

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING OCTOBER 7, 2002**

CALL TO ORDER: 8:00 P.M.

President of Council Dave Gillock: I would like to call this Regular meeting of the North Ridgeville Municipal Council, October 7, 2002 to order. Would you please stand for the Invocation and Pledge.

INVOCATION: lead by President of Council Dave Gillock.

PLEDGE OF ALLEGIANCE: by all.

CALLING OF THE ROLL - ROLL CALL:

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

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

Absent were Law Director Eric Zagrans.

MINUTES - Corrections and Approval:

Regular Council Minutes of September 16, 2002

President Gillock: Are there any additions or corrections? I have one correction on page 12, the roll call for T 93-2002, I was not here so it cannot be seven to nothing. I presume it was six so, we'll make this a six. No other corrections or additions, do we have a motion to approve.

motion by Johnson to approve, 2nd by Butkowski

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

Yes, 6 No, 0 Abstain, 1 (Gillock)

Clerk of Council Norris: Minutes are approved as corrected by a vote of six, zero, one abstention.

President Gillock: Please note:

Planning Commission Minutes of regular meeting September 10, 2002 and special meeting of September 24, 2002;

Board of Zoning & Building Appeals Minutes of regular meeting September 26, 2002 and special meeting of September 19, 2002;

Civil Service Commission Minutes of September 12, 2002; and

Parks and Recreation Commission Minutes of regular meeting August 28, 2002.

COMMITTEE REPORTS:

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Clerk of Council Norris:

STREETS, SIDEWALKS & BRIDGES COMMITTEE dated September 18, 2002, Members of Council: We have considered the matter of T 104-2002 and recommend that this request be approved and that we pass this legislation to continue the progress we are doing on the streets.

Signed: Chairperson Allen Swindig and Member Robert Olesen.

motion by Swindig to accept, 2nd by Olesen

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

Yes, 7 No, 0

Clerk of Council Norris: Committee report is approved by a vote of seven to zero.

QUESTIONS FOR THE FOLLOWING WRITTEN REPORTS:

~~President Pro-Tem Butkowski:~~ *President Gillock:* We have no written reports from the Administration. Do we have anything from the Auditor?

Mayor: None

Safety-Service Director: None

Engineer: None

Law Director: None

AUDITOR'S REPORT:

Auditor Costin: No report tonight.

OTHER REPORTS:

President Gillock: Please note

Police Department Report for August 2002;

Mayor's Court Operating Trust Fund/Bail Trust Fund Report for August 2002 and September 2002;

Police Department Support Car Report for August 2002;

Public Drinking Water Lead and Copper Monitoring Report for June 1, 2002 to September 30, 2002; and

Service Department Activity Report for September 10, 2002 through September 29, 2002

Planning Commission Liaison Report: Special meeting September 24, 2002

Request: Planning Commission consideration and recommendation as submitted by North Ridgeville Municipal Council:

T 89-2002 An ordinance amending NRCO Section 1240.10, Definitions.

T 90-2002 An ordinance amending Chapter 1279.17, Definitions, and 1279.18, Permitted Uses.

Action: Recommend approval
 motion to approve by Olesen, 2nd by Swindig

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

Council Member Olesen: Planning Commission looked at a number of reasons why they wanted to approve this legislation. If you read the memo that was in your mail box from our Assistant Law Director, I might read just one sentence out of there. The basic reasons why we were in favor, one, two or three dwelling units are not considered to be multiple family dwellings under Ohio Building Code and finally the residential code adopted in Ohio by the City of North Ridgeville. The OBOA Code contains building standards for one, two or three family dwellings.

President Gillock: Anyone else? Tonight, we're voting on allowing triplexes to be built in our Planned Community Developments only. I believe triplexes to be another tool in planning and building neighborhoods that are cost effective for both the City and the buyer, attractive and alternative to duplexes which are already allowed. Triplexes are single family dwellings that are attached. Each unit will have its own parcel number, its own deed and can be sold independently. This type of construction allows for a variety and design by allowing different roof site lines or turning a unit on the end so that you don't have plain box appearance and other esthetics to make them more attractive. Although triplexes do not increase the overall density in the development and the Charter is not an issue as no property is being rezoned. Our Planned Community Development ordinance originally written appears to allow triplexes already but, is not crystal clear. The ordinance refers to attached single family dwellings as having common walls with an S. A duplex would only have one common wall. Since the ordinance speaks to walls with an S, it would appear that the framers of the ordinance did have attached dwellings of more than two in mind. These ordinances were proposed to clarify any gray area in the ordinance and when presented to the Buildings and Lands Committee it was supported by all six Council Members that were in attendance, Mr. Swindig being the only Council Member not there. They are recommended by the Planning Commission and the Building Code already adopted by the City does cover Triplexes. Not passing these ordinances, I think, takes away from the intent of the Planned Community Development ordinance, by instead of allowing creativity and flexibility, takes us back to box design and grid like layouts. The exact thing we're trying to avoid. This is a step away from smart growth and toward urban sprawl. We need to allow what the original framers of the ordinance intended by passing these ordinances to bring our ordinance in line with all major building codes across America. Is there any other discussion? Mrs. Pagel?

Council Member Pagel: I just want to clarify for the residents in the lobby and for the people at home that the motion is just to accept a report. We are not voting on a triplex at this time. It's just to accept this report.

President Gillock: Are there any other comments? If not, please call the roll.

Yes, 3 No, 4 (Buescher, Pagel, Butkowski, Johnson)

Clerk of Council Norris: The report approval fails by a vote of four to three.

OLD BUSINESS:

Clerk of Council Norris:

T 95-2002 An ordinance providing for the re-division of wards within the City of North Ridgeville, Ohio in accordance with Section 3.1 of the Charter.

Postponed July 31, 2002.

President Gillock: I am REFERRING THIS BACK TO ADMINISTRATIVE COMMITTEE as we have another ordinance that will be discussed this evening also, in regards to this matter.

New business.

NEW BUSINESS:

Clerk of Council Norris:

Liquor permit request from Michael W. Michael, DBA Mike & Ruby's Groceries & Smokes, 8366 Avon Belden Road.

Mayor's appointment of Andrew Young to the Board of Zoning and Building Appeals to fill the unexpired term ending December 31, 2003

motion to approve by Mayor Hill, 2nd by Swindig

Mayor Hill: I'm nominating Andrew Young to the Board of Zoning and Building Appeals. Due to the resignation of one of the members, the term of Andy Young will be effective immediately and will terminate on 12-31-2003. Mr. Young is here tonight. He is an attorney with Nurenberg, Plevin, Heller & McCarthy. His legal studies at Case Western Reserve University Law School included a variety of general litigation and business law cases, including property law and real estate transactions and finance. Mr. Young earned his undergraduate at Ohio Wesleyan University. He graduated magna cum laude with a major in history and a minor in business management and we are very pleased to have him on board. It's not always easy to get volunteers to serve in volunteer positions so, I strongly support this nomination.

President Gillock: Thank you. Is there any other discussion in regard to this nomination? If not, please call the roll.

Yes, 7 No, 0

Mayor Hill: Thank you, Council and thank you, Mr. Young.

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

T 115-2002 A resolution providing for the adoption of a compensation time off policy for employees appointed or elected by Council.

motion by Swindig, 2nd by Butkowski to suspend By-Laws to give this a first reading

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend carries by a vote of seven to zero.

T 116-2002 An ordinance authorizing the Mayor to advertise for bids and enter into a contract according to law and in a manner prescribed by law for the construction of a

gravity sewer from the Westfield Drive Wastewater Treatment Plant west and along Shady Drive to the westerly interceptor, and to negotiate and enter into a contract with a consulting engineering firm for plans, specifications, and construction phase services for same, not to exceed \$120,000.00.

T 117-2002 An ordinance authorizing the Mayor to advertise for bids and enter into a contract according to law and in a manner prescribed by law for the construction of a sanitary sewer at the Shady Drive Complex from the Concession Stand to the Parks and Recreation Maintenance Facility and then west to the westerly interceptor, not to exceed \$60,000.00.

motion by Gillock, 2nd by Swindig to suspend By-Laws to give T 117-2002 a first reading

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

Council Member Johnson: We can't have that go any faster than T 116, can we? The sewer is not going down Shady Drive and we're picking it up there for the Parks and Rec Stand.

President Gillock: We can still move it towards approval because this is with the concession stand at Shady Drive and I don't want to do anything to hold this up. That way, it will be approved when the sewer goes in, in my opinion. Mr. Beutler?

Engineer Beutler: Just an explanation between the two. The sewer for the Shady Drive Complex will have to go a lot further to the north before it will come back in and that's why this is going where it's at. The plans have been designed by the engineer who did the concession stand, so that is that project. The other one is money that was appropriated in the budget for this year to eliminate the wastewater treatment plant by going down Shady Drive.

President Gillock: Is there any other discussion on the suspension?

Mayor Hill: Yes, I'd like to ask Mr. Beutler a question. So, in other words Mr. Beutler, both of these were approved during appropriations, T 116 and T 117.

Engineer Beutler: Yes.

Mayor Hill: Thank you. That's an affirmative.

Council Member Butkowski: It seems like T 116 sewer is running right past the Shady Drive. Why can't it be connected into the Shady Drive? I would think it would not cost as much to run it as far if we're going to be running that sewer, these two sewers are connecting at different points and they're so close to each other that I don't know why the Shady Drive sewer can't be connected into the other one.

Engineer Beutler: It would add a lot more length to the actual sewer to connect the two together than doing the way we got it.

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

Yes, 7 No, 0

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

T 118-2002 An ordinance amending Ordinance 3748-2001.

Council Member Pagel: Mr. President, it's my understanding that an ordinance needs to have

the subject matter in the title for ease for people that are looking up the ordinance for references later, they wouldn't have any idea what the Ordinance 3748-2001 means if there's no subject to the title. I would defer that to the Law Director.

President Gillock: We have discussed this and I will also refer it to the Law Director, if you would like to address this.

Assistant Law Director Morgan: Yes, Mr. Chairman. That's an ideal situation but, since this refers specifically to an ordinance it's not absolutely necessary and make an oral amendment, if you'd like.

President Gillock: I will point out that this is an ordinance regarding the reconstruction of Lorain Road from Eaton Township to Island Road. We've already approved an ordinance but, there's been a change in the financing which is beneficial to the City, that's what this ordinance is. Does someone want to make a motion amending the title or shall we leave this one as it is?

Council Member Pagel: I will make a motion. Move to amend the title to say, an ordinance. There's a lot of confusion as far as what the ordinance actually is.

Council Member Butkowski: Possibly you can just make it an ordinance for the reconstruction of Lorain Road from Eaton Township to Island Road. That will give you an idea of, at least, what the idea of this ordinance is along with amending.

Council Member Pagel: Possibly the amendment can say, an ordinance amending Ordinance 3748-2001 which authorized the Mayor to advertise for bids and enter into a contract for the reconstruction, put in that first Whereas as the subject matter.

President Gillock: Why don't we just say, an ordinance amending ordinance 3748-2001 in regard to the reconstruction of Lorain Road?

motion by Gillock to amend the title to read "An ordinance amending Ordinance 3748-2001 in regard to the reconstruction of Lorain Road", 2nd by Pagel

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

Yes, 7 No, 0

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

motion by Mayor Hill to suspend By-Laws to give T 118 a first reading, 2nd by Swindig

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend By-Laws for T 118 carries by a vote of seven to zero.

T 119-2002 An ordinance amending Ordinance 3704-2001.

President Gillock: This is similar in nature as to construction to the last one. Do you want to amend the title on this one? This is in regards to roadways at the French Creek Wastewater Treatment Plant.

motion by Pagel to amend the title to read "An Ordinance amending Ordinance 3704-2002 in regard to resurfacing and repair of approximately 3,000 feet of roadway from Abbe Road west to the end of the French Creek Wastewater Treatment Plant", 2nd by Olesen

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President Gillock: Is there any discussion on the amendment? Please call the roll.

Yes, 7 No, 0

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

motion by Swindig to suspend By-Laws to give this a first reading, 2nd by Olesen

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend approves by a vote of seven to zero on T 119.

T 120-2002 An ordinance amending Ordinance 3558-2000 pertaining to the compensation of the part-time Assistant Prosecutor.

T 121-2002 An ordinance repealing Ordinance No. 2687-92 adopted November 2, 1992, and Ordinance No. 2656-92 adopted July 6, 1992.

President Gillock: When Council brought T 95-2002 forward regarding redistricting, the Law Director issued a legal opinion declaring that the ordinance was not in accordance with the Charter and illegal, unenforceable, null and void, according to the Ohio Revised Code. That legal opinion was based on part on outside legal counsel hired by the Law Department to assist in redistricting which information, at this time, remains an attorney-client privileged communication. As discussed during our July 31 Special meeting, I am still waiting to find out what four questions the Law Director put to that outside legal counsel. Even if the questions were relayed over the phone, as the Law Director informed me on October 1, I would still like to see them put in writing as to what the four questions were. Subsequently, I wrote to the Safety-Service Director and asked him to bring forward his redistricting plan and that we would pass it unchanged so that the North Ridgeville Codified Ordinances would coincide with the plan that he had submitted to the Board of Elections to avoid any conflicts between the two plans. Again, the Law Director has indicated to me in a memo dated October 1, that this plan would also be in conflict with his original report to Council on May 6 and his legal opinion issued on July 27 of this year. He has suggested as an alternative, and that's what this ordinance is, repealing the current ordinance setting the ward boundaries in the City. I fail to see how, from a legal standpoint, repealing an ordinance would have any less effect on the Safety-Service Director's power and authority than passing a new ordinance to enact this plan. Either way, we're changing an ordinance and to do as the Law Director suggests would then leave the boundaries set by Ordinance 1718-1981 as the established boundaries unless they were also subsequently repealed. Therefore, his suggestion does not remove the conflicting or at least confusing issue of the Board of Elections having one map and our ordinances describing another. Therefore, I am REFERRING T 121-2002 TO THE ADMINISTRATIVE COMMITTEE ALONG WITH THE EARLIER REFERRED T 95-2002 TO SEE IF WE CAN'T GET THIS RESOLVED. I am not disagreeing with the Law Director's May 6 report that the Safety-Service Director must do the redistricting. My difference is with the procedure to accomplish it. I'm also making a motion for Council to approve hiring outside legal counsel to assist us in this issue in an amount not to exceed five thousand dollars. Just like when you go to the doctor's, sometimes it helps to get a

second opinion to assist in your decision making process and help make sure you make the right decision. Doesn't necessarily mean the first doctor is wrong or is giving bad advice but, sometimes two heads are better than one, such as this when we need to resolve an issue that will have a major impact on our City for the next ten years. Is there a second?

motion by Gillock to approve hiring outside legal counsel to assist in this issue in an amount not to exceed five thousand dollars, 2nd by Johnson

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

Council Member Johnson: I agree with President Gillock that a second opinion is needed to help us resolve the issue. I disagree with the opinions of Mr. Zagrans on the issue but, it's not my opinion or Mr. Zagrans opinion that will ultimately matter. It's the opinion of the court that this issue will likely end up in if we leave two different descriptions of ward boundaries. It's not a political issue. It concerns the election process and the Florida Presidential and recent primary election shows us we should take care to avoid confusion in that process.

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

Yes, 6 No, 1 (Swindig)

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

T 122-2002 A resolution of support for Transportation Enhancement Project.

CORRESPONDENCE:

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

1) Received a letter from Rebecca Jones, Economic Development Specialist of the Lorain County Community Development Department announcing the release of tables of Census 2000 and explaining how this data can be accessed on the internet at www.census.gov.

2) Received a petition from owners of properties comprising more than 60 percent of the front footage abutting upon the street to be improved; respectfully petitioning Council for the construction of a sanitary sewer, storm sewer, water lines and a paved street together with the necessary appurtenances and work incidental thereto, along Birch Street from the existing pavement south approximately 1,280 feet, and a paved street along Beech Street between Cornell Avenue and Birch Street.

President Gillock: REFERRED TO STREETS, SIDEWALKS & BRIDGES COMMITTEE AND TO THE PLANNING COMMISSION.

Clerk of Council Norris:

3) Received a letter from Gerald W. Phillips filing a certified copy of Ordinance No. 3844-2002 prior to the circulation of a referendum petition on Ordinance No. 3844-2002.

4) Received a letter from Gerald W. Phillips filing a certified copy of Ordinance No. 3845-2002 prior to the circulation of a referendum petition on Ordinance No. 3845-2002.

- 5) Received a letter from Ernst Fischer, Assistant Deputy Director, Office of Licensure/Supported Living QA and Provider Certification, Ohio Department of Mental Retardation and Developmental Disabilities announcing that Our Lady of the Wayside has applied for an issuance of a license for 12 persons with mental retardation and/or developmental disabilities in a residential setting at 32312 and 32316 Bagley Road.
- 6) Received a letter from Chief Building Official Guy Fursdon explaining that the Planning Commission application for Mr. Akin, 35205 Center Ridge Road is not an industrial building but, an industrialized unit as defined in the Ohio Building Code.
- 7) Received a letter from Planning Commission Chairman Ron Schwachenwald in regard to applicant Akin & Akin in a B-3 zone which allows automobile dealers and lots and therefore meets the zoning code and referred to Guy Fursdon's letter dated September 24, 2002. Requests Council to reconsider the application.
- 8) Received a letter from Gail Minnick informing Council of her opposition to the pending legislation allowing triplexes to be built without voter approval.
- 9) Received a letter from Lia Muir, Michelle Kroboth and Samantha Hosler requesting that the proposed initiative petition to change 432.42 and Chapter 854 be submitted to the vote of the electors at the primary election in May 2003.
President Gillock: I'll refer that to the Law Department for appropriate ordinances to be drawn up to put this on the May ballot.
- 10) Received a letter from Thomas Warner inviting Council Members to attend a meeting Friday, September 26, 2002 where Congressman Kucinich will speak on issues concerning 165 workers that were replaced at Cargill Inc.

LOBBY:

President Gillock: We now come to the lobby portion of our meeting. Anyone is welcome to address Council on any subject they choose. You will be allowed up to three minutes to speak. If you wish to speak a second time, I would ask that you wait until everyone else has had there first opportunity. Is there anyone who wishes to address Council at this time?

- 1) Bob Miles of 34582 Lorain Road expressed his concerns in regard to the Gilfeather sign on the corner of Honeycut and Lorain Roads. Reported Safety-Service Director's review and determination that it is not a safety hazard. Spoke of several violations to ordinances noting height, side, and front lot lines regulations. Stated that there is no permit issued. Stated his concerns in regard to the condition of the tree lawn and asked that the City or developer put it in the proper condition so that it could be mowed. Noted a Zoning Board meeting where he was assured that there would be no signs and read an excerpt from the minutes.

2) Lois Sullivan of 5880 Jaycox Road comment on how nice the State seal looks that is now hanging in Council Chambers and spoke of how nice it was of State Representative Manning for his donation.

3) Denise Myers of 8395 Avon Belden Road spoke her opinion in regard to triplexes in PCD's, that they would add a clutter feel to a development and do nothing to enhance our community.

RECESS: from 8:36 P.M. to 8:50 P.M.

FIRST READINGS:

Clerk of Council Norris:

T 115-2002 A RESOLUTION PROVIDING FOR THE ADOPTION OF A
958-2002 COMPENSATION TIME OFF POLICY FOR EMPLOYEES APPOINTED OR
 ELECTED BY COUNCIL.

First Reading

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

President Gillock: Is there any discussion? Please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion to dispense carries by a vote of seven to zero.

motion by Swindig to adopt, 2nd by Butkowski to adopt

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to adopt carries by a vote of seven, zero and becomes
Permanent Resolution Number 958-2002.

Permanent Resolution No. 958-2002

T 117-2002 AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS
3846-2002 AND ENTER INTO A CONTRACT ACCORDING TO LAW AND IN A
 MANNER PRESCRIBED BY LAW FOR THE CONSTRUCTION OF A
 SANITARY SEWER AT THE SHADY DRIVE COMPLEX FROM THE
 CONCESSION STAND TO THE PARKS AND RECREATION
 MAINTENANCE FACILITY AND THEN WEST TO THE WESTERLY
 INTERCEPTER, NOT TO EXCEED \$60,000.00.

First Reading

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

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

Yes, 6 No, 1 (Johnson)

Clerk of Council Norris: Motion to dispense carries by a vote of six to one.

motion by Swindig, 2nd by Gillock to adopt

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to adopt carries by a vote of seven to zero and becomes Permanent Ordinance 3846-2002.

Permanent Ordinance No. 3846-2002

T 118-2002 AN ORDINANCE AMENDING ORDINANCE 3748-2001 IN REGARD TO
3847-2002 THE RECONSTRUCTION OF LORAIN ROAD AND DECLARING AN
 EMERGENCY.

First Reading

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

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend on T 118 carries by a vote of seven, zero

motion by Mayor Hill to adopt, 2nd by Swindig

President Gillock: Is there any discussion?

motion by Mayor Hill to add the emergency

President Gillock: Purpose?

Mayor Hill: The purpose is that we've already actually received the papers and since the grant was increased from two hundred thousand to two hundred fifty thousand and a loan was eliminated at such a huge financial advantage to the City but, we've got to get those papers back in. They were on hold until the Finance meeting last Monday and they have sent the papers for signatures and we received them today. It has to get back to Ohio Public Works in Columbus, immediately.

2nd by Swindig

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to add the emergency carries by a vote of seven to zero.

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to adopt T 118 is approved, with the emergency, by a vote of seven to zero and becomes Permanent Ordinance 3847-2002.

Permanent Ordinance No. 3847-2002

T 119-2002 AN ORDINANCE AMENDING ORDINANCE 3704-2001 IN REGARD TO
3848-2002 RESURFACING AND REPAIR OF APPROXIMATELY 3,000 FEET OF
 ROADWAY FROM ABBE ROAD WEST TO THE END OF THE FRENCH
 CREEK WASTEWATER TREATMENT PLANT.

First Reading

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

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

Council Member Butkowski: I have a question for the Auditor. We have 150 thousand dollars appropriated for this project and this is asking for another 35 thousand. Is that money available for this project?

Auditor Costin: This money would be available. We would charge the French Creek Sanitary Sewer Improvement Fund. We actually have a certain amount set aside for contingencies in those improvement funds for these things that may arise.

Council Member Johnson: That fund, it consists of monies from all the communities within the French Creek system. Am I correct?

Auditor Costin: Correct.

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

Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend carries by a vote of seven to zero.

motion by Swindig, 2nd by Buescher to adopt

motion by Swindig to add the emergency due to the coming to the end of the paving season and the deplorable condition that that road is in right now, it may cost us more in the long run by losing equipment out there, 2nd by Butkowski

President Gillock: Is there any discussion on the emergency? Mrs. Butkowski?

Council Member Butkowski: Mr. Swindig is correct and that does have to be replaced. My car does not like to go through that driveway.

President Gillock: Thank you. Please call the roll on the emergency.

Yes, 7 No, 0

Clerk of Council Norris: Adding the emergency carries by a vote of seven to zero.

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

Yes, 7 No, 0

Clerk of Council Norris: T 119 passes with the emergency by a vote of seven, zero and becomes Permanent Ordinance 3848-2002.

Permanent Ordinance No. 3848-2002

SECOND READINGS:

Clerk of Council Norris:

T 110-2002 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO NEGOTIATE AND ENTER INTO A FIVE-YEAR CONTRACT BEGINNING JANUARY 1, 2003, THROUGH DECEMBER 31, 2007, FOR HAZARDOUS MATERIALS RESPONSE AND MITIGATION IN LORAIN COUNTY, OHIO.

Second Reading

T 112-2002 AN ORDINANCE AUTHORIZING THE MAYOR TO NEGOTIATE A CONTRACT FOR THE ACQUISITION OF PROPERTY FOR THE PURPOSE

**OF EXTENDING MILDRED STREET TO JAYCOX.
Second Reading**

THIRD READINGS:

**T 89-2002 AN ORDINANCE AMENDING NRCO SECTION 1240.10, DEFINITIONS.
DEFEATED Third Reading**

President Gillock: In actuality, we've already had the third readings on both T 89-2002 and T 90-2002. We had the report from the Planning Commission this evening, recommending that they be approved. Council voted, three to four, not to make those recommendations official. In discussion with the Assistant Law Director, let her address this but, she has advised that we go ahead and vote on these. Would you like to add an explanation?

Assistant Law Director Morgan: In way of explanation, Mr. Chairman, the action that the Council takes as far as accepting or not accepting the report from Planning Commission is a separate action. When there is an ordinance before Council, you need to dispose of it in the ordinary way. So, that wouldn't have any effect on whether or not you vote on these. You should go forward with these.

President Gillock: T 89-2002, do we have a motion to adopt.
 motion by Swindig, 2nd by Olesen to adopt

President Gillock: Is there any discussion on the adoption? Mrs. Butkowski?

Council Member Butkowski: This T 89, we have to remember that we are a Charter City. As a Charter City, we have a right to decide our own destiny and our laws and they do not have to go along with the Ohio Revised Code. That's why we have a Charter because we don't always do everything the way the Ohio Revised Code suggests that we do. We have to be lawful but, we can make changes as in our building codes. Chairman Schwachenwald at the September 24 Planning Commission stated that, we still need to define the Ohio Building Officials Association One, Two and Three Family Dwelling Code as utilized by the City so, we are not the only one to be out of sync with the State but, that's why we have a Charter. We can do things other than what the State suggests. Also, he contradicted himself by stating that, as we talk about smart growth, each community is its own entity and each community has to develop the process and procedures to facilitate what's happening today and tomorrow. Now, I think he contradicted himself but, in that statement, I agree with him. We have a right to do what we think is best for our City in these codes and we don't necessarily have to be in sync with the State or what the County suggests or other cities around us. There's other communities that do not, haven't even accepted this because it's some of the things that are in this code that we have accepted but, we can change it because we are a Council and a Chartered community.

Council Member Swindig: Going back, last term, we accepted the Ohio Building Code by adoption and I think there is no sense in having a double set of rules because it only causes confusion and mass confusion.

Council Member Buescher: Mr. Swindig, we also have set rules in all of our zoning codes and this overlay zoning has left the PCD ordinance wide open and too many things can be added that can be harmful to the City down the line and so, for that reason, I believe we should vote no.

Council Member Olesen: Mr. Chairman, the only thing I'll add to this and I already spoke on this is that I think that our City has to be innovative in its approach to building. There's a lot of money in this for our City and other cities do it and have had good success with it and I can't, for the life of me, see why we wouldn't adopt this legislation.

Council Member Pagel: I have looked at both sides of this issue pretty intensely and my only question is, why do we have Public Hearings if we not going to listen to the public? At this point, the public was pretty adamant, as far as what I heard, those that talked to me, that they would like this to be looked at further and really, really reconsidered.

Council Member Butkowski: Mr. Chairman, I think we had a vote in just this past year on changing the Charter that people did not have to vote for these changes and I believe at that time we did not have anything that addressed triplexes, it just was understood that in order to have a triplex or any more than two would have to be voted on and I think that's what the people went to the poles believing was there. Now, for us to change this definition would be a slap in the face to all the voters that said they did not want a change.

President Gillock: I wasn't going to say anything but, I will because I think there's a misconception in regards to these ordinances and the Charter. First, I will say that the Planning Commission, as a majority, voted to recommend this and they are representative of our residents and most of the conversations that I have had or talked to people that believe we should proceed with the actions we're taking. I have had one call and I believe one letter in opposition to changing or not changing this and allowing the triplexes. However, in regards to the Charter, this keeps coming up and I think this is a red herring that is being promoted as opposition to this and it's irreverent. The Charter does not speak to this particular issue. The Charter says, if we're going to rezone property to allow multiple family units, then it goes to a vote. Our Law Director has ruled, two years ago, that we are not rezoning and all our codes say that triplexes are not multiple family. This does not increase the density. I think the key issue in the Charter, why it is there is because we do not want a high density, we do not want apartments and that is not the case. We are not increasing the density and these are not apartments. Each unit has its own deed, its own parcel number. I do not believe the Charter issue is relevant to this in anyway. I just want to make my feelings clear on that also.

Council Member Johnson: The Charter amendment deals with multifamily and as of right now, multifamily is triplex.

President Gillock: It also deals with rezoning and this is not rezoning.

Council Member Johnson: I agree.

Council Member Buescher: Mr. President, if we had gone according to our normal procedures in zoning, we would have had to rezone R-1 to another category but, because of overlay zoning, it still remains in effect, R-1, and yet it doesn't. If you were changing R-1 to another zoning category and adding multiple, you would have to take that to a vote of the people.

President Gillock: I agree. If we were rezoning, we would have to go to the people. Any other discussion? If not, please call the roll on T 89-2002.

Yes, 3 No, 4 (Buescher, Pagel, Butkowski, Johnson)

Clerk of Council Norris: T 89-2002 fails by a vote three ayes, 4 nays.

T 90-2002 AN ORDINANCE AMENDING CHAPTER 1279-17, DEFINITIONS, AND
DEFEATED 1279.18, PERMITTED USES.

Third Reading

motion by Swindig, 2nd by Olesen to adopt

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

Council Member Pagel: In reviewing that, we have been reviewing pretty intensely the PCD ordinance, I came upon a section of the PCD that I think needs to be noted here. It is, PCD Ordinance B.04 Land Planning Criteria. Under the section of A, A.1, adjoining properties shall be protected from loss of light, air and view, considering the proximity in bulk or shape of a neighboring building. Now, we heard a lot of testimony about the PCD ordinance. We heard a lot of, don't change it and contents may have to be changed. That little area was never talked about so, I would assume that would stay in there and I believe that the intent of the authors, that there shouldn't be bulk there and I think triplexes are bulk and I think triplexes don't belong in the PCD ordinance as it stands, right now, today.

President Gillock: Thank you. Anyone else?

Council Member Olesen: Mr. Chairman, just one point, we have an ordinance that states no building can be over 35 feet tall and these buildings are 27 feet tall. They are within our ordinance.

President Gillock: Thank you. Anyone else? If not, please call the roll on T 90-2002.

Yes, 3 No, 4 (Buescher, Pagel, Butkowski, Johnson)

Clerk of Council Norris: T 90 fails by a vote of three to four.

T 101-2002 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH
3849-2002 RIDGEVILLE, OHIO, TO ENTER INTO VARIOUS AGREEMENTS WITH
THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT.

Third Reading

motion by Swindig, 2nd by Butkowski to adopt

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

Yes, 7 No, 0

Clerk of Council Norris: T 101 passes by a vote of seven to zero and becomes Permanent Ordinance 3849-2002.

Permanent Ordinance No. 3849-2002

T 108-2002 AN ORDINANCE RETAINING THE SERVICES OF A CITY PLANNER, NOT
3850-2002 TO EXCEED \$1,500.00.

Third Reading

motion by Swindig, 2nd by Pagel to adopt

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

Yes, 7 No, 0

Clerk of Council Norris: T 108 is approved by a vote of seven, zero and becomes Permanent Ordinance 3850-2002.

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING OCTOBER 7, 2002**

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Permanent Ordinance No. 3850-2002

UNFINISHED BUSINESS: None

COMMITTEE MEETING ANNOUNCEMENTS:

~~President Pro-Tem Butkowski:~~ *President Gillock:*

Next Council Work Session, Monday, October 21, 2002 at 7:30 P.M.

Next Regular Council meeting, Monday, October 21, 2002 at 8:00 P.M.

Utilities Committee to meet Wednesday, October 9, 2002 at 7:00 P.M.

ADJOURNMENT:

motion to adjourn by Swindig

President Gillock: Meeting adjourned.

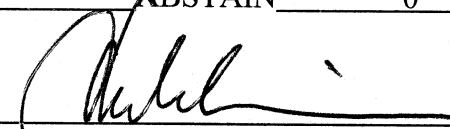
Meeting adjourned at 9:14 P.M.

MOTION *as corrected* Butkowski 2ND Olesen DATE October 21, 2002

YES 7 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL



CLERK OF COUNCIL