

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING NOVEMBER 4, 2002**

CALL TO ORDER: 8:00 P.M.

President of Council Dave Gillock: I would like to call this Regular meeting of the North Ridgeville Municipal Council to order. Would you please stand for the Invocation lead by Nancy Buescher.

INVOCATION: lead by Council Member Nancy Buescher.

PLEDGE OF ALLEGIANCE: by all.

CALLING OF THE ROLL - ROLL CALL:

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

Also, present were Mayor Deanna Hill, Safety-Service Director Jim Johnson, Law Director Eric Zagrans, Engineer Thomas Beutler, Auditor Chris Costin and Clerk of Council Chuck Norris.

MINUTES - Corrections and Approval:

Regular Council Minutes of October 21, 2002

motion by Butkowski, 2nd by Johnson to approve

President Gillock: Are there any corrections or additions. If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Minutes are approved by a vote of seven to zero.

President Gillock: Please note:

Board of Drainage and Flood Control Minutes of July 31, 2002;

Civil Service Commission Minutes of October 16, 2002;

Board of Zoning and Building Appeals Minutes of Regular meeting October 24, 2002; and

Board of Zoning and Building Appeals Minutes of Special meeting October 24, 2002.

COMMITTEE REPORTS:

Clerk of Council Norris:

1) FINANCE COMMITTEE REPORT #7189 Members of Council: We have considered the matter of T 104-2002 and recommend that this request be deferred to appropriations in 2003. Signed: Chairperson Bernadine Butkowski and Member Dennis Johnson.

motion to remove this from the agenda by Butkowski, 2nd by Johnson

President Gillock: Is there any discussion?

Council Member Butkowski: The reason I'm doing this, it is being replaced by Finance Report #7189 which will be read next.

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President Gillock: Any further discussion? Please call the roll on removing 7189 from the agenda.

Yes, 7 No, 0

Clerk of Council Norris: Committee Report 7189 is removed by a vote of seven to zero.

2) FINANCE COMMITTEE REPORT #7187 Members of Council: We have considered the matter of T 104-2002, amend Section 2 to read after fund, add: in the 2003 temporary and 2003 permanent appropriations and recommend that this request be approved and proper legislation be drawn authorizing the above.

Signed: Chairperson Bernadine Butkowski, Members Denny Johnson and Allen Swindig.
motion by Butkowski 2nd by Johnson to accept

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

Yes, 7 No, 0

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

3) FINANCE COMMITTEE REPORT #7188 Members of Council: We have considered the matter of the salary of Fire Dispatcher and Case Manager and request to revise the salary grid and recommend that this request be approved and proper legislation be drawn authorizing the above.

Signed: Chairperson Bernadine Butkowski, Members Dennis Johnson and Allen Swindig.
motion by Butkowski, 2nd by Johnson to accept

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

Yes, 7 No, 0

Clerk of Council Norris: Report 7188 is approved by a vote of seven to zero.

4) FINANCE COMMITTEE REPORT #7190 Members of Council: We have considered the matter of adding the position of Assistant Clerk of Council, CMC (Certified Municipal Clerk) and recommend that this request be approved and proper legislation be drawn authorizing the above.

motion by Butkowski, 2nd by Johnson to accept

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

Yes, 7 No, 0

Clerk of Council Norris: Report 7190 is approved by a vote of seven to zero.

QUESTIONS FOR THE FOLLOWING WRITTEN REPORTS:

President Gillock: We do not have any written reports from the administration this evening.

Mayor: None

Safety-Service Director: None

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Law Director: None

Auditor Costin: No report scheduled, Mr. Chairman.

Service Department Report of activity from October 14, 2002 through October 27, 2002; and Police Department Report for September 2002.

T 128-2002 An ordinance providing for the re-division of wards within the City of North

Ridgeville, Ohio in accordance with Section 3.1 of the Charter.

motion by Johnson to suspend By-Laws to have first reading, 2nd by Butkowski

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

Council Member Johnson: I think this is important to get this passed as soon as possible so it ends confusion as it exists right now as people are considering where to run for ward councilman or where to vote when the time comes in February.

President Gillock: I will also state that I recognize the opinion of the Law Director in regards to this ordinance. However, I believe this is the best way to address any confusion that might exist. I also point out that, although we did not obtain a formal legal opinion, I did talk to other legal attorneys, at no cost, and this is apparently the best option, in their opinion, that we have left to us and that is why I recommend that we proceed. Is there any further discussion on T 128, the suspension? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: T 128 will receive a first reading by a vote of seven to zero.

CORRESPONDENCE:

Clerk of Council Norris: Council has before them, seven items of correspondence for this evening:

- 1) A letter from Gerald W. Phillips submitting 23 referendum part petitions for Ordinance No. 3844-2002, Andover at Waterbury.
- 2) A letter from Gerald W. Phillips submitting 23 referendum part petitions for Ordinance No. 3845-2002, Chaddwyck at Waterbury.
- 3) Received a Committee Statement from Gerald W. Phillips, Attorney and Agent for the Committee for the referendum of Ordinance No. 3844-2002.
- 4) Received a Committee Statement from Gerald W. Phillips, Attorney and Agent for the Committee for the referendum of Ordinance No. 3845-2002.
- 5) Received a letter from Susie Novis, President of the International Myeloma Foundation, thanking Council, on behalf of the Myeloma Foundation, for their generous donation in honor of Thomas Noll, brother of Council Member Bernadine Butkowski.
- 6) Received a letter from Clerk of Council Charles Norris, pursuant to his responsibilities under Section 13.2 of the Charter, certifying that the referendum petitions for Ordinance No. 3844-2002, acceptance of final plat of Andover at Waterbury is legally sufficient and in accordance with Section 13.2 of the Charter, Council shall reconsider such ordinance or submit it to a vote of the electors at the next regular election occurring more than 75 days after the filing of

such petition.

7) A letter from Clerk of Council Charles A. Norris, pursuant to his responsibilities under Section 13.2 of the Charter, certifying that the referendum petitions for Ordinance No. 3845-2002, acceptance of final plat of Chaddwyck at Waterbury is legally sufficient and in accordance with Section 13.2 of the Charter, Council shall reconsider such ordinance or submit it to a vote of the electors at the next regular election occurring more than 75 days after the filing of such petition.

President Gillock: Thank you. Six of these seven items deal with two ordinances passed by Council for which petitions were submitted. At this time, I would like to refer to the Law Director to address these.

Law Director Zagrans: Thank you, Mr. President. I received Council Clerk Norris's two letters dated October 29 too late for a legal opinion to make cloture. But, I do want to apprise Council of what the opinion of the Law Department will be with respect to these two petitions, two sets of petitions, which you would otherwise, under our Charter, have to submit to the electors unless you repealed those two ordinances within 30 days after Mr. Norris's letters, in other words, at this Council meeting or the next Council meeting. It's the opinion of the Law Department that the referendum petitions are legally invalid for two reasons. One procedural and one substantive. The procedural reason is that the referendum petitions themselves are defective on their face in two respects and these kinds of referendum petitions are stickily construed and the law holds them to be required to comply with the law in every important detail or they are invalid. The first respect that they are defective on their face is that they call for ten percent or more of the electors who voted for governor at the proceeding gubernatorial election. That's what the petitions say. That is contrary to Section 13.2 of our Charter. The last gubernatorial election, before tomorrow, was in November of 1998. Our Charter says it's suppose to be more than ten percent of the electors voting at the last preceding November election which would have been, in other words, the election last November of 2001. Secondly and in my mind, more importantly, the petitions are facially defective and invalid because they require the issue of the voting on the two ordinances to be put to the approval of the voters at the general election to be held on November 4, 2003. That's what the people who signed the petition thought they were doing. Again, that is contrary and in violation of our Charter provision in Section 13.2 which requires a successful referendum to be submitted to the voters at the next regular election which would be the May 2003 primary, not the November 2003 general election. Finally, the substantive reason for the invalidity of these referendum petitions is a consequence of one of our Codified Ordinances. It's ordinance Section 1279.08. That ordinance requires that Council's review and approval of a final development plan for a PCD is administrative in nature and that the legislative action of Council and the legislative process is complete when the property is rezoned and preliminary plan approval is given. It is axiomatic law in the State of Ohio that the referendum process applies only to legislative actions by a City Council, not to administrative actions such as these

two ordinances. Therefore, Mr. President, as I say, it will be the issued opinion of the Law Department that these two petitions are defective and invalid and do not need to come before a vote of Council.

President Gillock: Are there any questions? Mr. Johnson?

Council Member Johnson: When can we expect a written opinion on that, Mr. Zagrans?

Law Director Zagrans: By weeks end.

President Gillock: Are there any other questions of the Law Director in regard to this issue? Mr. Johnson?

Council Member Johnson: Is there anything stopping this Council from putting this issue on the ballot, on our own, regardless of these errors? I'd like to get an opinion of the Law Director, if I may?

President Gillock: Can you give us a legal opinion on that now or a later date?

Law Director Zagrans: I certainly can't do it now. May I ask Mr. Johnson a question just so I'm clear as to what he is asking?

President Gillock: Yes.

Law Director Zagrans: Are you asking, separate and apart from the referendum process, does Council, if it wishes to, have the power to place a question of the adoption of an ordinance on the ballot for the voters' consideration?

Council Member Johnson: Correct.

Law Director Zagrans: An ordinance that Council has already previously adopted?

Council Member Johnson: Correct.

Law Director Zagrans: That's a very interesting question. I know of no legal opinion that has consider that or case but, I will certainly look into it.

Council Member Johnson: I know it sounds silly but, these people signed a petition in good faith and they apparently want the right to vote on that even though they didn't dot the I's or cross the t's. It appears to me that a substantial portion of the electorate would like the right to vote on it and I'd like to see if it's at all possible that we do that.

Law Director Zagrans: Again, it's more than not dotting the I's and crossing the t's. If it were only that, I would agree with you and certainly you need to keep the wishes and desires of the electorate under most in mind. But, it's more than the facial defects in the petition itself. It's also the second point, the substantive point that you simply can't subject to referendum an administrative action by Council. But, you're saying, regardless of all that, can you go ahead and send it to the voters anyhow?

Council Member Johnson: Exactly.

Law Director Zagrans: That's a question I'm just simply going to have to do some research on.

Council Member Pagel: Mr. President, may we table this until the next meeting so that we can have the written opinion and possibly some information from the Law Director?

President Gillock: There's no motion to table.

Council Member Pagel: I'd like to motion to table this, please.

President Gillock: There's nothing to table. There's no motion.

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Council Member Pagel: We have before us a referendum and we just had a Law Director's opinion and I believe that this, we brought it up as recognizing it in correspondence and I'd like to just ask you if we could table it until the next meeting until we get more information on it before we even just drop it.

President Gillock: We're arguing a legal opinion. It's not a matter of our dropping it. We have not made a motion. There's nothing to table.

LOBBY:

President Gillock: We now come to the lobby portion of our meeting. Anyone who wishes to address Council can do so. You have three minutes. We ask that you sign one of the lobby sign in sheets in the back. Is there anyone, at this time, who would like to speak to Council? No one. Would you like to take a recess or do you want to proceed with the agenda?

motion by Johnson, 2nd by Butkowski to dispense with the recess

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

Yes, 7 No, 0

Clerk of Council Norris: We are foregoing recess by a vote of seven to zero.

RECESS: dispensed with.

FIRST READINGS:

Clerk of Council Norris:

T 100-2002 AN ORDINANCE AMENDING NRCO SECTION 1060.10.

3854-2002 First Reading

motion by Swindig, 2nd by Olesen to dispense with second and third readings

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

Yes, 7 No, 0

motion by Swindig, 2nd by Olesen to adopt

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

Yes, 7 No, 0

Clerk of Council Norris: T 100 is adopted by a vote of seven, zero and becomes permanent ordinance 3854-2002

Permanent Ordinance No. 3854-2002

T 123-2002 AN ORDINANCE AUTHORIZING AND DIRECTING THE SUBMISSION TO
THE ELECTORS OF A PROPOSED ORDINANCE PROVIDING FOR THE
REGULATION OF MOBILE FROZEN DESSERTS SALES AND AMENDING
THE CODIFIED ORDINANCES TO PERMIT THE SALES OF MOBILE
FROZEN DESSERTS.
First Reading

T 127-2002 AN ORDINANCE DELETING THE REFERENCE TO THE REGIONAL
HOUSE CODE IN CODIFIED ORDINANCES SECTION 1282.11(B)(3).
First Reading

T 129-2002 AN ORDINANCE AMENDING NRCO SECTION 1226.14 TO CHARGE
DEVELOPERS FOR THE COST OF TRAFFIC CONTROL DEVICES
INSTALLED BY THE CITY NECESSITATED BY DEVELOPMENT AND
BENEFITTING SUCH DEVELOPMENT, AND TO REQUIRE DEVELOPERS
TO INSTALL STREET NAME SIGNS AT THEIR OWN COST.
First Reading

T 125-2002 A RESOLUTION TO APPROVE THE EXPENDITURE OF FUNDS.
959-2002 First Reading
 motion by Swindig, 2nd by Johnson to dispense with second and third readings

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

Yes, 7 No, 0

 motion by Swindig, 2nd by Butkowski to adopt

President Gillock: Is there any discussion? Mrs. Butkowski?

Council Member Butkowski: It is my understanding that there were no purchase orders
submitted and that's why we have this here tonight. Mr. Costin, could you explain that, please?

President Gillock: Mrs. Butkowski, before we go to Mr. Costin, I want to point out also, these
are within the contract amounts. As you well point out, these are again issues that come so
common, they're almost routine. Although they are within the contract, they basically violate our
procedures in that purchase orders were not taken out before the work was authorized.

Therefore, it has to come back to Council. I've been asking and I will do so again, write a letter
to the French Creek Director, Mr. Daley, reminding him that we need the purchase orders signed
before the work is authorized so we don't have to come through this procedure. Mr. Costin?

Auditor Costin: What you said is correct. We actually did have a meeting between Mr. Daley
with the Service Director, our Safety-Service Director attending and us and I think that there's
just a communication gap that exists over there from time to time. From observation, the work
has been completed just as you said though, it was absent a valid purchase order. The only way
to remedy that is to approve payment because the dollar amount is by resolution of Council.

President Gillock: We will, again, bring it to their attention this gap in communications and
procedures. Is there any other discussion? If not, please call the roll on the adoption.

Yes, 7 No, 0

Clerk of Council Norris: T 125 is adopted by a vote of seven, zero and becomes permanent
resolution number 959-2002.

Permanent Resolution No. 959-2002.

T 126-2002 A RESOLUTION TO APPROVE THE EXPENDITURE OF FUNDS.

960-2002 First Reading

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

President Gillock: Is there any discussion on the suspension? Mr. Costin?

Auditor Costin: This one is a bit unique in that we originally had purchase orders. There were two purchase orders in place. This goes back to last year, in last December, when we did our year end clean up. We contacted Squire's and we actually reduced the purchase orders in place with their approval thinking that they would be able to come into a lower amount and because of the calculations and the computations and the difficulty, there's a certain amount of time that has to go by before we can come up with final calculations here. The dollars were back up to where we originally had. We did have purchase orders, reduced them and now we have to remedy that reduction.

President Gillock: Any other discussion on the suspension? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion is approved by a vote of seven, zero.

motion by Swindig, 2nd by Butkowski to adopt

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

Yes, 7 No, 0

Clerk of Council Norris: T 126 is adopted by a vote of seven, zero. Becomes permanent resolution 960-2002.

Permanent Resolution No. 960-2002

T 128-2002 AN ORDINANCE PROVIDING FOR THE RE-DIVISION OF WARDS
3855-2002 WITHIN THE CITY OF NORTH RIDGEVILLE, OHIO IN ACCORDANCE
WITH SECTION 3.1 OF THE CHARTER.

First Reading

motion by Johnson, 2nd by Butkowski to dispense with second and third readings

President Gillock: Is there any discussion on the suspension? Mrs. Pagel?

Council Member Pagel: I have two questions if you could clarify, please. First of all, if this does pass tonight, when does it become effective? And two, if it becomes effective in the usual cause then, if there's a Council person that's sitting right now and moved to a different district, how does that affect that Council person and his ability to represent his existing district, as it stands?

President Gillock: It is my understanding, if this is passed tonight, it takes effect with the, which would be the May primary, according to the Board of Elections. It has to be passed 150 days before the next ensuing election. That would be the one it would be effective with. That's when Council boundaries would change. I think, you would still represent the ward in which you're in, that's a good question as far as serving out the time. Perhaps Mr. Zagrans has some input if you change the boundaries in May.

Law Director Zagrans: May I generally address this?

President Gillock: Yes.

Law Director Zagrans: Beyond what Mrs. Pagel is asking?

President Gillock: Yes.

Law Director Zagrans: But, I will address Mrs. Pagel's questions. As you all know and in accordance with the legal opinions of April 30 and July 27, it's the opinion of the Law Department that this ordinance is not in accordance with Section 3.1 of the Charter and if passed, Council would be illegally usurping the authority and power given to the Director of Public Services by the Ohio Revised Code. Consistent with that opinion, it's the opinion of the Law Department that, when Mr. Johnson submitted last May, his redistricting plan to the Board of Elections, that action legally changed the ward boundaries in North Ridgeville. So, contrary to what Mr. Gillock was saying and I understand where Mr. Gillock is coming from, it's the opinion of the Law Department that the ward boundaries legally changed in May of 2002 which is much more than 180 days. It's a full year before the May 2003 primary. Now, if that were not the case and we were within 150 days, if that were not the case, then we would go back to what Mr. Gillock was saying, would be the answer. This ordinance, if it were lawful for Council to do, would take effect, I'm not sure if it would take effect in May, I think it would take effect for the May 2003 primary and would be effective 30 days after passage by Council like any other legislation is effective at that point in time that's not emergency. But, I go back to the fact, and I have to reiterate it because I've issued two legal opinions on this. It's not the result, my understanding from Mr. Gillock is, that the intent of this ordinance is to achieve exactly the same result as what Mr. Johnson's redrawn boundary lines that were submitted to the Board of Elections in May would constitute. It's not the end result that's the issue, the issue is the power and authority under the Charter and under the Ohio Revised Code and that is what, in my view, Council does not have and, if you pass this, it will be in the opinion of the Law Department, legally ineffective.

Council Member Buescher: Mr. President, it's the responsibility of Council to change an ordinance with an ordinance. This change of ordinance will exactly match and be in line with what was submitted by the Safety-Service Director, Jim Johnson, to the Board of Elections. It eliminates the confusion of residents inquiring about ward lines in the Clerk of Council's office. The people simply cannot go into the office and ask for the ward lines without being given the previous ward lines and to repeal it as was suggested, would just take us back to a few years before that. So, this Council feels that it's absolutely necessary for us to change that ordinance to match. I simply can't understand what objection there would be, from the Law Department, with us putting this in line with what the Law Director has ruled as far as Mr. Johnson's submission.

President Gillock: I also want to point out, that with Council's approval, of up to five thousand dollars to access legal counsel, I did do so. We did not spend any money. I have not an official opinion but, an opinion from a large law firm that this is one of the options available to us, that basically does the least harm. We have four options, one is to do nothing and leave the situation existing as it does which, in my opinion, as you have one map at the Board of Elections and a separate map in our Codified Ordinances. The second one would be to adopt the plan as originally proposed by Mr. Zagrans, which he also agrees, would not resolve the problem by

repealing the 91 ordinance. We could adopt Mr. Johnson's plan, which is what we're trying to do or adopting our own plan, which would be entirely in opposition to Mr. Johnson's. The most common sense, the most logical thing is to make our Codified Ordinances coincide with the plan that the Board of Elections has and that's what we are attempting to do. Mayor Hill?

Mayor Hill: You've mentioned several times that you've consulted with outside attorneys. You have yet to tell us who they are and to get that in writing.

President Gillock: I'm not going to get it in writing. The name of the firm was. . .

Law Director Zagrans: It's Vorys, Sater, Seymour and Pease.

President Gillock: Correct.

Mayor Hill: And who did you talk to?

President Gillock: Tom Winters is a partner in the firm out of Columbus, Anthony Calabrese and another associate out of the Columbus office. They have a number of offices with approximately 250 attorneys on staff, according to what they told me and they appeared to be highly qualified. I also talked to Paul Blevins, informally, and we have not spent any money. General opinion seems to be, this is the best way to go from their standpoint.

Mayor Hill: Okay, so, you are saying that you talked to Tom Winters, Anthony Calabrese and Paul Blevins.

President Gillock: And one other associate whose name I do not recall, with Vorys, Sater, Pease, with that particular law firm.

Mayor Hill: Could you write up a summary of what they said for us?

President Gillock: Sure, I can do that. Anything else?

Mayor Hill: Yeah, I have another question. How do we resolve the issue that legally, the opinion of the Law Director is the final legal opinion of the City?

President Gillock: In my opinion, the Law Director's opinion is not the final legal authority in this City. We are the final legal authority in this City. He has given his legal opinion, until we go into court and someone challenges us and the court says we're wrong, then we just have a difference of opinion. There's no penalties involved where anybody gets fined or we go to jail. It's stickily a procedural issue as Mr. Zagrans has pointed out.

Mayor Hill: Mr. President, I would refer a question to the Law Director and that is, what does the law say about the legal opinion of the Law Director of a municipality?

President Gillock: Go ahead.

Law Director Zagrans: The law is that the legal opinion of the Law Director is the final legal authority of the City, just as you said. Mr. President, may I just say one more thing?

President Gillock: Yes.

Law Director Zagrans: And I know I'm swimming upstream here but, just in response to what Mrs. Buescher, one of the comments Mrs. Buescher made and something I heard from you, Mr. President, before now. I think it is a, it's a strong man to say that we have one ordinance for the City that says one thing and what was submitted to the Board of Elections that says the other and we have to reconcile them in order for people to understand. That's just simply not true. It does not take legislation to override or repeal legislation or amend legislation if the person doing it,

the authority doing it is someone other than Council. Ohio Revised Code gives that authority, under the circumstance of this matter, to the Director of Public Service. He did so in May. Once he did so, that became law in May of 2002. What our Council Clerk's office should do, if anybody asks, is give them a copy of what Mr. Johnson submitted to the Board of Elections and have a map drawn in accordance with that and that resolves the conflict. There is no conflict because that became the law. So, I just wanted to make that point. There should be no confusion. My attempt to come up with some solomonic compromise here of repealing the old law, I recognized didn't work because that leaves you with an even older ordinance on the books but, you don't have to do that. The law and the lawful boundaries of the City have been fixed in May of 2002 by operation of the Ohio Revised Code when Mr. Johnson submitted his plan.

Council Member Butkowski: Mr. President, we still can't leave an ordinance on the books that makes no sense whatsoever. We have to do something with that ordinance because, the Clerk of Council's office still has to refer to that ordinance and to what we have on the books and it's the responsibility of Council to be in charge of those ordinances.

President Gillock: I've never questioned the fact that the Safety-Service Director was directed by the Ohio Revised Code to submit a plan to the Board of Elections. It's after that, the procedure that I questioned. It always seems to me that at that point as I requested him to do, the Safety-Service Director should have submitted his plan to Council and we would have been obligated to adopt it, therefore keeping our Codified Ordinances in compliance or in agreement with what the Board has. We have a difference of opinion. I respect and understand what you're saying but, it is confusing, at least to me and this seems to be logical and from a common sense standpoint, the easiest way to resolve it. Any other discussion? Mrs. Pagel?

Council Member Pagel: I still have not received an answer to my question about how this affects the residents and the Council person that's sitting in one ward right now. When this is passed and it becomes effective in May, is this going to be in a different ward and how does he represent his other constituents? With that in mind, I would like to ask the members to withdraw their motion to suspend and let this go to the next Council meeting for a second reading.

Council Member Buescher: Mr. President, I think that the Law Director explained that the plan is already in existence when Mr. Johnson submitted this to the Board of Elections. All this is doing is cleaning up our ordinance and I think we've let this go long enough. I think that the majority of Council Members realize that something has to be done with the ordinance on the books.

President Gillock: I agree that this, basically, has nothing to do with, if the plan submitted by the Safety-Service Director is in effect of May 2002, it's in effect. This doesn't change that. All this does is change our code to agree with that plan. Mrs. Butkowski?

Council Member Butkowski: Maybe I can give an example. We've had changes in the seats for the State government and their representatives in their districts for the Senators and Representatives, the same way in the federal government. They make those changes but, they do not affect anybody that has been presently elected and are sitting. That same thing applies to our City. Those things are made, our wards and boundaries are changed, districts are changed and

they are changed effective with the next election. This has been going on for years.

Council Member Johnson: Mr. President, I agree with Mrs. Butkowski. We have that situation right now with our State Senator, State Representative, both districts have changed but they represent who they've represented all along. On the situation right now, as precinct committeemen, when precincts were changed, there were two committee persons in charge of the same precinct right now and it's the same situation there.

President Gillock: The motion that we have is to suspend second and third readings. Is there any further discussion on the suspension? Please call the roll on dispensing with second and third.

Yes, 7 No, 0

Clerk of Council Norris: T 128, the motion to suspend carries by a vote of seven to zero.

motion by Butkowski, 2nd by Johnson to adopt

President Gillock: Is there any further discussion?

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

President Gillock: Purpose?

Council Member Johnson: The purpose is to get the difference in wards cleared up between Council and the Board of Elections, as soon as possible, before the February filing deadlines for office.

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

Council Member Olesen: If the Board of Elections has a different filing date then we have, which has precedence? If it was submitted and it was legal back in May when Mr. Johnson submitted it and we're approving it again, what date do we refer back to.

President Gillock: We'll always refer to the Board of Elections as to when the ward boundaries are effective or what the boundaries are. They're the ones that set the polling places and send the voting provisions out.

Council Member Olesen: Is this much to do about nothing tonight and we're all talking about the same thing?

President Gillock: It's their plan, yes and we're just trying to make our Codified Ordinance match that plan so that we don't have any questions what the boundaries are. Mayor Hill?

Mayor Hill: I would defer that it's much to do about nothing. I think it really comes down to, sort of, a constitutional crisis in that the law is very clear that the Law Director's opinion is not just somebody's opinion, he is the final legal authority of a municipality. And, what Council is about to do then is fly in the face of the law.

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

Yes, 5 No, 2 (Swindig, Pagel)

Clerk of Council Norris: The emergency passes by a vote of five to two.

Council Member Pagel: Mr. President, I have to state, I am against this ordinance in particular, not because of any reason from what the City has given the Law Director or anything but, because I believe it doesn't really, is not, resident friendly as far as it displaces a number of

residents from ward three into ward one and I believe it could have been done cleaner. Numbers were good but, I think that as far as the residents having to, some people have been voting in the same places for many, many years and I think it could have been a little bit more resident friendly.

Council Member Johnson: Mr. President, I concur with Mrs. Pagel. I don't challenge the numbers but, I think we could have done a better job at dividing wards so that the residents stayed in their current wards as much as possible and that the growth that we are experiencing right now, gets dispersed more equally among the wards. It was possible and it was a plan that was being worked on before the Safety-Service Director took his plan into the Board of Elections.

President Gillock: Thank you. Anyone else wants to comment on the adoption? If not, please call the roll on the adoption.

Yes, 6 No, 1 (Pagel)

Clerk of Council Norris: T 128 passed with the emergency by a vote of six to one. It is permanent ordinance 3855-2002 with the emergency.

Permanent Ordinance No. 3855-2002

SECOND READINGS:

T 120-2002 AN ORDINANCE AMENDING ORDINANCE 3558-2000 PERTAINING TO
3856-2002 THE COMPENSATION OF THE PART-TIME ASSISTANT PROSECUTOR.

Second Reading

motion by Mayor Hill to amend by substitution the entire ordinance which was received by all Council Members tonight, 2nd by Swindig

President Gillock: Is there any discussion?

Mayor Hill: Yes, Mr. President. This is what the Finance Committee reached an agreement to do and asked that we resubmit this as amended.

President Gillock: Are there any questions? Mrs. Pagel?

Council Member Pagel: I do have a question. On section one, the first sentence, on the amended one, you left out, the other one said "annual base salary", you left out the word "base".

Mayor Hill: That's correct. It was explained during the Finance meeting that the simplest way to do this, the clearest way to do it, since the request was to add one thousand dollars is, simply, delete the base salary and just make it one thousand dollars more than what it is.

Council Member Johnson: Mr. President, to clarify a little bit, the original ordinance, if passed, would have resulted in a reduction in wages rather than an increase.

President Gillock: Any other discussion? Constitutes second reading.

Yes, 7 No, 0

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

motion by Swindig, 2nd by Olesen to dispense with third reading

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

Yes, 7 No, 0

motion by Swindig, 2nd by Olesen to adopt

President Gillock: Is there any discussion on the adoption? Mr. Johnson?

Council Member Johnson: It's my opinion that the Law Department is kind of bloated in the budget and, I said before, I'm not pleased with the cooperation that we've gotten from that department. Therefore, I don't support this increase in salary.

Mayor Hill: Mr. President, I'd like to have Mr. Johnson explain what he means by bloated and not getting cooperation and this is our prosecutor. Have you specifically not gotten cooperation from the prosecutor?

President Gillock: Mr. Johnson, would you like to respond?

Council Member Johnson: Yes. I addressed the Law Department as a whole, not this particular person.

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

Yes, 6 No, 1 (Johnson)

Clerk of Council Norris: T 120 is approved by a vote of five to two and becomes permanent ordinance 3856-2002.

Permanent Ordinance 3856-2002

T 122-2002 A RESOLUTION OF SUPPORT FOR TRANSPORTATION ENHANCEMENT
961-2002 PROJECT.

Second Reading

motion by Swindig, 2nd by Olesen to dispense with third reading

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

Yes, 6 No, 1 (Johnson)

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

motion by Swindig, 2nd by Olesen to adopt

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

Council Member Johnson: I don't disagree with this ordinance but, I would like to see what comes out of the committee that was formed that deals with how this money is going to be put to use before I vote on it.

President Gillock: Any other discussion? Mrs. Buescher?

Council Member Buescher: I agree with Mr. Johnson. I think we should know what the committee has in mind before we pass this resolution.

President Gillock: Are you speaking to the master plan committee for the bike trail that was discussed earlier?

Council Member Buescher: Yes.

Engineer Beutler: Mr. President, may I address this issue, please?

President Gillock: Yes, you may.

Engineer Beutler: This is a project that we put together for funding that is available now. The committee that we are forming is there saying that for future projects, for other funding sources for bike trails to have another amenity for parks and recreation of the constituents. They said it

would help if we had a master plan. What we got is something what this resolution is for. Basically, goes into what's already been plan for the City. Tying into the Metro Parks, tying into one of the trails that's being provided by one of the PCD's. So, this basically ties in. It basically, coincides with what it's been planned for as a City, right now. The committee has been put together. We could have gone out and requested proposals from consultants, spend a lot of money. We felt that there was probably not any money right now available for that. There's other sources of funding coming up as maybe as early as January and we thought that if we had a committee, we'd basically develop a plan for the City. Have that plan looked at by the Planning Commission and also adopted by Council as a master plan for the City. Now, if that is done then we have a tool to apply for other monies to bring money into the City to build these bike trails. All this committee is going to do is basically come up with a plan to basically plan the whole City, like we have a master thoroughfare plan, a master zoning plan, so on and so forth, land use, they're some of the other ones we got. The committee that we have is basically two members from Parks and Recreation, two members from the Planning Commission, Parks and Recreation department head, myself and we got Dan Martin from Lorain County Metro Parks and as a tool we're doing this to try and save the City money with this committee in order to come up with this planning tool that will help us into the future for this type of thing.

President Gillock: This resolution is just a resolution of support for this specific project. We still have to come back to Council to fund this.

Engineer Beutler: Correct. If our application is accepted, then we would have to come back through the process for funding.

Council Member Johnson: Could I get an explanation, this is for a bike trail, where's it start, where's it end and how's it getting there?

Engineer Beutler: This bike trail is basically, our plats are basically going from Lorain Community College down Burns Road, down Case Road to Otten Road. Because the project was getting too high in cost we had to stop at some point. It basically gets the traveling public to use this bicycle trail which would be added to the berm of the road which is a customary bike trail. You see them in other communities. Then the people would have to go down Otten Road on their own to the Metro Parks. This is like a phase one of the first part of the project to get from Lorain Community College over to the metro parks and this basically coincides with bike trails that already exist over at the college. I'm getting more detail in regards to that from the college, yet this week, in preparation for this meeting of the committee. So, this project is basically, Burns Road and Case Road to get us one step further to the Metro Parks.

Mayor Hill: Mr. President, the purpose of the committee is just to examine how the route might go and that's why Planning Commission is also included. This ordinance or this resolution of support is just to say, City Council supports the idea of a bike trail, not this particular amount of money because it would have to come back to Finance and to City Council for approval. The reason we're working between Lorain County Community College and the park is because that's the only type of project that they fund. If we don't get a resolution of support, then we don't even apply because you have to have it as a first step saying that City Council wants to look at

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bike trails.

President Gillock: Thank you. Any other discussion? If not, please call the roll on the adoption.

Yes, 7 No, 0

Clerk of Council Norris: Motion is approved by a vote of seven to zero and becomes permanent resolution 961-2002.

Permanent Resolution No. 961-2002

THIRD READINGS: None

UNFINISHED BUSINESS: None

COMMITTEE MEETING ANNOUNCEMENTS:

President Gillock:

Next Council Work Session, Monday, November 18, 2002 at 7:30 P.M.

Next Regular Council meeting, Monday, November 18, 2002 at 8:00 P.M.

Council Member Johnson: Mr. President, this isn't a Council Committee meeting but, I'd like to point out that the Board of Drainage and Flood Committee is meeting November 6 at 7:30 P.M.

ADJOURNMENT:

motion to adjourn by Swindig, 2nd by Olesen

President Gillock: Meeting adjourned.

Meeting adjourned at 9:00 P.M.

MOTION Butkowski 2ND Olesen DATE November 18, 2002

YES 7 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL


CLERK OF COUNCIL