

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING OCTOBER 15, 2001**

CALL TO ORDER 7:30 P.M.

President of Council Jean Brown: I would like to call the regular Council meeting for North Ridgeville Municipal Council to order. Please stand for the Invocation and the Pledge of Allegiance.

INVOCATION by President Brown.

PLEDGE OF ALLEGIANCE by all.

ROLL CALL

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

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 Jim White.

MINUTES

Regular Council Minutes of October 1, 2001

motion by Butkowski to accept, 2nd by Borocz

President Brown: Is there any corrections? Seeing none, please take roll Mr. White.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

President Brown: Please note:

Planning Commission Minutes of September 25, 2001 and October 9, 2001

Board of Zoning & Building Appeals Minutes of September 27, 2001

COMMITTEE REPORTS None

MAYORS REPORT

Mayor Hill: Yes. The following includes some general rules for harmful biological or chemical substances: Number one, if you receive suspicious mail, do not handle the mail package or piece. Number two, make sure that any damaged or suspicious package is isolated by putting it in a plastic bag. Three, ensure that all persons who have touched the mail piece wash their hands with soap and water. Four, immediately contact our local Fire Department and five, follow with a call to our local Police Department. Some characteristics of a suspicious parcel include: Is unexpected or from someone unfamiliar to you. Has no return address or has one that can't be verified as legitimate. Is of unusual weight, given its size or is lopsided or oddly shaped. Is marked with restrictions, such as personal or confidential. Has protruding wires, strange odors or

stains and most importantly, shows a city or state in the postmark that does not match the return address. And quickly, I am a member of the Northeast Ohio Planning District and at our meeting last Friday, it was a unanimous vote by representatives of the five county board to initiate a task force to address emergency evacuation plans for people in the five-county area as related to transportation and travel routes.

A question was asked two weeks ago about city offices and evacuation by a Council Member. I have discussed the issue with both the Fire and the Police Chiefs. After reviewing the Council minutes, it is clear through two references that the Councilman, I believe, was talking about signs by exit doors and evacuation plans for City facilities. After checking, the only area in City facilities that is covered by law is this room. An evacuation plan is not needed even for this room because there are two exits leading directly outside with marked exit signs which are clearly visible, as is true in other city buildings. In fact, they are lighted signs with battery backup. Mr. Gillock stated that in most public facilities, there are signs by the exit door telling people how to get out of the building. Those are generally not used anymore in most places because of the availability of the lighted exit signs. In fact, I was informed that they are not used in other cities' facilities. I was in Elyria Memorial Hospital last week and I noticed that they don't have them any longer either. If there is a fire or an explosion, most people would look for the exit signs and would not stop to read a sign like the, you are here, that used to be posted. Those really were used where most people in the facility were transient, as in hotels where people may be disoriented and the signs are posted in the rooms. The City facilities will again be checked by the Fire Department to see if there are other needs. We are also talking about fire drills and so forth for the future, but as a matter of fact, we have had to put other security measures for City facilities, equipment, staff, visitors and for the community at-large first at this time. That concludes my report.

President Brown: Thank you, Mayor. Does anyone have any questions of the Mayor's oral report? Mr. Gillock?

Council Member Gillock: Yes. First Mayor, thanks for your research and checking that out. I'm glad to here the response we did. Of course, employee safety is of utmost importance. In regards to the first part of your report having residents call the Fire Department and the Police Department for something suspicious, I read an article recently, in Sandusky where someone did follow that procedure and the City billed them nine hundred and fifty dollars for the Police and Fire time. This could tend to deter someone from going ahead and following that procedure. Am I correct, in North Ridgeville we do not charge for that type of service?

Mayor Hill: We never have. We never will. Some of the procedures may change shortly, of course we're all working very quickly and on the basis of whatever comes next to our attention, because that has to come first at this point. There are meetings schedule for later this week to further discuss any other plans that would address security and safety issues. So the procedure may change and of course, we will notify our residents.

President Brown: Any other questions of the Mayor's oral report? Thank you Mayor Hill.

Moving on to the Safety-Service Director Mr. Johnson.

SAFETY SERVICE DIRECTOR'S REPORT

Safety-Service Director Johnson: Thank you Madame President. Ditch cleaning and or piping was performed on Jaycox Road, Wallace and the no name street off of south Root Road.

There were three water breaks in the last two weeks and two PRV vaults went bad.

Concrete pads were poured on Rhonda.

The Service Department applied the bottom coat of asphalt to Cornell after it was pulverized and re-graded.

The sanitary sewer problem on Main has been amended.

The Don Mould Construction Company was the low bidder for the City's new salt barn. This will be completed in the next 30 to 40 days.

The Shawn Drive retention areas have been re-graded by the Ackerman Grading Company.

Spot berming, street patching, roadside mowing, landscaping, weed whipping and brush chipping took place as manpower and time allowed.

Before you tonight you have Ordinance Temporary Number T 135-01, an amended ordinance for Sugar Ridge Road from five hundred thousand to five hundred and twenty thousand. In the course of the design engineering wise, for widening the street to match the west section, it became apparent that we would have to do some storm water piping and that was what raised the cost of the project and I would like that passed by emergency tonight, if possible, because construction season is ending very shortly this year for asphalt. That concludes my report.

President Brown: Thank you, Mr. Johnson. Does anyone have any questions of Mr. Johnson's oral report? Yes, Mrs. Butkowski?

Council Member Butkowski: Mr. Johnson, was our City Service Department in charge of repairing the Route 83 overpass, the problem that was there this last week.

Safety-Service Director Johnson: Madame President, the Engineer has a report on the bridge in his report that will tell us everything on that.

President Brown: Mr. Johnson, the unnamed street in your report, would that Marigold?

Safety-Service Director Johnson: No ma'am. We don't know the name of the street. That was given to us by a lawsuit.

President Brown: Thank you Mr. Johnson. Moving on to the Engineer, Mr. Beutler.

ENGINEER'S REPORT

Engineer Beutler: Thank you Madame President. City projects are currently underway. The westerly sanitary sewers, the construction north of Center Ridge Road is nearing completion. Last week we took over operation of maintenance of the most northerly section of that. So, that very first section of the new interceptor is in operation. The work south of Center Ridge Road is just beginning and they are working along Race Road with boring pits to continue the sewer down Race Road.

The water tower project is on schedule and it is schedule for completion during the month of November and we should see that water tower be put in service before the end of the month.

The Senior Center and the City parking lot, as you notice as you came in tonight, has been started. That project will be 98 percent completed by months end and that will be on going and all that is depended on weather.

Sugar Ridge Road reconstruction, phase two is scheduled to start within the week and is scheduled to be completed within 60 days.

Bainbridge Road reconstruction, again, is still 98 percent complete. They are still doing small punch list items.

In regards to the emergency repair on the Avon Belden Bridge over State Route 10, last Tuesday, October 9th, a driver on Route 10 reported that he saw a small chunk of concrete fall from the Avon Belden bridge. The results from the investigation revealed that the concrete was sprawling as a result of the rusting of the reinforcing steel in the bottom layers of the concrete deck. ODOT informed us that this was considered a minor repair and it was the City's responsibility. For the safety of the traveling public, it was decided that closing the bridge over State Route 10 would keep additional concrete from falling. The bridge was closed during the early evening hours. ODOT personnel visited the site with us on Wednesday morning to assist us in further investigation of the problem. It was determined that the loose concrete needed to be removed. ODOT also informed us that this is a common problem with all bridges this age. The City hired a contractor to remove the loose concrete. This was accomplished with the help of the City Police Department, the City Service Department and ODOT maintenance personnel. ODOT provided the traffic control equipment and helped City personnel set up the lane closures for the construction crew to perform the work. This work was completed without further incident and the work was completed by early rush hour traffic on Friday afternoon. The bridge on Avon Belden Road was then reopened to traffic around 4:30 P.M. With that, that concludes my report.

President Brown: Thank you. Does anyone have any questions of the Engineer's oral report?
Mr. Gillock?

Council Member Gillock: How old is that bridge?

Engineer Beutler: I don't know the exact age of that bridge but, it's probably nearing, getting

very close to the end of its design line.

Council Member Gillock: Just to confirm something I asked you earlier because somebody had asked me, the color of the water tower, that is the final color, correct?

Engineer Beutler: That is the final coat.

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

AUDITOR'S REPORT

Auditor Costin: Madame Chairman, two items of business for tonight. The first of which is the written report for September 2001.

Auditor's Written Financial Report for September 2001

motion by Swindig to accept, 2nd by Butkowski

President Brown: Any discussion? Please take roll.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero.

Auditor Costin: Second item is T 134-2001 which is the amended appropriation ordinance. I would request that it be passed tonight with the emergency for the safety, health and welfare of the City, specifically the appropriation for bond anticipation notes which will occur shortly after this meeting, before the next. Be glad to answer any questions either now or when T 134 has its scheduled first reading Thank you.

President Brown: Any questions of the Auditor's oral report? Seeing none, moving on to the Law Director's report, Mr. Zagrans.

LAW DIRECTOR'S REPORT

Law Director Zagrans: Thank you. Good evening. Just to supplement what the Mayor was reporting on earlier tonight. The Police Chief and Fire Chief of our City, in consultation with the Mayor are working on developing and implementing an emergency response plan for the City. Particularly aimed at those areas of the City that are thought to be of potentially greater risk or potentially more visible targets than others. So, as to ensure to the maximum extent possible, not only the safety of those assets within the City limits of the City of North Ridgeville, but also to guarantee the safety of all of the citizens of the City of North Ridgeville as well. So, at this time the City is moving forward very pro-actively to do everything within our power to assist State and Federal law enforcement authorities to protect our people. Thank you. That concludes my report.

President Brown: Any questions of the Law Director's oral report? Seeing none.

OTHER REPORTS

Please note:

Mayor's Court Operating Trust Fund/Bail Trust Fund Report for September 2001

Fire Department Report for September 2001

Water Distribution Report for September 2001

Police Department Activity Report for September 2001

Parks & Recreation Commission Liaison Report:

Council Member Overby: Nothing to report this evening.

Senior Citizens Advisory Board Liaison Report:

President Brown: Remember there will be a spaghetti supper Friday the 19th from five to seven at the Senior Center and everyone is welcome to attend.

Planning Commission Liaison Report:

Council Member Gillock: Thank you, Madame President we have four items to go over this evening. First Applicant:

Applicant: Visconsi Companies, Ltd., 360 Corporate Circle, 30050 Chagrin Blvd.,
 Pepper Pike, 44124
Owner: Jimmy F. Hales, 33690 Center Ridge Road and
 Barry Stumm, 33753 Center Ridge Road
Request: Development of the out parcel on southwest corner of Center Ridge and
 Lear Nagle Roads for restaurant, suppose to be a Donato's
Location: southwest corner of Center Ridge and Lear Nagle, 33760 through 33806
 Center Ridge Road, in B-3
 Permanent Parcel No. 08-00-009-117-029 and -037
PC Action: Application was approved contingent upon obtaining the professional
 engineer's stamp and complying with the City Engineer's comments.
 motion by Gillock to approve, 2nd by Overby

President Brown: Discussion? Mrs. Minnick?

Council Member Minnick: Mr. Gillock, do you know if Burger King is going to be closing their store on Center Ridge near Mills Creek Lane?

Council Member Gillock: According to the applicant, originally they were going to close the Burger King and move to this location but, they are no longer going to do that. This is going to be a Donato's and as far as I know, the Burger King will remain open.

President Brown: Any other discussion? Please take roll, Mr. White.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero.

Council Member Gillock: Next:

Applicant: Russell Land Development, 26178 Center Ridge Road

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Owner: Russell Land Development, 26178 Center Ridge Road
Request: Preliminary approval of Stone Creek Subdivision
Location: Stoney Ridge Road, Permanent Parcel No. 07-00-032-000-051
PC Action: Application was approved contingent upon engineering recommendations that have been made.

motion by Gillock to approve, 2nd by Overby

President Brown: Discussion? Mrs. Butkowski?

Council Member Butkowski: According to the Engineer's report, it says there was no storm water topo report. Was that ever received, that map?

Engineer Beutler: No, I did not receive another one. It is my understanding that they did publish one, this was the second time it's before the Planning Commission and that there was one with that.

Council Member Butkowski: So there is one that has that because flooding can be a big problem. That's why I want to make sure somebody's seen it.

Engineer Beutler: The topography map gives the general lay of the land and the storm water calculations and so forth will come as part of the engineering plans that will be reviewed.

Council Member Butkowski: Because I know there's some problems in that area with water flow and everything. I just want to make sure that there's a study on that. Thank you.

President Brown: Any other discussion? Please take roll Mr. White.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero.

Council Member Gillock: Next application:

Applicant: Heat Exchange, Inc., 34205 Lorain Road
Owner: John and Deborah Ashby, 34205 Lorain Road
Request: Addition to showroom and warehouse
Location: 34205 Lorain Road, Permanent Parcel No. 07-00-014-106-003
PC Action: Application was approved contingent upon obtaining a parking variance from the Zoning Board.

I would point out, there was a discussion relative to the parking. We have changed our ordinances and they're not near as restrictive as they use to be. But, because of the type of occupancy, they have large displays of patio furniture so, the parking spaces are relative to the retail sales area and in this case there may need to be some adjustments needed and that's why they need to go to the Zoning Board.

motion by Gillock to approve, 2nd by Overby

President Brown: Is there any discussion? Please take roll Mr. White.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero.

Council Member Gillock: The last application:

Applicant: Oster Construction, Inc., P. O. Box 438, Vermilion, 44089
Owner: Case Road LLC, 1050 Terminal Tower, Cleveland 44113
Request: Improvement plan for cluster a development which is part of the Avalon Subdivision
Location: 4901 Case Road, in R-1
Permanent Parcel No. 07-00-043-000-012
PC Action: The application was postponed to the next meeting since it will have to be a final plan approval and a subdividers agreement will have to be executed.

Council Member Gillock: This is the second phase of Avalon which was originally the Kingston Place development. The application was presented as an improvement plan. Oster Construction is new to North Ridgeville. It was determined that this was actually a final plan approval and a subdividers agreement had not been executed so, the Planning Commission made the recommendation that the application be postponed to the next meeting since it will have to be a final plan approval and a subdividers agreement will have to be executed before that final plan is approved.

motion by Gillock to approve, 2nd by Overby

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

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero

Council Member Gillock: And lastly, as part of that same application:

Request: Letter from Oster Construction requesting name change from "Avalon Subdivision" to "Avalon Estates"

PC Action: Name change was approved from Avalon Subdivision to Avalon Estates at applicant's request.

motion to approve by Gillock, 2nd by Overby

President Brown: Discussion? Please take roll, Mr. White.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero.

OLD BUSINESS None

NEW BUSINESS

Clerk of Council White:

T 135-2001 An ordinance amending Ordinance 3643-2001 by increasing the amount of the Sugar Ridge Road reconstruction from \$500,000.00 to \$520,000.00.

motion by Gillock to suspend By-Laws so this can have its first reading this evening, 2nd by Overby

President Brown: Any discussion? Please take roll.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero for T 135-2001 to receive first reading tonight.

Council Member Minnick: Madame President, I have something under new business. On October 2, 2000, Council unanimously approved the Streets, Sidewalks and Bridges Report requiring sidewalks to be constructed from Stoney Ridge Road east to Lear Nagle on both the north and south sides. To date, legislation has not been written for construction of these sidewalks and I would like to make a motion to have legislation written up for the next Council meeting to get the construction of these sidewalks started and I make that motion.

motion by Minnick to have legislation written up for the next Council meeting to get the construction of the sidewalks started, 2nd by Borocz

President Brown: Any discussion?

Council Member Gillock: Madame President, I believe that was referred to committee and died in committee.

Council Member Minnick: No, it went to Streets, Sidewalks and Bridges.

Council Member Gillock: It never came out.

Council Member Borocz: Yes it did.

Council Member Minnick: Yes it did. It was unanimously approved.

Mayor Hill: Madame President, in investigating the law further, it seems, but we have to refer it to the Law Department first, it seems that we have to have an assessment and figure out the cost before anything can be done so, that would have to come first. But, the Law Department must review whether that is the procedure that we must follow.

President Brown: Mrs. Minnick, where did you say that's coming from and going to.

Council Member Minnick: This was on October 2, 2000 that Council approved the Streets, Sidewalks and Bridges Report and I have seen nothing come across.

President Brown: That's not what I mean. I mean the area.

Council Member Minnick: From Stoney Ridge Road east to Lear Nagle on both north and south sides of Center Ridge. I guess I'll have to withdraw my motion and hope that the legal department won't sit on this any further.

Council Member Borocz: I'll withdraw my second.

Council Member Minnick: Also, on the committee report it said Lear Nagle north on the west side from Center Ridge Road to May Street and the portion of Ridge Plaza on the east and west not currently sidewalked to Center Ridge Road.

President Brown: Can that be taken care of Mayor?

Mayor Hill: Yeah and it was not a matter, that's incorrect to say that. Nobody said that the Law Department sat on it. As a matter of fact somebody did bring forth a copy of the law but it has to be reviewed by our local Law Department and that was just recent and I have not had a chance to forward it to the Law Department. We've been a little busy. Thank you.

President Brown: Correspondence please.

CORRESPONDENCE

Clerk of Council White: Three pieces of correspondence.

- 1) Received a letter from the County Prosecutor's Office stating that the Amended Lorain County Municipal Ordinance Contract needs to be returned no later than December 15, 2001.
- 2) Received from Jim Petro, Auditor of State, City of North Ridgeville, Lorain County, Single Audit for the year ended December 31, 2000.
- 3) Received a memo from Auditor Chris Costin noting the revisions to the appropriations ordinance.

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

motion by Swindig to suspend By-Laws to start the tape on T 134-2001, 2nd by Borocz
President Brown: Discussion? None, take roll please.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero.

President Brown: Start the tape.

Clerk of Council White: Thank you. That's all the correspondence I have.

LOBBY

President Brown: Moving on to lobby, I will allow you two minutes to speak. After you give your name and your address the timer will start. Anyone wishing to speak?

- 1) Dick Brent of 8659 Harris Drive suggested placing an American Flag on the water tower.
- 2) Joe Antush of 38500 Otten Road spoke about Law Director's duties, outside legal counsel and their bills.
- 3) Chris Rangus of 9132 Reed Road spoke about painting the water tower red, white and blue. Suggested that an appropriate symbol of North Ridgeville be painted on the water tower. Questioned the City Engineer on the Sugar Ridge Road resurfacing and interfering with the sewer. Asked what the cost was for the emergency bridge repair and where it comes from.
- 4) Eric Zagrans of 5338 Meadow Lane Court, Elyria, stated that he has never told Council or the administration what they should do or how to vote. Stated that he advises as of legal matters as is his obligation under law. Spoke about the bill from outside counsel. Stated that there was an itemized bill from Squire, Sanders and Dempsey that was presented to the City and passed on to Council.

President Brown: Anyone else wishing to speak? No? We can answer them back now. I will

give you a minute. Mr. Gillock?

Council Member Gillock: Yes, I just wanted to respond to Mr. Antush in regards to the legal bill and why I am voting for it, is because I did research it. I think common sense says we pay it to save the City money. Regardless of the procedures followed, Squire, Sanders and Dempsey did provide a service. If we did not pay them, I'm quite sure they would sue us. I talked to the Auditor. I talked to another outside attorney who said that if you go into Court and the Judge would say, did they provide a service and if they did then we would still have to pay them for that service plus cost. Common sense says, pay it because you're going to pay it one way or another anyway. So, you might as well pay the cheaper amount and not pay the attorneys fees with it. Thank you.

President Brown: Thank you. The Mayor had her hand up. Mayor?

Mayor Hill: Yes, in response to the suggestions on the water tower and Mr. Rangus brought up maybe students could help. That was already done. That was done prior to the building of the water tower and actually there is a Ranger Pride symbol that is going to be painted on the water tower. It was well publicized. There was a contest in the High School. Numerous entries were judged and one won. Thank you.

President Brown: Thank you. Mrs. Minnick?

Council Member Minnick: I believe Mr. Antush was referring to the Law Director duty that he or she shall perform all other duties now or hereafter imposed by law upon solicitors of cities unless otherwise provided by ordinance of Council. Mr. Zagrans said at the previous meeting that he had told Council that he was going to do that but, that is not the same as having an ordinance provided and Council approving it and I think that's what Mr. Antush was referring to. Thank you.

President Brown: Anyone else on Council want to answer? Mr. Johnson?

Safety-Service Director Johnson: In regards to Sugar Ridge Road, the sanitary sewer will be bored underneath so there won't be any problem there, we've taken that into consideration. We really do a lot of these things on our own without a lot of people having to ask us to do things. A lot of things are done ahead of time. I would appreciate more if people would just call me and ask me a question. I could give them the answers and it would save a lot of time on everybody's part and they would have the real answer right at the front. Thank you.

President Brown: Anyone else? Mr. Johnson?

Safety-Service Director Johnson: There was a question on the bridge repair. It was approximately ten thousand dollars that came out of the City's pockets. Probably, when we heard about this on Tuesday night we thought, well should we shut down Route 10 to keep the cars off of it. There was several people involved. Jerry Krueger and myself, the engineers. To shut down Route 10 we'd have to go in by Sterns Road in North Olmsted to eliminate traffic from going under that bridge so, we did the next best thing, we shut down the bridge. The cost of doing it the other way would of been much more expensive. Just the fact of shutting it down

that night instead of waiting till the next day, a possible chance of a piece falling off and going through a windshield killing somebody, if we knew, we talk about lawsuits, tax payers money going out the window. I think the engineering firm, our Engineer here rather and our Street Superintendent and Police Department and all of them did a very wonderful job in a situation that we had like that.

Mayor Hill: One other response. We were asked about doing grants. I know we have been very successful and very fortunate in the grants that we have obtained in this City. Please remember that when you're looking for a State grant, you are competing with every village, township and municipality across the State of Ohio. We have been extremely successful, unusually so. So, therefore people tend to come to take them for granted. But, we have to work hard on it. Grants take a long time, that's another thing that people sometimes don't understand. Sometimes grants can take ten years to be approved. We have moved very quickly because we've been able to work within the system. But, it's not a matter of, oh just go get a grant for it. Thank you.

President Brown: I will call for a recess to quarter after eight, please.

RECESS from 8:10 P.M. to 8:15 P.M.

FIRST READINGS

Council Clerk White:

T 103-2001 AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 1294.03 -
DETACHED PRIVATE GARAGES AND ADDING OUTBUILDINGS.

First Reading

T 117-2001 AN ORDINANCE AMENDING SECTION 660.15 OF THE CODIFIED
ORDINANCES ENTITLED "NOTICE TO REMOVE LITTER AND DEBRIS,
CUT WEEDS AND PROVIDE PROPER DRAINAGE; ABATEMENT;
ACTION BY CITY; RECOVERY OF COSTS".

First Reading

T 132-2001 A RESOLUTION TO APPROVE THE EXPENDITURE OF FUNDS.

First Reading

T 134-2001 AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 3662-
3733-2001 FOR THE CITY OF NORTH RIDGEVILLE, OHIO FOR THE PERIOD
COMMENCING JANUARY 1, 2001 AND ENDING DECEMBER 31, 2001.

First Reading In Full

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

President Brown: Discussion? Anyone? Please take roll.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero to suspend second and third reading for T

134-2001.

motion by Swindig to adopt, 2nd by Overby

President Brown: Discussion?

motion by Swindig to add the emergency, 2nd by Borocz

Council Member Swindig: The emergency is the welfare of getting, of the Citizens, to get our finances in order.

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

Yes, 7 No, 0

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

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero. T 134-2001 becomes Ordinance Number 3733-2001 with emergency.

Permanent Ordinance No. 3733-2001

T 135-2001 AN ORDINANCE AMENDING ORDINANCE 3643-2001 BY INCREASING
THE AMOUNT OF THE SUGAR RIDGE ROAD RECONSTRUCTION FROM
\$500,000.00 TO \$520,000.00.

First Reading

motion by Gillock to dispense with the second and third reading, 2nd by Swindig

President Brown: Discussion? Take roll please.

Yes, 7 No, 0

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

motion by Overby to adopt, 2nd by Gillock

motion by Gillock to add the emergency, 2nd by Swindig

President Brown: Discussion?

Council Member Gillock: Madame President, we add the emergency because, for the welfare of the Citizens to get the street fixed this year.

President Brown: Any other discussion? Please take roll Mr. White.

Clerk of Council White: On the emergency.

Yes, 7 No, 0

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

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero. T 135-2001 becomes Ordinance Number 3734-2001 with emergency.

Permanent Ordinance No. 3734-2001

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

SECOND READINGS None

THIRD READINGS

T 122-2001 AN ORDINANCE APPROVING FINAL PLAN OF PHASE II OF MEADOW

**LAKES PCD, INCLUDING ACCEPTING THE PLAT OF MEADOW LAKES
PCD PHASE II FOR FINAL APPROVAL AND FOR RECORDING
PURPOSES.**

Third Reading

motion by Overby to adopt, 2nd by Borocz

President Brown: Discussion?

Council Member Butkowski: Madame President, according to the PCD Ordinance, Section B(6) number four a, you are required to have a homeowners association or organization. Section B(6), number 5 says that open space is held common by all the residential planned community development property owners. All subdivision property owners shall be jointly and severely liable for the maintenance of the open space. I checked with the County Recorder's office, the declaration of covenants, conditions, restrictions and reservations of easements for Meadow Lakes Homeowners Association was filed on September 26, 2001. There are four properties sold before that date. All were sold to MRV Incorporated, Ryan Homes, a Virginia Corporation, 8100 Snowville Road, Brecksville, Ohio. It is my understanding that these properties are not subject to declaration of covenants because they were sold before the conveyances were filed for that plat. This would exempt them from any association fees or restrictions. The PCD ordinance was not followed. We cannot approve more development before this problem is resolved and all the lots are covered the way the ordinance requires. Who is responsible to monitor the subdividers agreement in a PCD ordinance?

Law Director Zagrans: Madame President, may I respond? I don't believe Mrs. Butkowski's information is correct merely because the parcels were sold to a home builder prior to the filing of the homeowners association covenants. I don't think that thereby excludes them from compliance. However, it is a subject that the Law Department will look into and please rest assure that the Law Department will vigorously enforce the PCD ordinance and all of the requirements and conditions of the ordinance on the developer and we will vigorously enforce the development agreement to make sure that it is honored.

Council Member Minnick: 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 efficiently address outstanding issues. Planning Commission with Council approval gave conditional preliminary plan approval for Meadow Lakes PCD. Today I spent several hours in the Clerk of Council's office going over requirements and approvals. Council Members are prohibited from contacting the department heads of engineering and building. Absent of planning report prepared for City Council evaluating compliance with the PCD ordinance, it is nearly impossible to determine if all of the requirements have been met. On October 2, 2000 Council authorized the Mayor to negotiate and enter into a developers agreement for Meadow Lakes. According to the subdivider regulations, subdividers agreements are to be executed before final approval is given. A subdividers agreement has not been executed at this time. Additionally, Mr. Zagrans filed a declaratory judgement in Lorain County Common Pleas Court. No decision has been made as yet. I do not believe it is in the best interest of our City to approve final plans for phases two and three of Meadow Lakes PCD at this time.

Law Director Zagrans: Madame President, it is true that the City filed a declaratory judgement action in December of 2000. However, as the Members of Council are well aware and I remind you, Mr. Phillips, on behalf of some STAMP members, went to the Ohio Supreme Court and got turned down and the reason he went to the Ohio Supreme Court was he wanted to accelerate the process raising the exact same issue that was before the Lorain County Court of Common Pleas in the declaratory judgement action. There's no legal prohibition to going forward with this application at this time. In fact, I think that the ruling by the Ohio Supreme Court paves the way. Council Member Minnick: Madame President, if I might add, the case was dismissed and there was no reason given. So, it was neither a win nor lose for anybody because there was still a decision open at the Lorain County Common Please Court. So, I don't understand Mr. Zagrans reasoning in that and the reason to accelerate it was to be able to put it to a vote in November. Here it is, the middle of October and we still do not have a decision from the Lorain County Courts. So, I have to agree with what Mr. Phillips said during the Public Hearing portion, that it was obviously a ploy to prevent the Citizens from voting on this. It still does not have a decision.

Law Director Zagrans: Madame President, as I said back in October of 2000 and November of 2000 and December of 2000, there's no ploy here at all. The citizens, under our Charter, do not have a right to referendum on this particular legislation. That is a position that was sustained by the Ohio Supreme Court when it dismissed a merits challenge. There is no other way to interpret a challenge to that, that has been dismissed by the court other than paving the way for this to go forward.

Council Member Minnick: Madame President, one other thing. The Oster Construction Incorporated, for Avalon Subdivision, was postponed on their approval because the final plan approval and a subdividers agreement would have to be executed and I have to say again, that the subdividers agreement has not been completed or executed for Meadow Lakes.

Council Member Gillock: Madame President, I was under the impression that subdividers agreement had been executed. I need to know whether it is or it isn't. So, could we ask the administration since there party to that, if that hasn't been executed.

Law Director Zagrans: Madame President, I was under the same impression as Mr. Gillock. I thought that the agreement had been executed as well.

President Brown: Has it been, Mayor?

Mayor Hill: Madame President, the only thing we can do is double check, but I believed it was and it would of come from Assistant Law Director. We can check with her.

President Brown: Toni Morgan?

Mayor Hill: Yeah.

President Brown: Thank you.

Council Member Gillock: Madame President, we have an open question and that is a critical issue. I think we should consider postponing this until that's determine, whether it is or not.

President Brown: Can that be done, Mr. Zagrans?

Law Director Zagrans: Well, Council can do whatever it pleases to do on that subject. My thought would be, if Council would agree to, about a five minute recess. I could go back to the file in the Law Department and find out.

Council Member Minnick: Madame President, I was in Council office all morning long and they had checked and there was no executed agreement.

motion by Overby for a five minute recess, 2nd by Swindig

President Brown: Take roll please.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero.

Council recessed.

President Brown: Continuing on, Mr. Zagrans do you have an answer?

Law Director Zagrans: Thank you very much for giving us ten minutes rather than five to look this up. First of all, my understanding having check the records of the City is that while a subdividers agreement for phase one of Meadow Lakes has been executed by all of the parties, the subdividers agreements for phases two and three are not yet executed because counsel for both sides were still working on language, as I understand it. I then checked, once I had that factual answer, to see whether or not a subdividers agreement was required under our ordinance 3491 of 1999 which is the ordinance for PCD's. The ordinance itself does not refer to a requirement of a subdividers agreement. It goes in to some detail about the requirements for a PCD and the detailed preliminary and final plans that have to be submitted by a developer in order to satisfy the PCD criteria. However, Section 1228.01 of our Codified Ordinances says that a subdividers agreement is required for any construction of any plat or building development within the City of North Ridgeville. While there's no cross reference to Section 1228.01 in the PCD ordinance, I believe it would be appropriate, particularly in light of the history and the common usage of subdividers agreements over time within the City of North Ridgeville, to continue that as a requirement. Therefore, I advise Council that this application is not yet right for being voted on tonight because there is no executed subdividers agreement for phases two and three.

Council Member Gillock: Madame President, I would make a motion that T 122 and T 123 be postponed until the next meeting.

Council Member Overby: Second.

Clerk of Council White: Is this appropriate since we currently have a motion.

Law Director Zagrans: No it's not. There would have to be a withdrawal of the motion first by the moving and by the seconder.

President Brown: Who moved?

Clerk of Council White: Motion was by Overby, the second was by Borocz.

Council Member Overby: I withdraw the motion.

Council Member Borocz: I'll withdraw the second.

motion by Gillock that T 122 and T 123 be postponed until the next regular schedule meeting, 2nd by Overby

President Brown: That will be November 5th. Is there any discussion? None? Take a roll call please.

Yes, 7 No, 0

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Clerk of Council White: Motion carries seven, zero for the postponement of T 122 and 123 to the next regular schedule meeting which is November 5th.

UNFINISHED BUSINESS

Council Member Swindig: I would like to bring up T 132-2001 to suspend second and third readings.

T 132-2001 motion by Swindig to suspend second and third readings, 2nd by Butkowski 943-2001

President Brown: Any discussion regarding it? Mr. Costin did you want to say anything regarding it?

Auditor Costin: Madame Chairman, I discuss this issue, this matter, at the last meeting whereby Ohio Revised Code 5705.41 provides that City Council may authorize these payments within a 30 day period from receipt of a certificate of the fiscal officer in accordance with 5705.41 and we establish that the running of the clock is when, my official notice to you is when it hits the agenda. So, Council should take action within 30 days to be in compliance with the Revised Code. Thank you.

President Brown: Take roll please, Mr. White.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero to suspend second and third reading on T 132-2001.

 motion by Swindig to adopt, 2nd by Overby

President Brown: Do we have to add emergency?

Clerk of Council White: No.

President Brown: Thank you. Any discussion? Please take roll, Mr. White.

Yes, 7 No, 0

Clerk of Council White: Motion carries seven, zero. T 132-2001 becomes Resolution Number 943-2001.

 Permanent Resolution No. 943-3001

COMMITTEE MEETING ANNOUNCEMENTS

Council Clerk White:

The next Regular Council meeting will be Monday, November 5, 2001 at 7:30 P.M.

There will be a Public Hearing on Monday, November 19, 2001 at 7:20 P.M. on T 103-2001 REVISED.

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

President Brown: Any other committee meetings that I should know about? I call for adjournment.

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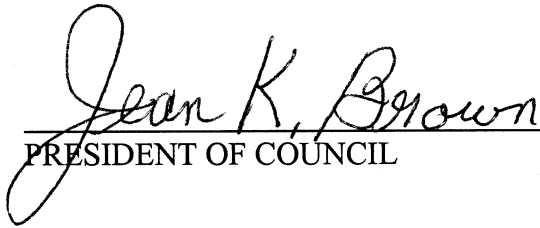
ADJOURNMENT

motion to adjourn by Swindig 2nd by Overby
President Brown: Meeting adjourned.

Meeting adjourned at 8:50 P.M.

MOTION Butkowski 2ND Overby VOTE November 5, 2001

YES 6 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL

CLERK OF COUNCIL