

**NORTH RIDGEVILLE MUNICIPAL COUNCIL  
MINUTES OF  
REGULAR MEETING      OCTOBER 16, 2000**

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

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

**ROLL CALL**

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

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

**MINUTES**

President Brown: Please note:

Regular Council Minutes of October 2, 2000

motion to accept by Swindig, 2<sup>nd</sup> by Butkowski

Law Director Zagrans: Madame President?

President Brown: Yes Mr. Zagrans?

Law Director Zagrans: I have corrections on two of the pages to propose. On page four, three corrections to the Law Director's Report. In the middle of that paragraph the sentence that begins "Fortunately a majority" should actually be "Unfortunately a majority". Second one is four lines up from the bottom, "we could not", the word is "exceed" as it's printed, it should be "accede". Two lines up from the bottom, two words are transposed, the words "I" and "think", it should be "despite what four Justices think I continue to believe".

Council Clerk White: Changes are so recorded.

Law Director Zagrans: And then on page 18, six lines from the top, Resolution No. "902-2000" should be "904". Thank you.

Council Clerk White: Those changes are made.

President Brown: Anyone else have changes? Discussion? Seeing none, please take the roll.

Yes, 7                      No, 0

Council Clerk White: Motion carries seven zero. The minutes as corrected have been approved.

Council Clerk White: Motion carries seven, zero.

President Brown: Please note:

the Board of Drainage and Flood Control Minutes of September 27, 2000;  
the Board of Zoning & Building Appeals Minutes of September 28, 2000; and  
the Planning Commission Minutes of October 10, 2000.

**COMMITTEE REPORTS**

President Brown: Do we have any committee reports Mr. White?

Council Clerk White: I have none.

President Brown: Moving on to Mayor's Report.

**MAYORS REPORT**

Mayor Hill: We were notified by Congressman Sherrod Brown last week that \$600,000 in federal funds for railroad grade crossing improvements in North Ridgeville was included in the bill that sets the dollars for the Department of Transportation in fiscal year 2001. This funding from the federal government can be used as local match for state and railroad funding. We have completed a comprehensive study of the need and engineering for a grade separation for Route 83 and Race Road. Both projects qualify by the standards established by the state. We're also in the process of writing the application that will be evaluated by NOACA. As news comes in, I will update Council and the public.

There is more good financial news. We were notified, actually, our Auditor was notified last week that the City of North Ridgeville has received Moody's Investors Services bond rating of A2. For many, many years we had a BAA rating. The A2 rating is the very best a city of our size can get. Our note rating is an MIG 1, which is a superior rating. Our superior short and long-term rates, and I quote from their report "reflect the city's demonstrated history of market access as well as credit fundamentals. The bond rating reflects Moody's expectation that the city continues to benefit from its growing affluent tax base, well managed financial operations and moderate amount of well structured debt." Furthermore they added, "Moody's expects continued to strong tax base growth due to the availability of land for development and overall growth patterns." Congratulations to the Auditor's Department, the City departments and the majority of City Council who have supported the City's financial management practices and our strong tax base smart growth, now and in the future. That completes my report.

President Brown: Thank you Mayor. Any questions of the Mayor, Mayor's Report? Mr. Gillock.

Council Member Gillock: Mayor, just a clarification of that 600,000, is that available now or is that in a bill that still has to be approved.

Mayor Hill: The compromise was to be reached last Friday. I talked with the Congressman's office and it was, the compromise was reached and the bill passed, is my understanding. We will get a letter to that affect from the Congressman's office. We expected it today so it may be in the mail tomorrow.

Council Member Gillock: That you.

President Brown: Anyone else wishing to ask a question of the Mayor's Report? Okay, seeing none, moving on to the Safety-Service Director Mr. Johnson.

**SAFETY SERVICE DIRECTOR'S REPORT**

Safety Service Director Johnson: The Service Department has paved Noll Drive and Washington Boulevard.

Street pads, sidewalk and drive apron work has been performed on Deborah, Denise, Hawthorne, Drake and Meadow Moss.

Patching was performed on Denise, Opal and some areas of Center Ridge.

There were several water problems in the last two weeks on Red Pine Way, Rhonda, Wallace, Rosebelle and Cornell.

Ditch cleaning and piping took place on Wallace, Lee and Garrett, as well as the upgrading of the backyard drainage pipes in some areas of Denise.

Sewer cleaning took place in the Mitchell farm areas, all of the Luanne development, Joanne and other areas of the City.

Tree trimming and roadside mowing took place in our City during the last two weeks along with weed whipping of the overpasses. That concludes my report.

President Brown: Thank you Mr. Johnson. Any questions of the Safety-Service Director's Written Report? Seeing none, moving on to the Engineer, Mr. Lovece.

**ENGINEER'S REPORT**

Engineer Lovece: Thank you Madame President. Stoney Ridge Road reconstruction of the pavement is substantially complete. Drive aprons, berming and pavement markings tentatively will be completed this week. Along with that project we installed a 24 inch storm sewer draining a portion of Stoney Ridge which never had any drainage and this could be used in the future to extend storm sewers down Stoney Ridge Road.

Bainbridge Road reconstruction has some good news. The contractor has stated to the City and ODOT that they intend to start the demolition of the Bridge October 23rd, weather permitting, and that'll be after the completion of this phase of work they're on right now. Right now they plan on paving this week, weather permitting, from Root Road to Wil-Lou on the south side of Bainbridge Road. Once that's open to two-way traffic, then the bridge can be demolished. While another crew works on paving the remainder of Bainbridge from Wil-Lou all the way to Chestnut. So I think that is some good news and I'm sure you'll agree there has been better progress on this half of Bainbridge than the other half.

Wallace Boulevard water main, another week and a half to complete that project. It's going well.

From time to time the old main is ruptured. No fault of anyone. Just due to the poor condition of the main. We've gotten part of it out of service right now and like I said another week and a half we should have it all wrapped up.

Tentatively this week as well, Case Road reconstruction will begin from Center Ridge to Burns Road. Just wanted to let you know. That concludes my report.

President Brown: Okay Mr. Lovece. Any questions of the Engineer's Report? Seeing none moving on to the Auditor's Report, Mr. Costin.

**AUDITOR'S REPORT**

Auditor Costin: Madame Chairman, I have several items of business this evening. The first of which is the September monthly report which Council should have already received.

motion by Swindig to accept, 2<sup>nd</sup> by Butkowski

President Brown: Any discussion on the Auditor's Written Report. Okay, roll please.

Yes, 7                      No, 0

Council Clerk White: Motion carries seven, zero to accept the September report.

Auditor Costin: Thank you. The next item of business, T 133-2000 under new business. The Treasurer has requested that be passed tonight. It would not need an emergency but what he would like to do is have adequate time to prepare the paper work necessary for him to bid the public funds. That's T 133-2000. We request that the second and third readings be waived and it be passed tonight without the emergency.

The next item, we do have our new note issue coming up this week and as a result we have an appropriation ordinance on second reading, T 128-2000, which I would request that you pass tonight with the emergency so that we have dollars in place that allow us to repay our notes that are due this week.

Finally to put into perspective what the Mayor indicated is you know we recently passed legislation to issue new notes to pay off our old notes for which we're going to go into bonds probably this time next year. The savings on the bonds, I'm sorry, the bond anticipation notes will be in the area of around \$19,000. This revised rating will save the City the first year alone, \$19,000 of interest. That concludes my report.

President Brown: Thank you Mr. Costin. Anyone have a question regarding...

Council Member Swindig: Madame President, can I make a motion to start the tape on the appropriation ordinance?

President Brown: Okay.

motion by Swindig to start the tape recording of the appropriation ordinance, 2<sup>nd</sup> by Overby

President Brown: Discussion? Do we have discussion on that? None, we just start on it.

Council Clerk White: We need to vote.

President Brown: Take a vote please.

Yes, 7                      No, 0

Council Clerk White: Motion carries seven, zero, approved to start the appropriation tape.

President Brown: Going into the Law Director's report, Mr. Zagrans.

**LAW DIRECTOR'S REPORT**

Law Director Zagrans: Thank you. I have a number of significant developments and issues on the litigation front to report to Council. First of all with respect to the Ohio Supreme Court case over putting the Kingston Place ordinance on the ballot, the City has filed a motion for reconsideration of the Supreme Court's decision, majority decision of four out of the seven Justices. On the basis that the decision has the, we are sure, unintended effect of undermining the home room powers of chartered municipalities. At least that is the contention that we have asserted and two organizations have joined in asking the Supreme Court to reconsider its decision. The Ohio Municipal League, which is the organization of municipalities throughout the State of Ohio, also believes that the Court's decision undermines the home rule powers of chartered cities and the Ohio Municipal Attorneys Association has also joined in that request. We will see, of course, what happens and what the Court decides to do. Motions for reconsideration, I will tell you, are not typically granted. The odds are very much against it.

Secondly, Gerald Phillips, the lawyer for the relators who filed the action, has filed a motion for attorneys fees. What this means is that the STAMP members are seeking to have their attorneys fees paid, not by themselves, not even by the nineteen hundred people who signed the petitions for STAMP, the first of five hundred who signed the Kingston Place and the nineteen hundred who signed the charter amendment petitions, but by all the taxpayers of the City of North Ridgeville. If granted this money would come out of the general fund and who ultimately provides money into the general fund but the taxpayers of the City. The administration will vigorously oppose this request for attorneys fees.

The second significant litigation development is that the City has brought an action seeking to make sure that the ballot language for the proposed charter amendment is clear, complete and unambiguous. The City wants to ensure as long as the petitioners who have filed this petition have been successful in having the manner go on the ballot, that the ballot language for the voters is clear and includes all of the important parts of the proposed charter amendment that is being proposed. The concern was that the language as initially proposed by the Board of Elections which was in very condensed summary fashion completely omitted four or five very significant, very important parts of the proposed charter amendment. That matter is also under consideration by the Court at this time.

Finally, I just wanted to note for anyone who is seeking to take a look at and read for themselves the Ohio Supreme Court opinion which is, I say is, currently the subject of our motion to reconsider. I just wanted to note that if they go to either Mrs. Minnick's website or to the STAMP petition website to read the petition they will find it does not include the entire Supreme Court opinion. It only includes the portion of the opinion that is favorable to STAMP which is to say the majority opinion by four of the Justices. It does not include the dissent of the other three Justices. If anyone wants to read the entire opinion for themselves, I recommend that they take a look at the Supreme Court's official website which is at sconet, s-c-o-n-e-t, [www.sconet.os.us](http://www.sconet.os.us) and that's o-h, that's Ohio, .us. That concludes my report.

President Brown: Thank you Mr. Zagrans. Does anyone have any questions of Mr. Zagrans report?

Council Member Butkowski: Mr. Zagrans, I do. Madame President, Mr. Zagrans, I reviewed your memo of October 13, 2000 regarding my employment with the North Ridgeville City Schools. You state that last spring we had a conversation about my employment as a bus driver for North Ridgeville City Schools. I informed you that I had discussed the fact that I was a part-time school bus driver with the previous Law Director when I was on Council previously and he felt that there was no conflict in his mind. During our conversation last spring you at no time told me that you disagreed with any such interpretation. You in fact said that you would look into this situation. That was last spring and prior to receiving your memo as of October 13th you have never approached that subject with me again. Our Council President during her previous term was a full-time school bus driver for the City Schools and there was no conflict then. Why is there a conflict now? Could it be due to my involvement with the STAMP group? In your memo you quoted an Ohio Supreme Court decision involving a similar situation in another City. Since you agree with that Supreme Court decision. The recent Supreme Court decision involving our community that rules against your findings, you disagree with. It is evident you only agree with decisions you like. That's been increasingly...

President Brown: Point of order Mrs. Butkowski. I asked if there was any questions of the Law Director's report and you are not hitting on the report at all. I think that you are out of order.

Council Member Butkowski: I don't think so. I got a letter from him.

Law Director Zagrans: Madame President?

President Brown: Yes.

Law Director Zagrans: May I ask your indulgence to allow Mrs. Butkowski to continue? Though it may be out of order, I acknowledge. As long as she has raised a personal matter which I do not feel is appropriate to be raised on Council floor, as long as she has chosen to raise it, I think I would like to ask on behalf of everyone that she be allowed to continue and that I be allowed to respond to her question.

President Brown: Well, I just wanted to make that point clear. I had asked for questions of the Law Director's report and this is not.

Law Director Zagrans: And I am not disagreeing with you Madame President, I'm merely asking for your permission that she be allowed to continue.

Council Member Butkowski: Thank you. It has been increasingly more difficult for the school district to find bus drivers. Well, Mr. Zagrans, as much I would like to continue to help the schools, your forcing this issue. You would probably prefer me to get out of your hair by resigning from Council seat, but I won't. I have taken an unpaid leave of absence from my part-time school bus driver position effective October 16, 2000. My leave will pose a hardship for the school system. I would suggest that any parent that's having complaints regarding their children being picked up late in the morning or being dropped off late at night, to call Mr. Zagrans. Because I can no longer help them out.

Law Director Zagrans: May I respond to Mrs. Butkowski's question?

President Brown: Yes you may Mr. Zagrans.

Law Director Zagrans: Mrs. Butkowski, you are not in my hair, nor do I desire to see you get out of my hair or to leave Council or to leave your position with the City Schools. Let me remind you of what I told you in the memo. Last spring we had a conversation about your employment as a bus driver for the North Ridgeville City Schools. I pointed out to you the provisions of Section 3.2 of the City Charter. This is not my rules. It is not the Zagrans section. This is the City Charter which states in pertinent part that a Member of Council quote, "shall not hold any other public employment in the City, except that of a notary public or a member of the State militia or the reserve corp of the United States", end of quote. You indicated that you had received a ruling from the former Law Director, Scott Serazin, that your employment as a public school bus driver was not in violation of that quoted Charter provision. I told you that I disagreed if that was the interpretation he gave you given the clear language of Section 3.2, but I chose not to press the issue at the time because one, I had not spoken with Mr. Serazin, and two, there were relatively few weeks remaining in the 1999/2000 school year and I thought that was going to be the end of the matter. I didn't think it was good for the schools to have to try to find a replacement bus driver for a few remaining weeks in the academic year. It has just come to my attention, however, from the Assistant Law Director, that you are again employed as a bus driver by the North Ridgeville Public School District for the current 2000/2001 academic year. Since I did not anticipate this would be an issue again after we spoke last spring, I asked the Assistant Law Director to locate Mr. Serazin's legal opinion that you referred to and to contact him to ask what the basis of his conclusion was. As a result of that I learned the following, Mr. Serazin remembered discussing the matter with you and confirmed that he told you he didn't see any real conflict of interest problem. Indeed, he informed me that both you and the current Council President Mrs. Brown had previously served on Council in past terms while employed as bus drivers for the school district without the issue being raised by anybody. However, Mr. Serazin also related the precedent of a Mr. Glauner who was declared by one of the prior Law Director's to be ineligible for a seat on City Council because he was a teacher in the North Ridgeville Public Schools. Furthermore, Mr. Serazin told Ms. Morgan, the Assistant Law Director, that no one, not you or anyone else had requested an official legal opinion from him on the issue of you serving simultaneously as a Member of Council and a public school employee. Furthermore, he told us that he did not research or address the question from the perspective of what the Charter requires, but considered it only from the perspective of whether there was a conflict of interest

under the Ohio Revised Code. I agree and told you in my memo of last Friday that I agreed with Mr. Serazin, that there did not appear to be a substantial conflict of interest under Ohio statutory law. However, the language of the City Charter is not tied to whether or not a conflict of interest is potentially present. It speaks in mandatory terms that no one, no one who is a member of Council may simultaneously hold any other public office or public employment, quote "in the City", end quote. Now, by the way, this "in the City" language seems to permit the loop hole that it would be permissible for a Council Member to hold public employment in another community while still serving on City Council. This doesn't make any sense to me unless it constitutes the view that there is an inherent potential conflict of interest in a Member of City Council holding other public employment in North Ridgeville whereas no such conflict would exist with a public employer in another community. I cited you to the controlling Ohio law on the subject in the Ohio Supreme Court case involving the City of Maple Heights entitled, State ex rel Vanna versus Maple Heights City Council, a decision in 1990. No, I don't only cite to cases that I agree with. I cite to cases where it is the controlling law in Ohio. The same as the Kingston Place case. I would have to cite to the majority opinion as the law as I said last week. The Court in that case considered a virtually identical charter provision of the City of Maple Heights. A City Council Member named Zgrabik was employed by the Maple Heights City School District as it's purchasing and food service supervisor. The Charter provided in Maple Heights that no elected officer could hold public office or public employment except that of a notary public, a member of the State militia, etcetera, etcetera. The Supreme Court upheld and enforced the restricted Maple Heights Charter provision and ordered Mr. Zgrabik removed from his seat on City Council. Ordered him removed from his seat. I do not feel that that was appropriate in this case. I did not want to place you or the City Council of North Ridgeville in the same kind of situation to have a Court order anyone to be removed. So I told you the following, it is not my place to express an opinion on whether the policy contained in Section 3.2 of the City Charter is a wise one or a foolish one. However, it is my duty as Law Director to enforce the clear provisions of the City Charter so long as they are otherwise legal and constitutional and since a substantively identical charter provision was upheld as constitutional by the highest Court of Ohio as recently as ten years ago, I felt I had no choice but to conclude that Section 3.2 of our Charter, likewise, needed to be honored and adhered to because it would, likewise, be deemed to be legal and constitutional. So, I told you that you had a fairly straight forward decision. Not that you were going to be removed or that I wanted you to be removed, but rather I said unfortunately, and that is the word I used, you must chose between your position as a Member of City Council or your position as a public employee of the North Ridgeville School District. I told you that you may not simultaneously hold both positions without violating Section 3.2 of the City Charter and please, to let me know as soon as possible what you were going to decide to do. Now, the fact that this was not enforced by prior Law Directors is not my fault. It has been brought to my attention. I did not know that you were going to be employed this year after our discussion last year and I addressed the matter immediately upon hearing about it. I regret that that is the decision. I wished that Section 3.2 of the City Charter were worded differently, but it is not. That is what I told you Mrs. Butkowski.

Council Member Butkowski: Mr. Zagrans, you talked to me in May or the end of April. You said you would get back to me and this is the way you got back to me. Four and a half months later.

Law Director Zagrans: I've already told you, there was no point in addressing it at the end of last year. I thought it was a closed question. I thought you understood and were not going to be taking public employment this year. I was mistaken about that and when I learned I was mistaken I immediately brought it to your attention. That concludes my report.

President Brown: Thank you Mr. Zagrans. Other Reports.

Council Member Minnick: Excuse me, I had something of Mr. Zagrans on a different matter. If I may please have the floor. Mr. Zagrans at the October 2nd Council meeting, Council adopted Waterbury PCD Ordinance 3618 with the emergency. According to our Charter Section 3.13 the emergency cannot be added on rezoning ordinances.

Law Director Zagrans: I believe it was 3621-2000.

Council Member Minnick: Let's see here.

Law Director Zagrans: Thirty-six eighteen I thought was the subdividers agreement.

Council Member Minnick: Okay, I could have marked the wrong one down in my haste. Either way the ordinance for the Waterbury PCD approval for the preliminary plan had the emergency added.

Law Director Zagrans: It did indeed.

Council Member Minnick: Yes and according to 3.13 it cannot be added on rezoning issues.

Law Director Zagrans: I disagree with your legal interpretation.

Council Member Minnick: Well, it's too bad that we don't have the strict interpretations of our Charter as with Mrs. Butkowski.

Law Director Zagrans: Mrs. Minnick. I think I am making a very strict interpretation of the Charter in both instances.

President Brown: Thank you Mr. Zagrans. Other reports.

### **OTHER REPORTS**

President Brown: Please note:

Mayor's Court Operating Trust Fund/Bail Trust Fund Report for September 2000;

Fire Department Report for September 2000;

Water System Operation Report for September 2000;

Police Department Report for September 2000;

Police Department Support Car Report for September 2000;

Building Department Report for September 2000.

President Brown: Do we have a report from the Parks & Recreation Commission?

Council Member Overby: Not this evening.

President Brown: No?

Council Member Overby: No.

President Brown: How about the Planning Commission Liaison, Mr. Gillock?

Planning Commission Liaison Report: Council Member Gillock: It follows.

Planning Commission Report to Council on meeting held October 10, 2000:

**Applicant:** Ray Salisbury, 26043 Redwood Drive, Olmsted Falls, 44138  
**Owner:** Ray Salisbury  
**Request:** Extend right-of-way of Westwood Drive 57.60 feet  
**Location:** West end of Westwood Drive, Permanent Parcel No. 07-00-027-109-008, in R-1  
**PC Action:** Application was approved.

motion by Gillock to accept, 2<sup>nd</sup> by Overby

President Brown: Who made that motion? Mr. Gillock, second by Mr. Overby. Any discussion? Take a vote please.

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero.

**Applicant:** Keith M. Payne, 34009 Dodge Avenue; submitted by City Council  
**Owner:** City of North Ridgeville  
**Request:** Vacate unimproved portion of Dodge Avenue; 30 feet by 40 feet on the north side, 30 feet by 107 feet on the south side of Dodge Avenue  
**Location:** West end of Dodge Avenue  
**PC Action:** Application was postponed to the next meeting.

motion by Gillock to accept, 2<sup>nd</sup> by Overby

President Brown: Discussion? Please take the vote.

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero.

**Applicant:** Acciarri, Draeger and Associates, 17710 Detroit Avenue, Lakewood 44107; Peter Gozar  
**Owner:** Northview Properties, 6878 Avon Belden Road; Nancy Lohrer  
**Request:** Additional 15 parking spaces, interior build out of existing building with minor modifications to the elevations  
**Location:** 34960 Center Ridge Road, Permanent Parcel No. 07-00-016-101-022  
**PC Action:** Application was approved.

motion to accept by Gillock, 2<sup>nd</sup> by Overby

President Brown: Discussion? Take a vote please.

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero.

**Applicant:** Fauver, Tattersall & Gallagher PLL, 5333 Meadow Lane Court, Elyria 44035  
**Owner:** Estes Express Lines, 3901 West Broad Street, Richmond, Virginia 23230  
**Request:** Place manufactured structure on premises requiring additional parking  
**Location:** 38495 Center Ridge, Permanent Parcel No. 07-00-039-000-022/-023, in I-2 & B-3  
**PC Action:** Application was approved contingent upon Fire Department approval.  
motion by Gillock to approve, 2<sup>nd</sup> by Overby

President Brown: Discussion? If none, take the vote please.  
Yes, 7                      No, 0

Council Clerk White: Motion carries seven, zero.

**Applicant:** Star Builders, John Reyes, 46405 Telegraph Road, Amherst 44001  
**Owner:** Jim Veite, 34435 Mills Road  
**Request:** Construct new warehouse building, 104 feet by 64 feet by 16 feet  
**Location:** 34435 Mills Road, Permanent Parcel No. 07-00-018-101-086, in I-2  
**PC Action:** Application was approved with approval by City Engineer and granting of  
variances by the Board of Zoning and Building Appeals.  
motion by Gillock to approve, 2<sup>nd</sup> by Overby

President Brown: Any discussion? Was that approved by you Stewart?

Engineer Lovece: I'm sorry you want to repeat that? What...

President Brown: The Star Buildings over on Mills Road. It says contingent from the City  
Engineer and granting of variances by the Board of Zoning and Building Appeals.

Engineer Lovece: I believe I made some minor comments. That's about it. I don't have any  
objections.

Council Member Gillock: Madame President?

President Brown: Yes?

Council Member Gillock: All these, all we're really doing here is approving the actions of the  
Planning Commission. These all have to go, still to Buildings & Lands and in this case to  
Zoning before it comes back.

President Brown: Thank you because I didn't understand that. Any discussion? None, take the  
vote please.

Yes, 7                      No, 0

Council Clerk White: Motion carries seven, zero.

### **OLD BUSINESS**

President Brown: I don't think we have any old business. Going into new business please.

### **NEW BUSINESS**

T 132-2000      An ordinance amending Ordinance No. 3527-99 and 3514-99 by increasing the  
amount of the septic hauler station construction project by \$15,000.

motion by Swindig to suspend By-Laws to give T 132-200 a first reading tonight, 2<sup>nd</sup> by Overby

President Brown: Discussion? Take a vote please.

Yes, 7                      No, 0

Council Clerk White: Motion carries seven, zero for T 132-2000 to have first reading tonight.

T 133-2000      A resolution estimating aggregate maximum amount of public funds to be awarded as active deposits and interim deposits.

motion by Swindig to suspend By-Laws to give T 133-2000 a first reading tonight, 2<sup>nd</sup> by Overby

President Brown: Discussion? Seeing none please take the vote.

Yes, 7                      No, 0

Council Clerk White: Motion carries seven, zero for T 133-2000 to have first reading tonight. That's all the new business that I have

President Brown: Correspondence please.

### **CORRESPONDENCE**

Council Clerk White: I have two pieces of correspondence:

- 1)      Received a letter from AT&T Broadband Corporate Affairs Manager Joan Lowry announcing that with the Beck Center for the Arts and Lear North Elementary School, will present a month long culmination of study of Native American Culture.
- 2)      Received the Peremptory Writ of Mandamus from The Supreme Court of Ohio.

President Brown: We shall go into out lobby.

### **LOBBY**

President Brown: You will be given two minutes to speak. There are forms in the back to fill out. You cannot talk on the same subject twice.

- 1)      Joe Antush 38500 Otten Road spoke about who knows best about the rate of growth then the people in the ward. Expressed his favorable opinion on the proposed charter amendment. Explained voting on developments.
- 2)      Wilbur Grentzer of 33073 Hidden Hollow Court stated that he is having a hard time understanding the density of zoning and how it is derived at. Explained statistics on the amount of votes needed to stop a development.
- 3)      Kathleen Dudick of 33899 Gloria Avenue spoke about the damage on her car because of her dirt road. Stated that the mailman gets stuck and says if he continues to get stuck he won't

deliver mail. Asked when they can expect paving on Gloria Avenue and Jefferson. Spoke about the developer receiving credits on improving the street.

4) Caroline Hughes of 8119 Lexington Way spoke about her request to get land behind the Racquet Club to put tennis courts. Asked that her request be resubmitted since the committee didn't have all the information needed to make a decision.

5) Rosalice Pszenitzki of 35214 Greenwich stated that she's own property in North Ridgeville since 1949. Commented on Mr. Antush's comments. Stated that Issue 57 is misleading and her interpretation is that anything that is built now will become null and void if Issue 57 passes. Stated that she wishes she had a small commercial in her development.

6) Josephine Perryman of 38565 Sugar Ridge Road spoke about the Mayor's view in the Press Light on the 11th of October. Stated that the Mayor's statement was false, a lie. Explained language that is procedural only. Stated that this will not affect already zone industrial and commercial. Spoke about empty commercial buildings.

7) John Prajzner of 35140 Mildred Street #216 spoke about the STAMP Committee referendum Kingston Place and the legal opinion of the Law Director. Spoke about preliminary plans being a rezoning issue and cannot be passed on an emergency basis. Asked if the preliminary plan is a rezoning issue or is it not a rezoning ordinance and if not where is the ordinance for the actual rezoning.

8) Dennis Boose of 6405 Denise Drive spoke on improving the communication between Council and the Citizens and listening to Citizens concerns and responding in a timely and appropriate manner. Spoke about a letter he sent a month ago with only two responses. Spoke about sending three years of documentation regarding the Baseball Complex to the President and has yet to receive a response even acknowledging the information.

9) Lynn Miggins, KS Associates, 360 Burns Road, Elyria, representing All-Purpose Construction asking for support of T 109-2000. Explained the project consisting of 595 acres including 178 acres of open space which is 29% of the project. Density proposed at 3.24 units per acre. Explained the collector street with easement for utility and pathway for pedestrian and bicycle use. Spoke about the collector sewer. Asked for support tonight.

President Brown: Anyone else wishing to speak? I don't think that we'll have a recess tonight.

Council Clerk White: I need five minutes.

President Brown: You need five minutes?

Council Clerk White: At least.

President Brown: Okay, I guess we will have a five minute recess. Report back at twenty-five minutes to nine please.

**RECESS**      from 8:27 P.M. to 8:35 P.M.

President Brown: Going into first readings Mr. White.

**FIRST READINGS**

T 132-2000    AN ORDINANCE AMENDING ORDINANCE NO. 3527-99 AND 3514-99 BY  
3622-2000    INCREASING THE AMOUNT OF THE SEPTIC HAULER STATION  
CONSTRUCTION PROJECT BY \$15,000.

First Reading

motion by Swindig to suspend second and third readings, 2<sup>nd</sup> by Overby

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

Yes, 7              No, 0

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

motion by Swindig to adopt

President Brown: You want us to add emergency?

Council Clerk White: Wait, time, who seconded?

President Brown: Mr. Overby seconded.

2<sup>nd</sup> by Overby

Council Clerk White: Thank you.

motion to add the emergency by Swindig, this is for electric and heat and the  
septic haulers station that we can use, they can use it properly all winter, 2<sup>nd</sup> by  
Overby

President Brown: Take a vote on the emergency.

Yes, 7              No, 0

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

Yes, 7              No, 0

Council Clerk White: Motion carries seven, zero. T 132-2000 becomes Ordinance 3622-2000  
with the emergency.

Permanent Ordinance No. 3622-2000

T 133-2000    A RESOLUTION ESTIMATING AGGREGATE MAXIMUM AMOUNT OF  
904-2000    PUBLIC FUNDS TO BE AWARDED AS ACTIVE DEPOSITS AND INTERIM  
DEPOSITS.

First Reading

motion by Gillock to suspend second and third readings, 2<sup>nd</sup> by Swindig

President Brown: Did you get that? Discussion?

Yes, 7              No, 0

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

motion by Swindig to adopt, 2<sup>nd</sup> by Gillock

President Brown: Discussion on the adoption? None? Take the vote please.

Yes, 7              No, 0

Council Clerk White: Motion carries seven, zero. T 133-2000 becomes Ordinance 36...

Council Member Swindig: Resolution.

Council Clerk White: I'm sorry. Resolution No. 904-2000. Thank you Mr. Swindig.  
Permanent Resolution No. 904-2000

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

Council Member Gillock: Point of order. Didn't we, didn't the Law Director...

President Brown: 109.

Council Member Gillock: Correct, excuse me, wait. During the minutes the Law Director  
changed resolution on page 18 to number 904. So we just did another 904 or is that the same  
one?

Law Director Zagrans: Madam President.

President Brown: Yes, Mr. Zagrans.

Law Director Zagrans: Mr. Gillock, 904 was the Resolution that was enacted last time on T 109  
and then at the end of the meeting I noted that it was in the form of a resolution rather than an  
ordinance and asked somebody to make a motion to reconsider to amend the language from  
resolution to ordinance. So what had been passed, since that motion to reconsider was adopted,  
since a motion to amend was adopted and T 109 was adopted as an ordinance, that resolution 904  
is now an open number for the next resolution to be enacted.

Council Member Gillock: Okay. Thank you.

Law Director Zagrans: Your welcome.

Council Clerk White: Okay?

President Brown: Yes. Second readings.

**SECOND READINGS**

T 128-2000    AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 3545-  
3623-2000    2000 AND 3561-2000 FOR THE CITY OF NORTH RIDGEVILLE, OHIO FOR  
                 THE PERIOD COMMENCING JANUARY 1, 2000 AND ENDING  
                 DECEMBER 31, 2000.

Second Reading

motion to suspend third reading, 2<sup>nd</sup> by Overby

President Brown: Discussion? Roll please on the suspension

Yes, 7                      No, 0

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

motion by Swindig to adopt, 2<sup>nd</sup> by Overby

motion by Swindig to add the emergency due to the note bond language coming  
up, 2<sup>nd</sup> by Overby

President Brown: Discussion? Vote please.

Yes, 7      No, 0

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

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero. T 128-2000 becomes Ordinance 3623-2000 with emergency.

Permanent Ordinance No. 3623-2000

T 131-2000    AN ORDINANCE ACCEPTING THE PLAT OF KINGSTON PLACE PCD  
                  PHASE I FOR FINAL APPROVAL AND FOR RECORDING PURPOSES.  
                  Second Reading

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

**THIRD READINGS**

T 123-2000    AN ORDINANCE AMENDING SUBSECTION (G)(5) OF SECTION  
3624-2000    1294.01 ENTITLED "INTERPRETATIONS AND EXCEPTIONS IN  
                  GENERAL" OF THE NORTH RIDGEVILLE CODIFIED ORDINANCES.

Third Reading

motion by Gillock to adopt, 2<sup>nd</sup> by Overby

President Brown: Larry seconded.

Council Clerk White: Yes ma'am.

President Brown: Discussion? Roll please.

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero. T 123-2000 becomes Ordinance 3624-2000.  
Permanent Ordinance No. 3624-2000.

T 124-2000    AN ORDINANCE AMENDING SUBSECTION (49) ENTITLED "FAMILY" OF  
3625-2000    SECTION 1240.10 OF THE NORTH RIDGEVILLE CODIFIED ORDINANCES.

Third Reading

motion by Swindig to adopt, 2<sup>nd</sup> by Overby

President Brown: Mr. Overby seconded. Discussion? Roll please.

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero. T 124-2000 becomes Ordinance No. 3625-2000.

Permanent Ordinance No. 3625-2000.

T 125-2000    AN ORDINANCE DELETING SECTION 1240.(55) ENTITLED "HOME  
3626-2000    OCCUPATION" OF THE NORTH RIDGEVILLE CODIFIED ORDINANCES.

Third Reading

motion by Gillock to adopt, 2<sup>nd</sup> by Overby

President Brown: Discussion? Roll please.

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero. T 125-2000 becomes Ordinance No. 3626-2000.

Permanent Ordinance No. 3626-2000

T 126-2000      AN ORDINANCE DELETING SUBSECTIONS (B)(8) AND (B)(15) OF  
3627-2000      SECTION 830.02 ENTITLED "USE REGULATIONS" OF THE NORTH  
                 RIDGEVILLE CODIFIED ORDINANCES.

Third Reading

motion by Gillock to adopt, 2<sup>nd</sup> by Overby

President Brown: Discussion?

Council Member Gillock: Madam Chairman?

President Brown: Yes Mr. Gillock?

Council Member Gillock: I believe this should be Sections (B)(8) and (B)(15)(b). The intent was not to delete entirely (B)(15), only paragraph (b). Please add small letter b, I'll make an amendment that the small letter b be added after B915) wherever it appears in the ordinance.

President Brown: The big (B)(15).

Council Member Gillock: Correct.

motion by Gillock to amend T 126-2000 to add the small letter (b) after (B)(15)  
wherever it appears, 2<sup>nd</sup> by Overby

President Brown: Second by Mr. Overby. Discussion, any other discussion? Roll please.

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero to add the little letter (b) after (B)(15)  
wherever it appears. On the adoption.

President Brown: On the adoption

Yes, 7      No, 0

Council Clerk White: Motion carries seven, zero. T 126-2000 becomes 3627-2000.  
Permanent Ordinance No. 3627-2000

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

**UNFINISHED BUSINESS**

President Brown: Okay. I have unfinished business. We have T 109-2000.

T 109-2000      A RESOLUTION GRANTING PRELIMINARY APPROVAL FOR THE  
                 PROPOSED PLANNED COMMUNITY DEVELOPMENT SITUATED ON  
                 APPROXIMATELY 595 ACRES LOCATED EAST OF CASE ROAD, WEST  
                 OF STONEY RIDGE ROAD, NORTH OF CENTER RIDGE ROAD AND  
                 SOUTH OF THE BORDER WITH AVON AND KNOWN AS MEADOW  
                 LAKES.

President Brown: This was postponed from the October 2nd meeting. We need a motion to

accept.

motion by Swindig to accept, 2<sup>nd</sup> by Overby

President Brown: Mr. Overby, you seconded?

Council Member Overby: Yes.

President Brown: Okay. Any discussion? Yes Mr. Zagrans.

Law Director Zagrans: As I did at the end of the last Council meeting, I would ask somebody to move to amend the language to replace the word "resolution" with the word "ordinance". I think it is more appropriate that this be styled an ordinance as opposed to a resolution so I would ask somebody to make that motion and that Council pass that amendment.

President Brown: Mr. Swindig makes the move for ordinance instead of a resolution, is there a second? Mr. Overby?

Council Member Overby: Yes.

motion by Swindig to amend the language to replace the word resolution with the word ordinance, 2<sup>nd</sup> by Overby

President Brown: Discussion?

Council Member Gillock: Madam President?

President Brown: Yes, Mr. Gillock?

Council Member Gillock: I'm not clear on what you're changing. Is it suppose to be a resolution or an ordinance.

Law Director Zagrans: An ordinance.

Council Member Gillock: Okay.

Law Director Zagrans: So the change would be, and you have in your packet for tonight's meeting you have a sample of what the language would be. It would say at the top instead of, "a resolution granting preliminary approval", it would say, "an ordinance granting preliminary approval" and in the Therefor paragraph, instead of saying, "be it resolved", it would say, "be it ordained".

Council Member Gillock: Right, but then the statement given at the top is incorrect. It says substitute the word resolution wherever it says ordinances. You want it to be an ordinance.

Council Member Minnick: Up here. This is mixed up.

Law Director Zagrans: Oh, I didn't even have that on mine.

Council Clerk White: He doesn't have that.

Council Member Gillock: I see why it's so confusing. You're saying one thing and this says something else.

Law Director Zagrans: Okay, it should be instead of a "resolution" it should be an "ordinance".

Council Member Gillock: Thank you.

Council Clerk White: Appropriate language so stated on it.

Council Member Minnick: Madam President?

President Brown: Yes, Mrs. Minnick?

Council Member Minnick: For the roll call that is coming, is that to make the change from resolution to ordinance?

Council Clerk White: Yes.

Council Member Gillock: It needs corrected in our agenda also.

Council Clerk White: Yes. That's already written down, sir. Okay, can we vote on this?

President Brown: Take a vote.

Yes, 7                      No, 0

Council Member Minnick: Yes on the ordinance.

Council Clerk White: Motion carries seven, zero.

President Brown: Now on the ordinance itself.

Council Member Minnick: Madam President, are you taking comments now on the ordinance?

President Brown: Yes.

Council Clerk White: No, no.

President Brown: Not yet.

motion by Overby to adopt, 2<sup>nd</sup> by Swindig

Council Clerk White: Now.

President Brown: Now discussion.

Council Member Minnick: Okay. The Ohio Supreme Court agrees that two ordinances need to be written, one for rezoning and one for preliminary plan approval, according to our Charter. In reviewing the City Planners report, the following recommendations were made: "Approval of a PCD preliminary plan requires that a Planning Report be prepared for City Council that evaluates compliance with PCD ordinance." We were given a one paragraph report in the Minutes of the Special Meeting held August 30th but it does not sufficiently address outstanding issues. The Engineer's Report states that there shall be 100 foot right-of-way similar to Waterbury's. The plan calls for an 80 foot right-of-way. I understand that another 20 feet is added but is there also another 20 feet addition on Waterbury's? That is not clear. The PCD ordinance requires that all land included in the preliminary plan and rezoning request be contiguous. The golf course development area is not contiguous to the remaining portion of the PCD. The developer proposes to meet this criteria by entering into an easement agreement with Lorain Metro Parks. It isn't clear if that has been done. At the initial Planning Commission meeting, remarks were made by the developer's attorney that acquiring a small piece of land was in the process. The Planner stated if the PCD designated on preliminary plan is separated into two separate PCD's, each PCD must meet 20% open space criteria as per section B.06 (1) of the ordinance. The City Planner stated the first development area of Meadow Lakes is proposed to be the area at the northwest of the project. Preliminary plans conditions for approval should require that water pressure and capacity meet ISO standard or requirement standards. That can be achieved by creating a loop line from Stoney Ridge along Barres Road to Otten or by creating a new tap-in to the proposed 42 inch pressure main from Avon Lake by Lorain Rural Water. Now KS has said that it is looped but it isn't clear as to what is actually being done. The proposed open space needs to be addressed, whether they will be held in common ownership by the PCD residents or if they will be granted in perpetuity to each owner as a homeowner association covenant. PKG stated that specific approval language citing compliance with Section B.11 of the PCD Ordinance must be included in the preliminary plan approval. Compliance with all requirements of B.08 of the Ordinance must be a condition of the preliminary plan approval. Those are my concerns on

Meadow Lakes this evening.

President Brown: Any other discussion?

Council Member Gillock: Madam Chairman?

President Brown: Yes Mr. Gillock?

Council Member Gillock: The issue with the 100 foot right of way in Waterbury has nothing to do with this ordinance because this is Meadow Lakes. During Planning Commission, we did ascertain that the parcels were contiguous. The easement was not an issue. I just wanted to clear that up.

President Brown: Okay, any other discussion? Please take a vote.

Law Director Zagrans: Madam President?

President Brown: Yes Mr. Zagrans?

Law Director Zagrans: With all the back and forth on the motion to amend and so on I want to make sure that everyone is aware of what we're voting on.

President Brown: Right.

Law Director Zagrans: Because I had heard before the Council meeting that someone intended to move to add the emergency on this, I didn't hear that happen and I just wanted to make sure that everybody understands what is before Council.

Council Clerk White: Okay.

Law Director Zagrans: What is before Council?

Council Clerk White: Right now the adoption.

Law Director Zagrans: It's a motion to adopt. That's all?

motion by Swindig to add the emergency due to the construction season, 2<sup>nd</sup> by Overby

President Brown: Now discussion again?

Council Member Gillock: I'd just like to ask the Law Director since the question has come up about adding the emergency to zoning ordinances. You felt that that was not an issue here?

Would you expand on that a little bit. In one part of the Charter it speaks that you cannot waive hearings on zoning but it doesn't address the emergency.

Law Director Zagrans: That's correct. This, as I have said since this whole issue became such an issue, back in the spring, when we adopted Ordinance 3491 of 1999 last fall we did something new in the City of North Ridgeville. We adopted an enabling ordinance for Planned Community Developments and we adopted it in the format of what is referred to as an overlay ordinance. An overlay ordinance is something that has been apparently adopted around the State of Ohio. I have had no personal prior experience with it. But the form that it follows is that when a preliminary plan for a PCD District is approved by Council, that preliminary plan authorizes the Clerk to notate a change in the zoning map. That zoning change is in effect for a year unless or until Council fails to approve a final plan within the year. If Council fails to approve a final plan for the PCD Development, then the zoning automatically reverts back to its original R-1 designation. Under those circumstances, there is no controversy or violation with the City Charter.

Council Member Gillock: Thank you.

Council Member Minnick: Madam President. In our Charter it does state where an ordinance conflicts with the Charter, the Charter takes priority. In this case I do not believe the emergency should be added.

Law Director Zagrans: Madam President, I don't think it says that in the Charter. I think that is the law, however, but there is no conflict.

President Brown: Thank you. Roll please.

Council Clerk White: Vote on the emergency.

Yes, 5                      No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two on the emergency. On the adoption.

Yes, 5                      No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. T 109-2000 becomes Ordinance No. 3628-2000 with emergency. Permanent Ordinance No. 3628-2000.

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

**COMMITTEE MEETING ANNOUNCEMENTS**

President Brown:

Public Hearing Monday, November 6, 2000 at 7:00 P.M. (T 131-2000);

Mr. White, would you announce.

Council Clerk White:

Next Regular Council Meeting Monday, November 6, 2000 at 7:30 P.M.

Any other Committee Meetings?

President Brown: Any other Committee Meeting Announcements that you'd like to make while we're here? Motion to adjourn.

**ADJOURNMENT**

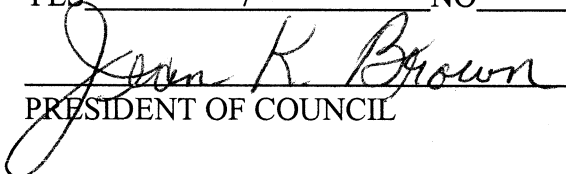
motion by Swindig to adjourn, 2<sup>nd</sup> by Overby

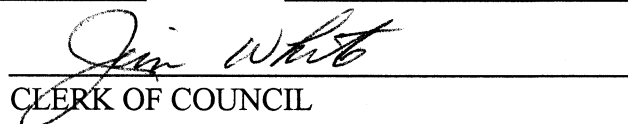
President Brown: Adjourned.

Meeting adjourned at 8:56 P.M.

MOTION Butkowski 2ND Swindig DATE November 6, 2000

YES 7 NO 0 ABSTAIN 0

  
\_\_\_\_\_  
PRESIDENT OF COUNCIL

  
\_\_\_\_\_  
CLERK OF COUNCIL