimeter lighting by throwing light against light-colored walls. Light will travel three to four times further when it's reflected off a light surface. You can also place floor lamps next to corners so you will have two walls to reflect the light back into the room.
 7. Add a dimmer to your existing lighting. Dimming your lights an average of 50 percent will cut home electricity usage a whopping 40 percent. It can also make your bulbs last 20 times longer. Dimmers, however, will not work with fluorescent bulbs.
 8. If you have landscape lighting, use transformers with a timer and photocell to help you save money by lighting your yard more efficiently.
- To summarize, take a serious look at your lighting needs and see what you can do to save yourself money and help the environment. Thank you Mr. President, that concludes my report tonight.

President Arndt: Thank you, Mr. Griffith. We now have the opportunity to hear from our Auditor, Chris Costin.

• **Auditor**

Auditor Costin: Thank you, Mr. Chairman. Two items of finance tonight. First, there is no report scheduled. Second, I would draw your attention to T 134, 135, 136, 137, 138 and 139. As was stated at the last meeting, this is the legislation for the new issuance of bond anticipation notes. They are all lined up and we need to issue these in order to pay off the bond anticipation notes that are expiring shortly. I would request that you pass these tonight with the emergency so we can refinance the BAN's that are expiring.

Council Member Young: Mr. President, just a brief question. Mr. Costin, what is the difference between T 135 and T 137, other than their monetary value?

Auditor Costin: Each time we have issuance of BAN's, they have to be for a designated purpose. T 135 is related to the TIFF Topps project and T 137 is related to the TIFF Walgreens project; two separate projects.

President Arndt: Mr. Costin, just to make sure we are clear that when we pass with the emergency, you stated that it would be to refinance the BAN's that are expiring.

Auditor Costin: Yes

President Arndt: Dr. Norris, would you read our other reports.

• **Other Reports**

Clerk of Council Norris: Other reports before Council this evening include:
Police Department Activity Report for September 2005;

Mayor's Court Operating Trust Fund/Bail Trust Fund Report for October 2005; and Building Department Report for August and September 2005.

COUNCIL COMMITTEE REPORTS:

Clerk of Council Norris: There are two Council Committee Reports before you tonight.

1) **BUILDINGS & LANDS COMMITTEE REPORT #5583** Members of Council: We have considered the matter of T 126-2005, an ordinance amending North Ridgeville Codified Ordinances Section 1468.02 entitled Side Yard Grading and Drainage by adding the requirement that sump pumps operating from an AC power source shall have an alternate backup power operating system and recommend that this request be denied.

Signed: Chairperson Jaenke, Members Olesen and Young.

 moved by Olesen, seconded by Jaenke to accept the Building and Lands Committee report #5583

President Arndt: Is there any discussion?

Council Member Butkowski: Mr. Chairman, I introduced this because I thought that this would help solve some of our flooding problems here in the City. With the discussion at the Building and Lands Committee, it didn't seem to go over and I still think that we should be requiring the builders to put these systems into the homes to protect the new people coming into town. We have lost our power quite a bit this last summer and while it doesn't happen a lot, it can and does happen during storms. I think this would help the home owners with basements.

President Arndt: Thank you, Mrs. Butkowski. Is there any other comments?

Council Member Young: Mr. President, we on the Buildings and Lands Committee discussed this thoroughly and felt it was much more complicated then this piece of legislation Mrs. Butkowski introduced, as primarily, we feel that the builders would not necessarily give the home owners a choice or the home owners would not be informed of the choice of the backup operating systems for their sump pumps and they might end up with some cheap grade of a backup that would give them a false sense of security as opposed to all the different varieties of backups that you can get, which range in cost of anywhere from fifty bucks all the way up to a thousand dollars and we felt it would be best to leave that up to the home owner. We did discuss a couple of other ideas such as possibly having the Engineering Department put together a brochure educating the public on what one can do with their crocks and sump pumps in order to make it a little bit better, especially if they want a backup.

President Arndt: Thank you, Mr. Young. Is there any other discussion? Will the Clerk please take roll.

 Yes, 5 No, 1 (Butkowski)

Clerk of Council: Motion is approved by a vote of five to one.

2) **BUILDINGS & LANDS COMMITTEE REPORT #5584** Members of Council: We have considered the matter of T 123-2005, an ordinance amending NRCO Section 1272.04

“Permitted and Conditional Uses” by adding Animal Clinic or Animal Hospital and recommend that this request be approved and T 123-2005 be adopted by Council.

Signed: Chairperson Jaenke, Members Olesen and Young.

moved by Jaenke, seconded by Olesen to approve the Buildings and Lands Committee Report # 5584

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: Motion is approved by a vote of six to zero.

President Arndt: We now move to our correspondence.

CORRESPONDENCE:

Clerk of Council Norris: Two items of correspondence before Council this evening are:

- 1) Received a letter from Angelina Huffman requesting the City take a look at the storm sewer system due to problems experienced by her and in her neighborhood.

Clerk of Council Norris: I have a little notation for those of you who don't have this, that this was inadvertently left off the list of the original printing of the agenda.

- 2) Received a letter from Parks Director Jim Spaulding explaining Parks & Recreation Commission approval of a \$5,000.00 expenditure for the Healthy Ohio Youth Pilot Program from the Parks and Recreation Improvement Fund, should be disbursed from a different account.

President Arndt: For some edification of City Council, since I am the liaison to the Park and Rec Board, the Ohio Park and Recreation Association has awarded North Ridge Parks and Recreation Department a thirty six thousand dollar grant along with twenty five hundred dollars worth of materials to implement this healthy Ohio Youth Pilot project and the objective of this project is to document regular physical activity and education around physical fitness, nutrition, tobacco prevention for grades three through five and it is felt that this project would impact our youth in a very positive manner and then there is a five thousand dollar match that the North Ridgeville Park and Recreation Department is required to contribute. So, for that five thousand dollars, we see grants of thirty six thousand, five hundred and another twenty five hundred dollars worth of materials. That concludes our correspondence. We now move to new business.

NEW BUSINESS:

Clerk of Council Norris: New business before Council this evening is

Parks & Recreation Commission request for approval to expend from the Parks & Recreation Improvement Fund, \$8,200.00 to purchase and install an entrance gate at the Shady Drive Complex.

moved by Jaenke, seconded by Butkowski to approve the Park and Recreation Commission request for the approval to expend 8,200 dollars from the Parks and Recreation Improvement Fund

President Arndt: Is there any discussion? Again, as the liaison to this Commission, the purpose for this gate is to prevent vandalism, turfing and some of the other unfortunate things that

continue to go on in our park system. So, it was decided by the Park and Recreation Department that this was a necessary expenditure. Is there any other discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Council Member Young: Mr. President, I see that we received the five thousand dollar request too. I guess it did not make cloture. Is that correct? Would we want to suspend By-Laws to allow the Parks and Rec to go ahead and put that five thousand toward the matching funds. President Arndt: Mr. Costin is going to explain that the five thousand dollars needs to be drawn from a different account.

Auditor Costin: I had a discussion with the Park Director last week. The Park and Rec Improvement Fund represents impact fees and historically, we have used impact fees for capital improvements and not for operating expenses. We were able to find that five thousand dollars elsewhere in his budget, so it will not be necessary for you to approve that expenditure from the Park and Rec Improvement Fund.

AUDIENCE PARTICIPATION (Lobby):

President Arndt: We have now reached the audience portion of our Council meeting tonight. Any member of our audience tonight has the opportunity and are invited to address your City Council. We do request, that you fill out the lobby form that you can find at the back of the room. It gives us the opportunity to follow up with you, personally, should there be a need to do so. You are now invited and welcome to approach the podium immediately to the right of Mrs. Buescher. However, please, when you approach the podium, clearly state your name and your address and please limit your comments to three minutes. The lobby is now open.

1) Mary Nowicki, 38520 Avalon Drive thanked Council and the Mayor for allowing her to speak at this meeting. She read a statement of combined efforts of a few home owners within Avalon estates regarding the drainage and flooding in that area. She asked if Council would be willing to sit down in a special meeting with the residents of Avalon Estates and Oster Development Co. to discuss this matter in the same manner as they did with the residents of Stoney Creek.

Mayor Gillock: Mr. President, if I could respond a little bit. The Administration is who met with residents of Stone Creek and we would certainly be glad to meet with the people from Avalon Drive. In fact, with Stone Creek, we sent out a survey to them, which is due back by November 15. We are more than willing to meet with you. We have your name and contact information now and we'll see if we can get something set up.

President Arndt: Ms. Nowicki, would you be the contact person for the Mayor and Administration.

Mary Nowicki: Yes, I would.

Council Member Butkowski: Mr. Chairman, I was in attendance of the Stone Creek meeting and one of the people who lives down there, had his front yard dug up last Thursday. I have never seen water like that in a sewer line. There was a phenomenal amount of water in there and these people really have a serious problem. I was there twenty minutes to a half an hour and they were

constantly pumping and I never saw the water go down. I don't know where this water is coming from, but there is a serious problem in that entire area. We are going to have to find out where that water is coming from because we can't keep building down there when half of these people are experiencing something like this.

President Arndt: Is there anyone else in our lobby who would like to approach your City Council.

2) Joseph Kotasky, 5004 Windsor, Avalon Estates also expressed the water problem within that development. He noted that before he purchased in North Ridgeville, he was advised to purchase a battery back up system, which he did and found that it didn't work. He stated that something isn't right because it is not just his home that this is happening to.

3) Dennis Boose, 6405 Denise Drive, member of the Parks and Recreation Commission expressed his thanks to Council Members for approving the 8,200 dollars and explained the need for the gates at Shady Drive Complex.

4) Robert Ebert, 4958 Somerset Court urged Council and the Administration to work with Oster Construction to resolve draining and flooding issues within Avalon Estates and Stone Creek.

5) Barb Sutton, 34104 Gina Drive empathized with the people in Avalon Estates. She noted how many times she was flooded. She stated that the water problem isn't just with that builder, it is all of North Ridgeville because of the sandy loam type soil.

President Arndt: Is there any one else who chooses to approach your City Council.

moved by Arndt, seconded by Young to suspend By-Laws tonight to dispense with our recess

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

RECESS: dispensed with

ORDINANCES AND RESOLUTIONS:

President Arndt: Dr. Norris, will you please read our Ordinances and Resolutions.

• **Ordinances & Resolution Submittals**

moved by Mayor Gillock, seconded by Young to suspend By-Laws to give T 134, 135, 136, 137, 138 and 139 their first readings tonight

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: Having quickly dispensed with T 134 through T 139, we will move to T 140.

T 140-2005 AN ORDINANCE AMENDING ORDINANCE NO. 4096-2005 BY INCREASING THE AMOUNT PAID TO KS ASSOCIATES, INC. FOR ENGINEERING SERVICES FOR THE STRAIGHTENING OF LEAR NAGLE ROAD FROM \$78,000.00 to \$89,237.56.

 moved by Olesen, seconded by Jaenke to suspend By-Laws to give T 140 its' first reading

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

 Yes, 6 No, 0

T 141-2005 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO ENTER INTO VARIOUS AGREEMENTS WITH THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT.

 moved by Butkowski, seconded by Jaenke to suspend By-Laws to give T 141 its' first reading

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

 Yes, 6 No, 0

T 142-2005 A RESOLUTION REVISING THE STANDARDS OF A COMMUNITY REINVESTMENT AREA BY AMENDING RESOLUTION 768-94, SECTION 3(C)(1).

 moved by Butkowski, seconded by Young to amend the ordinance that reads under Section 1, a minimum of zero to ten jobs to be changed to a minimum of two to ten jobs within two years

Council Member Young: Mr. President, point of clarification. Are you amending the zero to a two? So, it would read two to ten jobs as opposed to zero to ten jobs.

Mayor Gillock: Mr. President, I would support that amendment. However, the purpose of this resolution is that our Community Reinvestment Act right now requires a minimum of ten jobs to be created and the Ohio Revised Code only requires zero. We have some opportunities with some smaller businesses, one in particular, that could bring four to six jobs. They could then lease the other parts of the building and create ten jobs, but you can't count all ten. You can only count his actual jobs. You also have a situation where we have developers who would like to build buildings on a speculative basis and they would not receive any consideration at all because they aren't creating the jobs. The intent was to make our Community Reinvestment Area ordinance match the Ohio Revised Code. However, I can understand the reasoning in placing a minimum of two jobs on there and I support that.

Council Member Buescher: Mr. President, I would just like to ask the Mayor what would be the intent of the Ohio Revised Code putting zero to ten. In other words, you wouldn't have to have any employees.

Mayor Gillock: It has no requirement that any jobs be created when you create a Community Reinvestment Area. Community Reinvestment Area Act gives the City authorization to designate an area and in our case, the entire City has been designated as a Community Reinvestment Area and to consider on our own as to whether we want to address tax abatement for real estate only. The Ohio Revised Code gives the City the ability to do that and has no requirement for a minimum number of jobs. When our ordinance was written several years ago, these were put in arbitrarily at the time and they have never really been addressed since then. As an example, Wolff Bros. Supply has been here. They have been to Planning. They are a large supplier of plumbing parts, home furnishings and they want to build a brand new building in Taylor Woods. They will create four jobs. They will lease out two parts of the building, which will create six more jobs. We would like to have them here and this will give us the ability to participate and partner with them.

Safety-Service Director Johnson: I would just like to add that as an example, the developer on the Ridgeview Shopping Center is not going to employ anyone, however, the Shopping Center will. The Community Reinvestment is not directly related to the jobs. The jobs often come later. By putting numbers in there, will make it hard for these people to reach. We are saying the wrong thing.

Council Member Olesen: Mr. President, is two the magic number or could that be changed to one?

Council Member Young: Mr. President, I think the mind set is, is that we are giving away tax abatements here and we are giving these people a free ride as an incentive to attract them to our City. However, at the same time, they don't get a free ride with regard to the City employee income taxes. I think we should leave it at two. If we are going to be giving them something, we should get something back in return. I don't think it should be zero or one. I fully recommend two. I'm not really thrilled with only two as I think it should be even more than that. However, I understand the arguments in lowering the number from ten to two. I would be in favor of two, but no less.

Mayor Gillock: Mr. President, I just want to clarify. I certainly respect and understand Councilman Young's statements; however, I don't think they are getting a free ride. When you grant tax abatement, under the Community Reinvestment Area, you can not abate any taxes that they are already paying. They are never getting back something that they are already paying. If you grant tax abatement, it is simply a delaying mechanism for the number of years that it is granted and the abatement would exempt them from the real estate taxes, not the personal property taxes. In the case where we would do that, we then gain new taxes through the municipal income tax and by ordinance, we split those taxes with the schools. The schools receive 45 percent of the new municipal income tax, which they would gain automatically. So, if a business does come here, they are paying new personal property taxes and new municipal income taxes that we were not collecting before. So, with all due respect, it is not a free ride.

President Arndt: Thank you, Mr. Mayor. Mr. Costin, would you like to add anything to that.

Auditor Costin: I think my only comment would be that there are plenty of pros and cons against various forms of tax abatements. We are out there struggling to bring business into our community. If the State has a provision that is uniform across the State, I don't think we should tie our hands by putting additional restrictions on it. The Mayor just illustrated examples where,

if a community around us is going to give them a better deal, they're going to get the business and we will lose in the long run. Accordingly, my feeling is, if it is out there available for everybody, then we better be as competitive as everybody else until it changes.

President Arndt: Just so I make certain I understand what you just said. Are you of the mind set that since this mimics our Ohio Revised Code, it is your belief, that it should stay at zero to ten.

Auditor Costin: Until we have other factors of a lucrative nature that would draw business to this community, I think we have to remain in a competitive nature and yes, what you stated is my thinking.

Council Member Buescher: Mr. President, I feel that I have to agree with Mr. Costin. Tax abatement is a necessary evil and it is competitive. The way he explained it is exactly correct. I believe that if Mr. Costin feels this way in this situation, I agree with him.

Council Member Young: Mr. President, I don't agree with the zero mentality, because the next thing you know, we will be giving away tax abatements for storage units to come into our town, which would not be employing anyone. That is an issue up for discussion this evening. I like the fact that we have always had it a minimum of ten. Businesses are going to come to our town regardless. I think that a two person employee threshold is not a big deal. I don't think it is going to be a deal breaker. Instead of dropping all the way from ten to zero, I think we should have at least two. The Mayor agreed earlier that two was not a problem.

Council Member ~~Buescher~~ Butkowski: Mr. Chairman, it's a two, but it does give them two years. I would think that if they were doing a community investment, that they certainly would be able, in two years, to hire two employees. If they are going to spend all that money, there must be a reason for them spending the money to reinvest in their company. Two more people is not very much in two years.

Mayor Gillock: I don't think two is a significant amount; however, as Mr. Johnson pointed out, the old shopping center is a good example where you might have someone looking for tax assistance that would not be creating a job. In that case, the difference would be in the size of the project.

President Arndt: Mr. Costin made a suggestion and recommendation was to adhere to the Ohio Revised Code but allow the Administration or Council to be flexible in future situations. The question I would ask the Law Director is, what kind of flexibility do we have if we pass this in resolution form?

Law Director Crites: Because the way program is set up through the Department of Development, I think we are bound to comply with the Ohio Revised Code section. These Community Reinvestment Areas are broken up into classes. For example, class one is basically zero to ten. Class two, ten to twenty and these classes depend upon the different sizes. For the class one project, the State Law simply mandates up to ten and does not indicate a mandatory minimum. How flexible would that make us if we pass this resolution? We would be bound by this resolution and if it is amended to two, it will be two. We could always change it back to zero with a subsequent resolution if we get a beautiful small project, where a developer wants to build something that will not create employment. I don't believe that if you have this program that an applicant has, a matter of right, the ability to participate by coming to you and saying I want to participate in the Community Reinvestment program and I am only going to employ one person. If we pass the resolution as it stands without the amendment, I don't believe that we

are compelled to grant participation to every applicant. It has to be in the best interest of the City or we will not do so. Once again and in agreement with Mr. Costin, at some point, you are going to have to defer to the judgement and common sense of your elected officials to not extend the tax break that you get out of this program to an operation that is not going to do your City any good.

Council Member Olesen: I think I would have to agree with our Auditor in that if we change provisions in our code against the Ohio Code, all we are doing is asking for problems down the road. I don't think we will have problems with the zero in this resolution.

Council Member Buescher: Mr. President, I think that two is so insignificant. Why even get us into trouble and I think it should be zero.

Mayor Gillock: For further clarification, I would like to explain the process. When an applicant does come to us, the application goes through the Tax Abatement Review Board that is made up of three members; myself, Chamber of Commerce, and the Superintendent of the School Board. So, it is not automatic when someone comes in and completes an application. In fact, the last applicant was turned down.

President Arndt: Thank you, we have a motion on the floor by Butkowski, seconded by Young to amend T 142 to read, instead of a minimum of zero to ten jobs within two years from date of occupancy, to a minimum of two to ten jobs within two years from date of occupancy. Dr.

Norris will you please take our roll on this amendment.

Yes, 2 No, 4 (Buescher, Jaenke, Olesen, Arndt)

Clerk of Council Norris: Motion to amend fails by a vote two ayes, four nays.

moved by Mayor Gillock, seconded by Olesen to suspend By-Laws tonight to give T 142 its' first reading

President Arndt: Is there any discussion? There being none, will the Clerk please take the roll.

Yes, 4 No, 2 (Butkowski, Young)

President Arndt: For clarification, that motion failed and T 142 does not move to first reading tonight.

T 143-2005 A RESOLUTION TO APPROVE THE EXPENDITURE OF FUNDS.

T 144-2005 A RESOLUTION TO APPROVE THE EXPENDITURE OF FUNDS.

T 145-2005 AN ORDINANCE AUTHORIZING THE DIRECTOR OF LAW TO
COMMENCE LEGAL ACTION FOR THE APPROPRIATION OF REAL
PROPERTY LOCATED AT 36001 CENTER RIDGE ROAD, NORTH
RIDGEVILLE, OHIO, FOR THE CREATION OF A MUNICIPAL PARK.

moved by Olesen, seconded by Jaenke to suspend By-Laws to give T 145 its' first
reading

President Arndt: Is there any discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

Clerk of Council Norris: Motion is approved by a vote of five, zero and one abstention.

T 146-2005 A RESOLUTION DECLARING THE NECESSITY FOR AND INTENTION TO

APPROPRIATE REAL PROPERTY LOCATED AT 35970 CENTER RIDGE
ROAD FOR THE IMPROVEMENT OF A PUBLIC ROAD.

moved by Olesen, seconded by Butkowski to suspend By-Laws to give T 146 its' first
reading

President Arndt: Is there any discussion?

Law Director Crites: T 146 as well as T 147 represent resolutions indicating the intent to
appropriate, if we have to, very small portions of land at the intersection of Route 83 and Route
20 for an eighty percent State funded road improvement project by ODOT. We have already
received indication of agreement from the southwest corner and we are in final stages of
negotiation with the northeast corner. I'm optimistic that we will be able to reach an agreement
and avoid passing up the eighty percent funding. Simply put, we can't risk the fact that we may
not reach an agreement because ODOT has laid a deadline on us to acquire these parcels by the
end of this month and it would be a darn shame if we didn't have that as it would cause the State
to take that eighty percent funding and move down the road. I recommend that Council pass
these with the emergency tonight.

President Arndt: Thank you, Mr. Crites. Any other discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

Clerk of Council Norris: Motion is approved by a vote of five, zero and one abstention

T 147-2005 A RESOLUTION DECLARING THE NECESSITY FOR AND INTENTION TO
APPROPRIATE REAL PROPERTY LOCATED AT 36013 CENTER RIDGE
ROAD FOR THE IMPROVEMENT OF A PUBLIC ROAD.

moved by Olesen, seconded by Jaenke to suspend By-Laws to give T 147 its' first
reading

President Arndt: Is there any discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

Clerk of Council Norris: Motion is approved by a vote of five, zero and one abstention

President Arndt: We now move to our first readings.

• **First Readings**

Clerk of Council Norris: First Readings before Council include:

T 104-2005 AN ORDINANCE ACCEPTING RELOCATED LEAR NAGLE ROAD AND
4189-2005 DEDICATING IT FOR PUBLIC PURPOSES.

First Reading

moved by Mayor Gillock, seconded by Olesen to dispense with the second and
third readings tonight on T 104

President Arndt: Is there any discussion? There being none, all those in favor signify by yes.
All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Mayor Gillock, seconded by Butkowski to adopt T 104

President Arndt: Is there any discussion? There being none, all those in favor signify by yes.

All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 104 is adopted becoming permanent ordinance number 4189-2005.
Permanent Ordinance No. 4189-2005

T 148-2005 AN ORDINANCE AMENDING SECTIONS 1268.02(c), 1270.02(d), AND
1272.04(e) OF THE NORTH RIDGEVILLE CODIFIED ORDINANCES BY
REMOVING SELF-STORAGE UNITS AS A PERMITTED OR
CONDITIONAL USE.

First Reading

President Arndt: THE CHAIR REFERS T 148 TO THE PLANNING COMMISSION

T 134-2005 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
4190-2005 \$7,900,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS,
FOR THE PURPOSE OF IMPROVING THE CITY'S SANITARY SEWER
SYSTEM BY CONSTRUCTING SANITARY SEWERS AND SANITARY
SEWER SERVICE CONNECTIONS AND RECONSTRUCTING AND
OTHERWISE IMPROVING AND EQUIPPING A SANITARY SEWER PUMP
STATION, IN EACH CASE TOGETHER WITH THE NECESSARY
APPURTENANCES AND WORK INCIDENTAL THERETO.

First Reading

moved by Butkowski, seconded by Olesen to dispense with the second and third
readings tonight on T 134

President Arndt: Is there any discussion? There being none, all those in favor signify by yes.

All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Butkowski, seconded by Olesen to adopt T 134

moved by Butkowski, seconded by Young to add the emergency for the purpose
of getting the bonds to rollover

President Arndt: Is there any discussion? There being none, all those in favor signify by yes.

All those opposed by no. Any abstentions?

Yes, 6 No, 0

President Arndt: In addition, we have a motion on the floor by Butkowski and a second by
Olesen to adopt tonight T 134 with the emergency. Is there any discussion? There being none,
all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 134 is adopted with the emergency becoming permanent ordinance
number 4190-2005.

Permanent Ordinance No. 4190-2005

T 135-2005 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
4191-2005 \$200,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR
THE PURPOSE OF IMPROVING LEAR NAGLE ROAD AND CENTER

RIDGE ROAD AND ADJACENT CITY EASEMENTS BETWEEN CERTAIN TERMINI BY GRADING, DRAINING, WIDENING, CURBING, PAVING, CONSTRUCTING A NEW TURN LANE, SANITARY SEWERS AND SIDEWALKS AND INSTALLING AND IMPROVING TRAFFIC SIGNS, SIGNALS AND SIGNALIZATION, WHERE NECESSARY, IN EACH CASE TOGETHER WITH THE NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO.

First Reading

moved by Butkowski, seconded by Young to dispense with the second and third readings tonight on T 135

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Butkowski, seconded by Olesen to adopt T 135

moved by Butkowski, seconded by Olesen to add the emergency for the purpose of rolling the notes over

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

President Arndt: In addition, we have a motion on the floor by Butkowski and a second by Olesen to adopt tonight T 135 with the emergency. Any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 135 is adopted with the emergency becoming permanent ordinance number 4191-2005.

Permanent Ordinance No. 4191-2005

T 136-2005 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
4192-2005 \$240,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR
THE PURPOSE OF ACQUIRING AND EQUIPPING MOTOR VEHICLES
FOR USE BY THE CITY.

First Reading

moved by Butkowski, seconded by Buescher to dispense tonight with the second and third readings on T 136

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Butkowski, seconded by Jaenke to adopt T 136

moved by Butkowski, seconded by Jaenke to add the emergency to roll over the notes

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

President Arndt: In addition, we have a motion on the floor by Butkowski and a second by Jaenke to adopt tonight T 136 with the emergency. Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 136 is adopted with the emergency becoming permanent ordinance number 4192-2005.

Permanent Ordinance No. 4192-2005

T 137-2005 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
4193-2005 \$700,000 NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR
THE PURPOSE OF IMPROVING LEAR NAGLE ROAD AND CENTER
RIDGE ROAD BETWEEN CERTAIN TERMINI BY REALIGNING LEAR
NAGLE ROAD AT THEIR INTERSECTION, GRADING, DRAINING,
WIDENING, CURBING, PAVING, CONSTRUCTING AND
RECONSTRUCTING STORM SEWERS, WATERLINES AND SIDEWALKS
AND INSTALLING AND IMPROVING TRAFFIC SIGNS, SIGNALS AND
SIGNALIZATION, WHERE NECESSARY, IN EACH CASE TOGETHER
WITH THE NECESSARY APPURTENANCES AND WORK INCIDENTAL
THERE TO.

First Reading

moved by Butkowski, seconded by Jaenke to dispense tonight with the second and third readings on T 137

President Arndt: Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Butkowski, seconded by Jaenke to adopt T 137

moved by Butkowski, seconded by Jaenke to add the emergency

President Arndt: Is there any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

President Arndt: In addition, we have a motion on the floor by Butkowski and a second by Jaenke to adopt tonight T 137 with the emergency. Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 137 is adopted with the emergency becoming permanent ordinance number 4193-2005.

Permanent Ordinance No. 4193-2005

T 138-2005 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
4194-2005 \$250,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS,
FOR THE PURPOSE OF IMPROVING AVON BELDEN ROAD BETWEEN
CERTAIN TERMINI, IN COOPERATION WITH THE DIRECTOR OF
TRANSPORTATION OF THE STATE OF OHIO, BY GRADING, DRAINING,

PAVING, REALIGNMENT AND CONSTRUCTING A BRIDGE TO PROVIDE A RAILROAD GRADE SEPARATION CROSSING OVER NORFOLK AND SOUTHERN RAILROAD TRACKS, TOGETHER WITH THE NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO.

First Reading

moved by Butkowski, seconded by Jaenke to dispense tonight with the second and third readings on T 138

President Arndt: Is there any discussion? There being none, all those in favor signify by yes.
All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Butkowski, seconded by Jaenke to adopt T 138

moved by Butkowski, seconded by Jaenke to add the emergency to roll over the notes

President Arndt: Is there any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

President Arndt: In addition, we have a motion on the floor by Butkowski and a second by Jaenke to adopt tonight T 138 with the emergency. Any questions? Any discussion? Any comments? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 138 is adopted with the emergency becoming permanent ordinance number 4194-2005.

Permanent Ordinance No. 4194-2005

T 139-2005 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
4195-2005 \$340,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS,
FOR THE PURPOSE OF IMPROVING CENTER RIDGE ROAD BETWEEN
CERTAIN TERMINI, IN COOPERATION WITH THE DIRECTOR OF
TRANSPORTATION OF THE STATE OF OHIO, BY PREPARING THE
SURFACE, RECONSTRUCTING SECTIONS OF THE PAVEMENT BASE,
CURBS, GUTTERS, CATCH BASINS AND SIDEWALKS, WHERE
NECESSARY, AND RESURFACING WITH ASPHALTIC CONCRETE, IN
EACH CASE TOGETHER WITH THE NECESSARY APPURTENANCES
AND WORK INCIDENTAL THERETO.

First Reading

moved by Butkowski, seconded by Jaenke to dispense with the second and third readings tonight on T 139

President Arndt: Is there any discussion?

Council Member Olesen: Mr. Chairman, I just want to clarify for the audience that has stayed. When we suspend and add the emergency to this legislation, it becomes effective immediately. If we just approve it without the emergency, there is a thirty day wait before it becomes effective. So, when we have a critical piece of legislation and it is passed by emergency, it becomes effective now.

President Arndt: Thank you, Mr. Olesen and the reason for the urgency was identified by our Auditor in that these BAN's have to be handled appropriately in order to meet all the requirements. Any other discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Butkowski, seconded by Jaenke to adopt T 139

moved by Butkowski, seconded by Jaenke to add the emergency to roll over the bonds

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

President Arndt: In addition, we have a motion on the floor by Butkowski and a second by Jaenke to adopt tonight T 139 with the emergency. Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 139 is adopted with the emergency becoming permanent ordinance number 4195-2005.

Permanent Ordinance No. 4195-2005

T 140-2005 AN ORDINANCE AMENDING ORDINANCE NO. 4096-2005 BY
4196-2005 INCREASING THE AMOUNT PAID TO KS ASSOCIATES, INC. FOR
ENGINEERING SERVICES FOR THE STRAIGHTENING OF LEAR NAGLE
ROAD FROM \$78,000.00 to \$89,237.56.

First Reading

moved by Mayor Gillock, seconded by Butkowski to dispense with the second and third readings tonight on T 139

President Arndt: Is there any discussion?

Council Member Young: Yes, Mr. President, I would just like the Mayor to explain what exactly happened with the bidding process and why is it that KS Associates is now coming back and asking for more money. I understand that there was some issues with regard to the soil. Isn't that something that can be anticipated in advance? Is there any way we can negotiate a smaller amount? At the very least, I think, because they didn't bid appropriately to begin with, they should have to wait, without Council having to suspend By-Laws and to allow for the three readings, before they get their money.

Mayor Gillock: I would like to defer this question to the Engineer.

Engineer Griffith: There is a number of different points that I would like to make here. One is that this is a professional services contract. It is not bid. Number two, in the process of any construction, especially sewer work or roadway work where we are afraid of what the soil will be, we do take borings. In this particular case, they did take borings. Unfortunately, the location of the borings were such that the outer edges of this area turned out to be very bad. Once it was excavated and we found that it was bad, then we had to have the engineer come back and advise us what to do next. That is where the extra funds come in because it was thought that this was covered. Also, there was a gas line that was not correctly located. The gas company did locate

it, but it was found that the location was incorrect. As a result, the road had to be raised in order to clear the gas line. That required additional engineering.

Council Member Young: I would like to thank the Mayor and Engineer for clarification and I will vote in favor of the suspension and approve the expedited funds. However, I don't think we need the emergency.

President Arndt: I don't think that the Mayor was asking for that. Any other discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Young, seconded by Jaenke to adopt T 140

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 140 is adopted becoming permanent ordinance number 4196-2005.
Permanent Ordinance No. 4196-2005

Auditor Costin: The ordinance that Council just passed actually amended the original ordinance which authorized us to use the engineer. We also have T 144-2005 that is a resolution to approve the expenditure of those funds, which was not incorporated in this ordinance. That is because the work was done prior to the issuance of the purchase order in an amount that was beyond the capacity for the Auditor to approve. Accordingly, before the engineer can be paid as well as a contractor that bid some of the repair work, Council will also have to pass T 142 and T 144 which are resolutions that are under new business and were not approved for first reading. We can do that tonight if Council so chooses or you can wait until the next meeting. At which time, we will be required to pass it.

Council Member Young: Mr. President, let's get through T 141 and then proceed with the Auditor's request.

President Arndt: Thank you, Mr. Costin.

T 141-2005 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH
4197-2005 RIDGEVILLE, OHIO, TO ENTER INTO VARIOUS AGREEMENTS WITH
 THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT.

First Reading

moved by Young, seconded by Butkowski to dispense with the second and third readings tonight on T 141

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

moved by Young, seconded by Butkowski to adopt T 141

moved by Young, seconded by Butkowski to add the emergency for the reasons stated by the Safety-Service Director during his report

President Arndt: Is there any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

President Arndt: In addition, we have a motion on the floor by Young and a second by Butkowski to adopt tonight T 141 with the emergency. Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 141 is adopted with the emergency becoming permanent ordinance number 4197-2005.

Permanent Ordinance No. 4197-2005

T 143-2005 A RESOLUTION TO APPROVE THE EXPENDITURE OF FUNDS.

1059-2005 First Reading

 moved by Young, seconded by Buescher to give T 143 its's first reading

President Arndt: Any discussion?

Mayor Gillock: Mr. President, I just want to point out that both T 143 and T 144, which are in regard to the straightening project of the new road at Lear Nagle, Walgreens. All these costs will be incorporated into the TIFF. So, these are not costing us any additional funds.

President Arndt: Thank you, Mr. Mayor. Is there any other discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

 moved by Butkowski, seconded by Young to dispense with second and third readings tonight on T 143

President Arndt: Dr. Norris, will you please read T 143

Clerk of Council Norris: A Resolution to Approve the Expenditure of Funds.

President Arndt: We have a motion on the floor by Butkowski, a second by Young to dispense with the second and third readings tonight on T 143. Is there any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

 moved by Butkowski, seconded by Young to adopt T 143

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 143 is adopted and becomes permanent resolution 1059-2005.

Permanent Resolution No. 1059-2005

T 144-2005 A RESOLUTION TO APPROVE THE EXPENDITURE OF FUNDS.

1060-2005 First Reading

 moved by Young, seconded by Butkowski to dispense with the second and third readings tonight on T 144

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

 moved by Butkowski, seconded by Young to adopt T 144

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 0

Clerk of Council Norris: T 144 is adopted and becomes permanent resolution 1060-2005.
Permanent Resolution No. 1060-2005

moved by Butkowski to accept the corrected address from 36001 to 36013 on ordinance
T 145

President Arndt: Is there any discussion? All those in favor signify by yes. All those opposed by
no. Any abstentions?

Yes, 6 No, 0

T 145-2005 AN ORDINANCE AUTHORIZING THE DIRECTOR OF LAW TO
4198-2005 COMMENCE LEGAL ACTION FOR THE APPROPRIATION OF REAL
PROPERTY LOCATED AT 36013 CENTER RIDGE ROAD, NORTH
RIDGEVILLE, OHIO, FOR THE CREATION OF A MUNICIPAL PARK.

First Reading

moved by Young, seconded by Butkowski to dispense with the second and third
readings tonight on T 145

President Arndt: Any discussion? There being none, will the Clerk please take roll?

Yes, 5 No, 0 Abstention, 1 (Buescher)

moved by Young, seconded by Butkowski to adopt T 145

moved by Young, seconded by Butkowski to add the emergency to get this much
needed project moving forward as we desperately need this municipal park at this
particular corner

President Arndt: Any discussion?

Council Member Young: Mr. President. I would again like to applaud the Mayor and Law
Director Crites for bringing this forward as this is a necessary tool in order to enter into the
eminent domain to take the gas station on the southwest corner of 83 and Center Ridge Road
and finally put a nice municipal park there, which is desperately needed.

President Arndt: Thank you.

Law Director Crites: If I may, just to make sure that everyone understands that pursuant to law,
we need a super majority, ie; five votes of Council in order to pass this ordinance.

President Arndt: We have a motion on the floor, for clarification, by Young, seconded by
Butkowski to add the emergency tonight to T 145. Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

President Arndt: We have a motion on the floor, by Young, seconded by Butkowski to adopt
tonight T 145 with the emergency. Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

Clerk of Council Norris: T 145 is adopted with the emergency and becomes permanent ordinance
4198-2005.

Permanent Ordinance No. 4198-2005

T 146-2005 A RESOLUTION DECLARING THE NECESSITY FOR AND INTENTION TO
1061-2005 APPROPRIATE REAL PROPERTY LOCATED AT 35970 CENTER RIDGE

ROAD FOR THE IMPROVEMENT OF A PUBLIC ROAD.

First Reading

moved by Butkowski, seconded by Olesen to dispense with the second and third readings tonight on T 146

President Arndt: Any discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

moved by Young, seconded by Butkowski to adopt T 146

moved by Young, seconded by Butkowski to add the emergency in order that we retain the 80 percent funding from the State

President Arndt: Any discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

President Arndt: In addition, we have a motion on the floor by Young, a second by Butkowski to adopt T 146 with the emergency. Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

Clerk of Council Norris: T 146 is adopted with the emergency by a vote of five, zero, one abstention and becomes permanent resolution number 1061-2005.

Permanent Resolution No. 1061-2005

T 147-2005 A RESOLUTION DECLARING THE NECESSITY FOR AND INTENTION TO
1062-2005 APPROPRIATE REAL PROPERTY LOCATED AT 36013 CENTER RIDGE
ROAD FOR THE IMPROVEMENT OF A PUBLIC ROAD.

First Reading

moved by Young, seconded by to dispense with the second and third readings tonight on T 147

President Arndt: Is there any discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

moved by Young, seconded by Butkowski to adopt T 147

moved by Young, seconded by Butkowski to add the emergency in order that we retain the 80 percent funding from the State

President Arndt: Is there any discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

President Arndt: In addition, we have a motion on the floor by Young, a second by Butkowski to adopt T 147 with the emergency. Is there any discussion? Will the Clerk please take roll.

Yes, 5 No, 0 Abstention, 1 (Buescher)

Clerk of Council Norris: T 147 is adopted with the emergency by a vote of five, zero, one abstention and becomes permanent resolution number 1062-2005.

Permanent Resolution No. 1062-2005

• **Third Readings**

T 114-2005 AN ORDINANCE AMENDING SECTION 1240.01 OF THE CODIFIED
4199-2005 ORDINANCES OF THE CITY OF NORTH RIDGEVILLE, OHIO KNOWN AS
THE ZONING CODE ORDINANCE, TO RE-ZONE THE FOLLOWING
LAND: BACK PORTION OF 37491 SUGAR RIDGE ROAD CONSISTING OF

APPROXIMATELY 14.77 ACRES CONTIGUOUS TO WATERBURY PCD AND SHOWN BY LEGAL DESCRIPTION BELOW; FROM R-1 RESIDENCE DISTRICT TO PCD PLANNED COMMUNITY DEVELOPMENT AS PETITIONED BY JAMES P. MARTYNOWSKI, FOREST CITY LAND GROUP, INC.

Third Reading

moved by Olesen, seconded by Butkowski to adopt tonight T 114

President Arndt: Any discussion. All those in favor signify by yes. All those opposed by no

Yes, 6 No, 0

Clerk of Council Norris: T 114 is adopted and becomes permanent ordinance 4199-2005.

Permanent Ordinance No. 4199-2005

T 115-2005 A RESOLUTION GRANTING PRELIMINARY APPROVAL FOR THE
1063-2005 PROPOSED PLANNED COMMUNITY DEVELOPMENT SITUATED ON
APPROXIMATELY 14.77 ACRES ON THE BACK PORTION OF 37491
SUGAR RIDGE ROAD CONTIGUOUS TO WATERBURY PCD AND TO
BECOME PART OF WATERBURY PCD.

Third Reading

moved by Olesen, seconded by Jaenke to adopt tonight T 115

President Arndt: Any discussion. All those in favor signify by yes. All those opposed by no

Yes, 6 No, 0

Clerk of Council Norris: T 115 is adopted and becomes permanent resolution 1063-2005.

Permanent Resolution No. 1063-2005

T 116-2005 AN ORDINANCE AMENDING SECTION 1240.01 OF THE CODIFIED
ORDINANCES OF THE CITY OF NORTH RIDGEVILLE, OHIO KNOWN AS
THE ZONING CODE ORDINANCE, TO RE-ZONE THE FOLLOWING
LAND: VACANT PROPERTY KNOWN AS PERMANENT PARCEL
NUMBER 07-00-016-112-027 AND PART OF PERMANENT PARCEL NO.
07-00-016-112-045 (AS SHOWN BY LEGAL DESCRIPTION BELOW); FROM
R-1 RESIDENCE DISTRICT TO B-3 HIGHWAY COMMERCIAL DISTRICT
AND OWNED BY VALORE PROPERTIES, INC. AND RINI REALTY CO.

Third Reading

moved by Olesen, seconded by Jaenke to adopt T 116

President Arndt: Any discussion?

Council Member Buescher: Mr. President, I have been arguing this point for weeks at the Zoning Board and here at City Council. Unfortunately, under the circumstances it doesn't matter what reasons, good or bad, there are for having storage units on this particular property. In this situation, it isn't relevant whether there is a preference by anyone for storage units over residential zoning in this area. It doesn't apply if promoting economic development or whatever other reason as touted as a reason to allow storage units on this property. What matters to me as a legislator sworn to uphold the law, is that there is a contradiction within our own laws which removes the power of the City Council consisting of seven people officially elected by the people

and allows the Board of Zoning Appeals, an appointed Board, to take action to change the intent of our legislation, which violates the separation of the powers of checks and balances within our system. Several negative and potentially damaging issues have been raised and can not be satisfactorily resolved as a direct result of this error in our own system and acting upon it to produce a result. As long as this contradiction exists, I will not vote on any issue pertaining to it. This legislation before us tonight rezones property to B-3 for the specific intention of permitting storage sheds in a zoning classification where our own legislation clearly does not permit them. Therefore, as a legislator who has taken an oath to uphold the law, I will vote no. President Arndt: Thank you, Mrs. Buescher. Any other comments?

Council Member Butkowski: Mr. Chairman, I agree with what Mrs. Buescher has said that our ordinances do not allow these units in this type of zoning. Legislation was passed to take it out of that zoning and placed it under the Industrial area. I believe that if that is what they want to put in there, then they should have it rezoned so the property abides by our ordinances.

Mayor Gillock: Mr. President, I understand what the Councilman are saying and it is rather novel, but Council is the one that passed the ordinance that allows these to be put in there. Originally, self storage units were a permitted use. Council removed them from the list of permitted uses and did allow them in the Industrial area, but they simply, in the B-3 area, removed them as a permitted use. Subsequent to that, Council passed an ordinance, giving the Board of Zoning Appeals the authority to determine if an occupancy was a like kind of quality, then they could allow it back in. Council passed that ordinance allowing them to do that. The BZA exercised that authority and said, these fit and that is why it is brought back today. They have not usurped Council's authority. Council voted on it and gave them that authority by passing an ordinance.

President Arndt: Thank you, Mr. Mayor.

Council Member Olesen: Mr. President, I would just like to reiterate that being the Councilman in that Ward, that when this all began, it began with the intent of putting a street through from the third house on Debbie Drive and bringing breaking up a cul-de-sac with a residential subdivision back there. The residents were irate and didn't want any part of this for the reasons that we heard tonight during the public hearing. That being the case, Council voted against the R1 subdivision. No one has changed their mind in that area as I have walked the streets there. I walked all of the one side of Debbie on the west side. I walked as much on Gina as I could and spoke with people directly involved with this. At the time I did this, they made a choice stating that they definitely did not want residential housing there. The warehousing was acceptable because most of them did not lose their trees. I have friends on both sides of this. If I had my druthers, it would be houses back there because of property values, but I think sometimes we have to sit back and we have to listen to the people. They are preferring the warehouses and I would say that we go with the change in zoning.

Council Member Young: Mr. President, I am going to be voting no on this. We did hear from two residents that were in favor of the warehouse proposal this evening. However, we also heard from two residents that were definitely not in favor of the warehouse proposal. I have talked to a number of constituents on Debbie Drive that have indicated their concern about their property values. They feel that with houses behind their houses, their property values will remain the same. With warehouses or these storage units behind their houses, their property values will go

down. In addition to that, I am also concerned that we are opening up an avenue for allowing a number of storage units to come into this City. I also know that we have proposed legislation, T 148, that will stop the storage units in the B-3. I have to agree with Nancy Buescher and Bernadine Butkowski that I believe the spirit and intent of Council back when they took the permitted use out of the B-3 area and put it into the I-2 that in order to have storage units, the property must be zoned I-2. So, I will be voting no on this matter this evening.

Council Member Buescher: Mr. Chairman, I also have to say that the Chairman of the Zoning Board is an attorney and he is the Law Director for the City of Avon. He clearly stated during the Zoning Board Meeting their business is not to name different commercial enterprises that go into the City or make it a like use. They are there for variances and he was very divided as to which way he should go on his vote. He clearly stated that it did not belong and so, that is what the main problem is here. The Mayor is correct. Council did vote for that, but we found out now that there is an error. We are allowing one person to have storage units and there is legislation brought forward to pluck that out as soon as this person receives his ability to have storage units. There are other people threatening lawsuits because of that and I think that this is an issue that is a real disaster for the City. That is why I have to vote no on this.

Mayor Gillock: Mr. President, I would like to add one thing. When Mr. Valore came in, he applied originally for residential because this is what the property was zoned for. He was turned down and was essentially guided through the planning process to go this route. I know that it will have ramifications and I know that this is a close vote.

 moved by Mayor Gillock, seconded by Jaenke to postpone any further discussion
 on T 116 until our next Council meeting on November 21

President Arndt: Is there any discussion?

Council Member Young: Mr. President, I will be voting no on the postponement. There are three Council members that have spoken against this particular rezoning tonight. You need to have a super majority in order to rezone. Super majority requires five votes and delaying the inevitable, I don't feel is the way to go.

Law Director Crites: There is no provision in our Charter that requires a super majority for rezoning.

President Arndt: Is there any other discussion? Will the Clerk please take roll.

 Yes, 3 No, 3 (Buescher, Butkowski, Young)

Clerk of Council Norris: Motion fails by a vote of three, three.

President Arndt: We have a motion on the floor by Olesen, a second by Jaenke to adopt tonight T 116. Any further discussion? Will the Clerk please take roll.

 Yes, 3 No, 3 (Buescher, Butkowski, Young)

Clerk of Council Norris: Motion fails by a vote of three, three.

**T 117-2005 AN ORDINANCE AMENDING NRCO SECTION 1030.12 - DUTIES OF
4200-2005 PRIVATE OWNERS.**

 Third Reading

 moved by Jaenke, seconded by Butkowski to adopt tonight T 117

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no

 Yes, 6 No, 0

Clerk of Council Norris: T 117 is adopted becoming permanent resolution 4200-2005.
Permanent Ordinance No. 4200-2005

T 125-2005 AN ORDINANCE APPROVING THE FINAL PLAT OF PHASES 6, 7 AND 8
4201-2005 IN WATERBURY PCD FOR RECORDING PURPOSES ONLY.

Third Reading

moved by Olesen, seconded by Butkowski to adopt tonight T 125

President Arndt: Any discussion? All those in favor signify by yes. All those opposed by no
Yes, 6 No, 0

Clerk of Council Norris: T 125 is adopted becoming permanent resolution 4201-2005.
Permanent Ordinance No. 4201-2005

President Arndt: The Chair asks if there is any old business to be brought before Council tonight.
There being none, Dr. Norris will read our upcoming meeting announcements.

UPCOMING MEETING ANNOUNCEMENTS:

Clerk of Council Norris: Upcoming meetings include:

Next Regular Council Meeting Monday, November 21, 2005 at 7:30 P.M. in Council Chambers
Public Hearing Monday, December 19, 2005 at 7:20 P.M. re: T 148-2005

President Arndt: Finally, before we adjourn, Mr. Olesen?

Council Member Olesen: Mr. President, I will try and make this really quick. Good news here as more than 70 people took advantage of the lifeline screening on October 28. More good news is that we picked up two new drivers for Meals on Wheels, but we still need more drivers. It is only two hours a week and if you can help us out, it will be greatly appreciated. I wanted to mention the computer classes that will begin for web-wide Seniors on Monday, November 14th. Call the Senior Center for more information. Also, on December 15, Senior Center is having a trip to the Elyria Methodist Village for Christmas Decorations at Cascade Hall and a complimentary lunch. If you want to go to that, call the Senior Center.

ADJOURN:

moved by Butkowski to adjourn

President Arndt: Meeting adjourned.

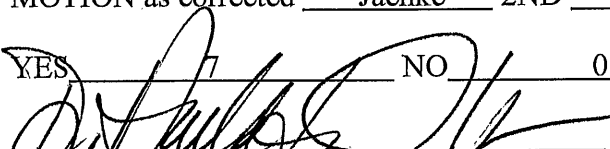
Meeting adjourned at 9:36 P.M.

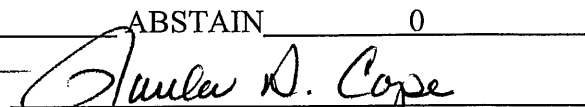
MOTION as corrected Jaenke 2ND Butkowski DATE November 21, 2005

YES 7

NO 0

ABSTAIN 0


PRESIDENT OF COUNCIL DR. RONALD F. ARNDT


CHIEF DEPUTY CLERK PAULA D. COPE, MMC