

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING OCTOBER 4, 2004**

CALL TO ORDER: 7:34 P.M.

President Ronald Arndt: The Chair calls to order the North Ridgeville City Council regular meeting dated October 4, 2004. If you will all rise, please, for the Invocation and the Pledge.

INVOCATION: lead by President Arndt.

PLEDGE OF ALLEGIANCE: by all.

 moved by Arndt, seconded by Jaenke to appoint Paula Cope Acting Clerk of Council until October 14, 2004

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

 Yes, 7 No, 0

CALLING OF THE ROLL - ROLL CALL:

Present were Council Members Nancy Buescher, Allen Swindig, Richard Jaenke, Bob Olesen, Andy Young, Bernadine Butkowski and President Ronald Arndt.

Also, present were Mayor David Gillock, Safety-Service Director Denny Johnson, Law Director Andrew Crites, Auditor Chris Costin and Acting Clerk of Council Paula Cope.

Absent was Engineer Larry Griffith.

 moved by Arndt, seconded by Butkowski to suspend By-Laws to start the tape recording of the first reading of T 120-2004 in full

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

 Yes, 7 No, 0

President Arndt: In addition, before the minutes are read, the Chair wants to remind everybody that we will be discussing, under old business, a couple of pieces that are due tonight that just inadvertently did not show up on the Agenda. They are Jordan Place as well as the approval of the Planning Commission action to permit Diamond Homes with regard to their sanitary sewer on Barres Road. Those will show up under old business tonight.

MINUTES - Corrections (if any) and Approval:

Council Minutes of regular meeting held September 7, 2004

 moved by Butkowski, seconded by Buescher to approve Council Minutes dated September 20, 2004

President Arndt: Is there any discussion?

Council Member Olesen: Mr. President, a couple of changes I think should be made here. Page two, Mr. Backman's name is misspelled second to the bottom paragraph. It's spelled correctly in the second reference and the third reference. There is a word that changes the meaning of a sentence on page 11, under Law Director Crites, about three quarters down, discriminated, should be disseminated.

President Arndt: Any others? The Chair also notices on page five, toward the bottom of the page, just before the vote, President Arndt: Any other conservation, is meant to be conversation. Any other discussion or conversation? We have a motion on the floor by Mrs. Butkowski, a second by Mrs. Buescher to approve our Council meeting minutes of September 20 with the mentioned modifications. Is there any further discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

Acting Clerk of Council Cope: Please Note:

Civil Service Commission Minutes of regular meeting September 21, 2004 and
Board of Zoning and Building Appeals Minutes of regular meeting September 23, 2004.

MAYOR AND DIRECTORS REPORTS:

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

Mayor

Mayor Gillock: Good evening. First I would like to advise Council and our residents that, weather permitting, we should begin the repaving of a section of Case Road next week. We will grind the road surface, compact it and apply a new top coat of asphalt. There will be some delays and we ask for your cooperation in the construction area. As a reminder, please slow down when you go through a construction site. A couple of weeks ago, one of our employees was seriously injured while working as a flagger on a job site. I'm glad to see Norm here this evening, and he will be off several weeks. We ask that drivers do their utmost to do what they can to make sure no one gets hurt.

Last Monday, I attended a meeting sponsored by Representative Patton, the sponsor of the railroad quite zones. We have four crossings that could be improved that would allow the elimination of whistles at these crossings. One would cost approximately 149,000 dollars. Two of the others would cost 348,000 dollars and the last would cost about 439,000 dollars to improve them as presently recommended. Funds are not available from the Ohio Rail Commission or the Federal Railroad Authority. These improvements would have to be made with local funds. I do plan on contacting our State legislatures as well as our local Congressman

to see what assistance they might provide but, but it is certainly not something we would pursue on our own at any time in the near future.

The Walgreen's project at the intersection of Lear Nagle and Center Ridge Road continues to progress, although very slowly. The primary benefit to North Ridgeville of this project is the elimination of the two turns on Center Ridge Road connecting north and south Lear Nagle. We have applied for a grant to cover the gap between the taxes generated by the Walgreens and the cost of the road. This application triggered an environmental study that resulted in a requirement for an archaeological study by the Ohio Historical Preservation Office and an Indiana Bat study by the US Fish and Wildlife Service. Both studies have reportedly been completed with nothing found, yet procedurally the studies still have to go through public hearing and comment phases of 30 days and this substantially has delayed the project.

Lastly, I want to remind our resident volunteers to be at South Central at 9:00 A.M. this Saturday morning. Home Depot, from Avon, will be here with about a dozen volunteers and materials including paint, lumber and whatever else we might need to assist us in sprucing up the park. We will be painting and repairing benches, bumpers, swings, and so forth. Whatever we can find that needs done, depending on how much man power, scout power and Council power that we have there. Everyone's welcome and we hope to see you all there, along with myself, Mr. Johnson, and of course, all of our Council Members.

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

Safety-Service Director

Safety-Service Director Johnson: Thank you, Mr. President. The Center Ridge sewer project has advanced to the Ridgeview Shopping Center near Case Road. They're completing about 175 feet a day, at this point.

The Mills Road water line replacement project has progressed to just past Frontier Park and despite a mishap that interrupted electric service for a few hours, the project is moving along at a good pace.

With the fall season upon us, I'd like to ask residents to help us keep leaves and debris out of our storm water system. Please take a moment to check ditches, drains at your property and remove any blockages you may find. Any time saved for our service crews can be devoted to paving, patching, crack sealing and hundreds of other responsibilities our service personnel perform.

Now, I'd like to ask Council's indulgence to have members of our Service Department speak to us about safety.

President Arndt: And who would be speaking on behalf of the Service Department?

Safety-Service Director Johnson: I'm not quite sure. We'll find out.

Chris Rangus: Dr. Arndt, I'd like to let Ben Makowski, the president of the union go first and I'd like to speak after him if that's agreeable to you.

President Arndt: Please, if you approach the podium so that everybody has the opportunity to hear.

Ben Makowski: Good evening Mayor, Safety Director and Members of Council and Citizens of North Ridgeville. My name is Ben Makowski. I'm the president of AFSCME Local 3442 that represents the workers of the City of North Ridgeville. I'm a mechanic for the City and have been employed with the City for 11 years. I want to thank you for giving me this opportunity to address two matters which I feel are very important tonight. First, I want to ask you for help in a very serious matter. The past few years we've had numerous City service employees either injured or had near brushes with injury. This is due either to the blatant disregard, lack of attention or ignorance on some of the Citizen's part as they come through work zones while we, the City workers, work on water breaks, repair fire hydrants, repair service lines, patching the streets, crack sealing and pave your roads. We had a very serious injury in the past two weeks which prompted my being here. The latest injury was to an employee while he was directing traffic through a work zone. A vehicle came through the work zone and the hose that was used to direct water from a person's yard so no more damage would result to his property, was snagged by this vehicle. The vehicle drug a water pump and a hose approximately 70 feet before coming to a stop. Yes, the discharge hose was strung across the road but, other vehicles came across with no problems. During this incident the discharge hose that was snagged by the vehicle whipped around, knocked the feet and legs out from under the employee causing him to fall on his right arm. The resulting injury was a compound fracture to his right arm that necessitated him to have two surgeries to insert steel pins in place. He will miss work for an extended period of time thereby taxing our department even further. And, oh yes, the pump sustained severe injuries also but, it should be back in service about three weeks. I've seen first hand how people react when having to wait for us to let them through after sitting in a very short line of traffic. They yell obscenities, gesture to us how many friends they have. Tell us we don't know what we're doing and a list longer than time permits me to tell you. Another problem is dreaded cell phones. We've seen many a person talking on the phone not paying attention what's going on around. I've heard that after the police investigation was completed. Chris Rangus, our Superintendent told us that the Police told him that we had all the proper signage and that our work zone was properly marked. What puzzles me was that no charges we going to be filed against the driver of the vehicle. This made me wonder what will it take to get some help in this matter. A loss of one of our workers? I'm here tonight asking Council to look into whether we have on the books, an ordinance dealing with work zones and a speed at work zones and the fines associated with the violation of the ordinance or law. I know there's state law regarding this matter and I cannot figure out why it was not used in this situation. I'm asking

that you look into this but, if we do not have such an ordinance, please see if you can come up with one before one of the City workers gets killed instead of just injured. We need to slow the people down and make them pay more attention on what they're doing. I'm also asking you to look into passing an ordinance regarding the use of cell phones just as other cities have done. I hope that this can be accomplished before another injury or even a fatality occurs. We're short enough on manpower in our department now. Having people out injured only adds to our problems. In other cities they close roads down during such repairs. We do not do it here in North Ridgeville as a courtesy to the people unless it's absolutely necessary. But, if that's the only way to get the job done without injuries, so be it. The second item I'm going to ask is that our favorite season is coming upon us and I want to remind all the citizens to please give us the room and respect we need to plow and keep your streets clean this winter. I know it seems like an inconvenience to sit behind the plow truck or follow it but, we're out there for your safety. Please give us the space we need to do our jobs. I also ask that people living in cul-de-sacs to not park in them so we can clean them out so that they can get out in the morning to go to work. To those who use I 480 and Route 10, I also ask that they give trucks room and stay behind so we can open that road and do our jobs. We have installed reflective signs on all our trucks saying, stay back 100 feet. We have added new, louder backup alarms and better backup lights on all of our trucks. We have also updated some of our flashing caution lights on some of the fleet so that they are more visible. The rest will be completed when time and money permits. All we ask is that the citizens be a little bit more patient and cooperate a little more. Again, I thank you for your time and attention in this matter.

President Arndt: Thank you, Mr. Makowski. The Chair will refer your request to the Safety Committee so that can be evaluated and some additional insights. Thank you for bringing that to our attention.

REFERRED TO SAFETY COMMITTEE WERE THE ISSUES OF CONSTRUCTION ZONES AND THE USE OF CELL PHONES WHILE OPERATING A MOTOR VEHICLE.

Council Member Buescher: Mr. President, may I also suggest that we put this information in our water bills because this has been mentioned before. Everyone reads the water bill and some of these reminders are very helpful.

President Arndt: Thank you. Mr. Rangus.

Chris Rangus: Good evening. Everybody up here probably knows me. My name is Chris Rangus. I'm the Service Department Superintendent. I am in charge of the Department that the employee was injured while performing his duties. First, I'd like to thank you for the time to voice my concerns for the safety and welfare of our City employees. The safety and welfare of our City employees is a vital part of the Service Department and its services that it performs to the residents and businesses of North Ridgeville. We are responsible for many services that residents use each day and night and they might not be aware of the work to keep these services working in top shape. The Service Garage takes care of all the drinking water distribution, the

sanitary sewer system including all underground piping and lift stations, roadway surfaces such as patching, paving, striping and signage, ditching that includes mowing and cleaning, mowing of the roadways, City owned retention and detention ponds, repair of all water breaks, curb box replacements, water line locating, and many other things too numerous to list.

During the course of performing these tasks our employees are out in all types of weather to make sure the systems are working and providing our residents the service and/or services they need for their daily tasks. While they are out performing their tasks, they are working in and along the many roadways in our city and at risk of being injured by careless and/or impatient motorists. This can be an individual speeding in or through a construction or work zone, not paying attention to flaggers, not watching out for other drivers, and not following our local laws. In the past few years we have had a couple of near misses, but just a few weeks ago we had an employee injured while performing his city duties. I will not go into that, I think you've heard that from Mr. Makowski. But I would like to thank all the emergency services for the city as they performed their jobs flawlessly and professionally, as the trained individuals that they are. I am here tonight to ask all residents in the city to be a little more patient, wait a couple of minutes longer, and allow our city employees to perform their duties and go home to their families safely and without injury. We install caution signs, workers ahead signs, slow down signs, and flag men ahead signs as the situation warrant prior to performing the work and/or work repairs to the various services. We perform most of these repairs in the city during the day and are always trying to keep the roads open or at least one lane of traffic open for the residents as a courtesy. Many other cities perform these repairs by closing the roads to through traffic as a way to protect their workers, but we feel we can perform this work if the motorists still use the roads safely and exercise care when driving through these dedicated work zones. The only other option we would have to protect our City employees would be to close the road to all through traffic for the duration of the repairs whatever they might be and whatever hour they might be. The extra couple of minutes that you give our employees to safely perform their duties will lend years of useful life to the Service Department in extended years of service. Whenever somebody is injured, it costs the city money in medical, lost time productivity, and we as citizens pay the taxes and costs. This is also not just a problem with the Service Department. It is also a concern for the Police Department, Fire Department, Building Department, Engineering and Water. All of these departments have personnel out performing inspections, taking meter readings, checking on contractors performing work in the city and many other tasks. I am sure that these departments would also like to see all of their employees go home to their families safe and uninjured. I once again ask Council, the Law Director, Mayor and Safety-Service Director, with my help, to please make sure that we have proper laws and ordinances on the book to protect our workers and their families. The more we protect our employees, the more they can do their work safely, faster and better for all residents of the City of North Ridgeville. Thank you for your time.

President Arndt: Thank you, Mr. Rangus.

Safety-Service Director Johnson: That concludes my report.

President Arndt: Seeing that the Engineer is not here, I presume that we don't have an Engineer's report. That then means we move onto our Auditor. Mr. Costin is there a report from you?

Auditor

Auditor Costin: Mr. Chairman, no report schedule for this evening.

President Arndt: Thank you. Are there any other reports? Will the Clerk please read our Council committee reports.

COUNCIL COMMITTEE REPORTS:

Acting Clerk of Council Cope:

BUILDINGS & LANDS COMMITTEE REPORT #4237 Members of Council: We have considered the matter of Planning Commission's recommendation to approve the request by FJD Properties, 37000 Center Ridge Road for cluster site plan approval and final approval of Subdivision No. 7 in Phase 3 of Meadow Lakes PCD and recommend that this request be approved and approve Planning Commission's recommendation.

Signed: Chairperson Richard W. Jaenke, Members Andrew Young and Robert Olesen.

moved by Jaenke, seconded by Olesen to accept

President Arndt: Is there any discussion? Yes, Mrs. Butkowski?

Council Member Butkowski: Mr. Chairman, I have concerns about the green space and the accessibility to it from the people that will be moving into this area. I know that we've been assured that there will be the required green space but, a lot of it is not accessible to everyone that's living in the community. When PCD's were established, we were told that everyone living in the PCD could use the green space and some of the other sites, they are not accessible.

President Arndt: Any other comments or questions? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 6 No, 1 (Butkowski)

CORRESPONDENCE:

Acting Clerk of Council Cope: Council has before them, two items of correspondence.

1) Received a memo from Engineer Larry Griffith stating that all work and/or repair in the Ridgefield Subdivision No. 5A have been satisfactory completed by the developer and it is recommended the subdivision receives final acceptance by Council.

President Arndt: REFERRED TO BUILDINGS & LANDS COMMITTEE.

2) Received a letter September 28, 2004 from Zakee A. Rashid, Vice President/General Manager of Comcast Cleveland System announcing the basic and standard cable lineups will undergo extensive changes on September 29, 2004.

NEW BUSINESS:

President Arndt: Is there any new business to be brought before Council this evening?

AUDIENCE PARTICIPATION (Lobby):

President Arndt: This is the opportunity for our audience portion or our lobby section. Any members of the audience tonight, are invited to address your Council. We do request that you fill out the lobby form that you can find in the back of the room enabling us to contact you if we need to follow up with any issues. You're now welcome and invited to approach the podium at this time, however, please state your name and your address very clearly and limit your comments to three minutes. The lobby is now open.

President Arndt: Mr. Harper, it's been brought to my attention that there is a concern by a couple of Council persons in terms of your potential comments. We do request that you keep your comments and subject related to the business of Council and the general affairs of the City of North Ridgeville.

1) Bill Harper, Executive Director of the Lorain County Mental Health Board, 347 Midway Blvd., Elyria, Ohio, 44035, spoke to Council on the Mental Health levy which provides services for children and families who can't afford to pay. Stated that mental health treatment works and this levy will support 17 not for profit agencies that provide essential mental health services in Lorain County.

2) Joe Antush of 38500 Otten Road spoke regarding a past agreement giving six acres in Waterbury to the schools. Noted his conversations with school administrators who stated they haven't received the land and are of the opinion that it wasn't in the agreement. Questioned why it wasn't in the agreement. Spoke his concerns regarding Barres Road being blocked. Questioned Race Road being a north south road through Meadow Lakes. Stated that he would like to have an answer regarding the six acres for the schools.

President Arndt: I would like to defer that question to the Mayor, Mr. Antush.

Mayor Gillock: Thank you, Mr. President. Mr. Antush, I'll try and answer the best I can for the knowledge that I have. When I became Mayor, I looked into that. There are drawings for Waterbury showing a six acre parcel reserved for, to be given to the school district but, you're absolutely right, there was never any formal offer to the schools. I contacted the school superintendent and discussed it with Mr. Bowersox. We're working together and have gone back to the developer, Forest City, inquiring if there is a possibility of our obtaining an additional 15 acres where they might have enough land to do a school. If there's something we can work out. If not, can we get access to that six acres to expand Shady Drive Complex. We're looking into it. You're exactly right. It was never offered to the schools. I don't know why but, that's where that one's at. As far as Barres Road, we have a severe problem and the Safety-Service Director probably knows better than I do but, we have a severe problem with a culvert in there. It's

sinking. We've dumped loads and loads of dirt and rock in there and it just keeps sinking and at this point we don't have the funds to go in and make the repairs that would be necessary to make that road safe. The last one, on Race Road, I have no idea why that valve was put where it was or whether it can be moved or what the long range plans are. I know there's plans on the books to put a road through there to bring Race on up to the Otten area but, I'm not sure of the exact configuration right there where that valve is.

Mr. Antush: Why. . .

President Arndt: Mr. Antush, you've had the opportunity to speak. After everyone else has had their opportunity, you are welcome to ask another question.

3) Bob Miles of 34582 Lorain Road spoke his concerns with dips on Lorain Road. Stated that laterals opened cut and filled with on site material are settling. Explained problems with his basement developing cracks and glassware being knocked off his walls due to the pounding of trucks hitting the dips. Explained that he was told there is no money to fix the problem. Asked that they try and level out the road before more damage is done to his home.

4) Roger Murphy of 5618 Ridgeview Blvd. spoke in regard to the Oxford Court rear yard ditch noting that it does not address his property that this ditch runs along. Stated that he would like clarification on the pricing. Asked who to speak to in order to have water tested that runs through his sump on a consistent basis.

Mayor Gillock: Contact Chris Rangus at the Service Department. He'll follow up on that with you.

President Arndt: Chris Rangus is the gentleman who heads up our streets. He's right here. Anyone else in the audience who would like to speak?

4) Mr. Antush spoke on the agreement with Waterbury.

President Arndt: Any other comments from our lobby tonight?

Council Member Young: Mr. President, I'd like Bob Miles concerns be referred to the Streets, Sidewalks and Bridges Committee, dealing with the dips on Lorain Road.

REFERRED TO STREETS, SIDEWALKS & BRIDGES COMMITTEE

President Arndt: So done. Thank you. The Chair calls for a recess that will enable our Clerk to provide an update on our agenda so that we will have the appropriate information under old business. We will recess for ten minutes.

RECESS:

ORDINANCES AND RESOLUTIONS:

President Arndt: The Chair calls our meeting back to order and requests that the Clerk read our ordinances and resolutions submittals.

Acting Clerk of Council Cope:

• **Ordinances & Resolutions Submittals**

T 119-2004 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO NEGOTIATE AND ENTER INTO A CONTRACT (ATTACHED HERETO) FOR SOFTWARE AND INTERNET COSTS ASSOCIATED TO PLACING THE NORTH RIDGEVILLE CODIFIED ORDINANCES ON THE INTERNET, NOT TO EXCEED \$3,500.00.

moved by Young, seconded by Olesen to suspend By-Laws to give T 119-2004 a first reading

President Arndt: Is there any discussion?

Mayor Gillock: I would ask Council not to adopt this until we can determine where the money will come from.

Council Member Young: I believe that this will be an added benefit to the residents of our City. Assistant Clerk of Council Paula Cope and I worked on this legislation together. Something that was noted to me was that an individual coming in to look at ordinances takes up approximately 20 minutes of office time. If they have the convenience of looking up ordinances at home, we will not have time and money spent on making copies and writing receipts for three cents a copy.

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

Yes, 7 No, 0

T 120-2004 AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 4000-2004 AND 4019-2004 FOR THE CITY OF NORTH RIDGEVILLE, OHIO FOR THE PERIOD COMMENCING JANUARY 1, 2004 AND ENDING DECEMBER 31, 2004.

moved by Butkowski, seconded by Swindig to suspend By-Laws to give T 120-2004 a first reading

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

Yes, 7 No, 0

• **First Readings**

T 121-2004 AN ORDINANCE APPROVING THE FINAL PLAT OF BLISS PARKWAY IN A NEW SPECIAL DEVELOPMENT DISTRICT FOR RECORDING PURPOSES ONLY.

First Reading

T 119-2004 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO NEGOTIATE AND ENTER INTO A CONTRACT (ATTACHED HERETO) FOR SOFTWARE AND INTERNET COSTS ASSOCIATED TO PLACING THE NORTH RIDGEVILLE CODIFIED ORDINANCES ON THE INTERNET, NOT TO EXCEED \$3,500.00.
First Reading

T 120-2004 AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 4000-
4061-2004 2004 AND 4019-2004 FOR THE CITY OF NORTH RIDGEVILLE, OHIO FOR
THE PERIOD COMMENCING JANUARY 1, 2004 AND ENDING
DECEMBER 31, 2004.
First Reading in Full
moved by Swindig, seconded by Butkowski to dispense with second and third readings

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

Yes, 7 No, 0

moved by Butkowski, seconded by Swindig to adopt

moved by Swindig, seconded by Young to add the emergency

President Arndt: Is there any discussion? Mr. Young?

Council Member Young: I would like to ask the Auditor, is the emergency clause necessary? (tape ends, tape begins)

Auditor Costin: . . . we really can't operate with another 30 days. The only issue with the emergency may be the fact that a good portion of this appropriation ordinance deals with our internal service fund which is our medical reimbursement insurance fund and depending on the amount of claims coming in, that could be the only thing. It could require the emergency but, I would say that would be a tremendous problem. If it would, we can come back at the next Council meeting. However, it's also not unusual to pass these appropriation ordinances with the emergency to eliminate those potentials.

President Arndt: Is there any other discussion? We have a motion on the floor by Mr. Swindig and second by Mr. Young to add the emergency tonight to T 120. Let me ask the Clerk to take roll.

Yes, 7 No, 0

Acting Clerk of Council Cope: The emergency has been added by a vote of seven to zero.

President Arndt: We also have a motion on the floor by Mrs. Butkowski, a second by Mr. Swindig to adopt tonight, T 120, with the emergency. Is there any discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

Acting Clerk of Council Cope: T 120-2004 has been adopted with the emergency by a vote of seven to zero and becomes permanent ordinance number 4061-2004.

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Permanent Ordinance No. 4061-2004

President Arndt: We have no second readings. If the clerk will read our third readings tonight.

• **Third Readings**

Acting Clerk of Council Cope:

T 100-2004 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 PURPOSE OF CONSTRUCTING A SIDEWALK ON CHESTNUT RIDGE ROAD FROM BAINBRIDGE ROAD TO LEAR NAGLE ROAD, 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.

Third Reading

Mayor Gillock: Mr. President, I make a motion to withdraw this from the agenda as we've received verbal approval that we can extend our grant into next year when we, certainly hope that we'll have more funds available at that time.

moved by Mayor Gillock, seconded by Buescher to withdraw T 100-2004 from the agenda

President Arndt: Is there any discussion? Yes, Mr. Young?

Council Member Young: I was going to move to adopt it this evening but, because it is a 55,000 dollar block grant that we're going to be receiving from the state. It is too bad that we have to defer it. I would like to recommend that next year, when we do the financing and setting everything up that we set aside a little extra kitty in order, if we do receive these grants in the future so that we can make sure that we get our sidewalks in this City connected.

President Arndt: Is other conversation or discussion? There being none, all those in favor signify by yes. All those opposed by no. Will the Clerk please take roll.

Yes, 6 No, 1 (Young)

Acting Clerk of Council Cope: T 100-2004 has been withdrawn by a vote of six to one.

OLD BUSINESS:

President Arndt: Will the Clerk please read our old business.

Acting Clerk of Council Cope:

APPLICANT: FJD Properties, 37000 Center Ridge Road

OWNER: Same

REQUEST: Cluster Site Plan Approval & Final Approval of Subdivision 7 in Phase 3 of Meadow Lakes PCD

LOCATION: Meadow Lakes located West of Meadow Lakes Blvd. and South of Barres

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Rd. in a PCD District

Permanent Parcel No. 07-00-032-000-324

PC ACTION: Approved 4-0

moved by Jaenke, seconded by Olesen approve the Planning Commission action regarding cluster site plan approval and final approval of Subdivision 7 in Phase III of Meadow Lakes PCD

President Arndt: Is there any discussion?

Council Member Butkowski: Mr. Chairman, as I said before, I am concerned about the green spaces. I'm also getting complaints about them, not being able to use the green spaces and complaints about the golf course. I think we should hold back on this and get some of this stuff resolved.

President Arndt: Is there any other discussion?

Council Member Olesen: Mr. President, this matter was discussed in Buildings and Lands Committee also and we feel that the spirit of the original master plan on PCD's was to have accessible open space for the residents of those PCD's. So, it's under study now and we're looking at, possibly, some changes that would enable this to happen in any future PCD's.

President Arndt: Thank you. Any other conversation?

Council Member Buescher: Mr. President, I agree with Mr. Olesen. We've had Buildings and Lands meetings and we're working with our City Planner who I feel is a real asset to Council and we want to make sure that the green space is included before we run out of space, on this development. We are working on it.

President Arndt: Thank you, Mrs. Buescher. Any other comments? Will the Clerk please take a roll.

Yes, 6 No, 1 (Butkowski)

Acting Clerk of Council Cope: FJD Properties request has been approved by a vote of six to one.

APPLICANT: Diamond Homes Construction, P.O. Box 503, Gates Mills, Ohio 44040

OWNER: Same

REQUEST: An 80 foot extension onto an existing sanitary sewer

LOCATION: Barres Road, (TBA)

Permanent Parcel No. 0700032000020

PC ACTION: APPROVED

moved by Jaenke, seconded by Olesen to approve the Planning Commission action with regard to Diamond Homes Construction

President Arndt: Is there any discussion?

Council Member Olesen: Yes, Mr. President. I guess I don't understand what's happened in the interim period. There was a problem and they were to resolve it with the builders. Can somebody explain what happened to resolve this problem?

President Arndt: Yes, thank you. Part of the purpose for the discussion was to invite our Law Director to clarify this for us.

Law Director Crites: Thanks, Mr. President. If I could refresh your memory what was happening here and why it was postponed and why it's back. This approval was the approval of one small individual builder. As we are all well apprised, the builder who originally constructed the public utility, this sanitary sewer, has a requirement to keep a maintenance bond for a three year period. He is still under that three year period. When the builder who constructed the sanitary sewer learned that this small builder had been granted access into his public utility, he became very concerned and by no uncertain terms, let the City know of his concern and basically threatened litigation if we were to let him access, the small builder access his, the utility, not his, but the utility for which he had the responsibility to maintain over the three year period. So, when it came up before Council in September, we looked at it and recognized a problem. Didn't want to get sued and asked to defer it until today to give me an opportunity to look at the matter and speak to him. Having done so, I believe the matter is now, it is appropriate to approve this action of Planning Commission for the following reasons. Both in my discussions and correspondence that is sent to this builder, which I hope he does agree and which I'd also like to relay to Council in general because I think it's important for all of us to understand that this concern has been borne out of what I think has been either a misapplication or a misunderstanding of what the maintenance bond requirement is. The maintenance bond requirement is a requirement as our code dictates, Ohio Revised Code states as well as the body of the actual bonds that the builders supply, the terminology in there states, it's a warranty or a guarantee of the workmanship of the original construction and the quality of the materials. That's it. It's a guarantee of what they built and what it was built out of. The misapplication, the misinterpretation I think is taking place and that is, from whatever origin, and this builder shared that, I think, according to him and we discussed it, what he was told from the City in the past dealing with the City was that maintenance bond meant, for that three year period, they had to keep the pipes of the sanitary sewer clean. If anything was wrong with it, it was their job to fix it. They had to maintain it. Well, that's not the case. Because of that, I interrupted it, in my opinion, there's no way that the big builder who built the utility could ever be held responsible. His concern was whether his bond could be forfeited if the smaller builder tapped in and caused any problem that when his bond holder learned of that he would forfeit the bond and say hey, we no longer have a responsibility. In my opinion, that's not the case. Because his warranty or his maintenance bond just requires him to maintain his original construction and the materials used therein. There's no way that access by one small or by any other for that matter, down the road, another developer or builder could ever compromise that because the original building could only be held responsible for things that can be directly attributed to his construction and his quality workmanship. Long winded maybe, I hope if there's any question I'll be happy to field. Because of that and because I believe that the complaining builder or the builder who showed the concern, is more appropriate, his concerns are not realistic because his bond should not be affected by this. It would be my recommendation that this action by the Planning Commission be approved.

President Arndt: We have a motion by Mr. Jaenke and a second by Mr. Olesen to approve the

Planning Commission action. Is there any other discussion? Yes, Mr. Young?

Council Member Young: Very briefly, I'm going to vote in favor of approving this however, I do it with caution because I am aware of other builders that do want to tap into the same sanitary system. Here, we're dealing with only one home as opposed to multiple homes in a much larger development. I think there were issues already that came up as to the capacity of this particular sanitary sewer system. I'm going to approve this but with hesitation.

Law Director Crites: I would, just simply to join into Andy's comments. It's astutely notice because that is the next issue and these are issues that we are going to have to address and learn how to deal with. You hit the magic word. It's going to be capacity. That's something I can just represent to Council that both myself and the front office are working on to try to come up with a good method and plan to deal within the future.

President Arndt: Any other discussion, questions, comments? Again, to restate the motion. It's been moved by Mr. Jaenke, seconded by Mr. Olesen to approve the Planning Commission action on the 80 foot extension into an existing sanitary sewer. All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

Acting Clerk of Council Cope:

OTHER BUSINESS: Guy Fursdon asked the Planning Commission for approval to allow Jordan Place to Amend Final Plat.

PC ACTION: APPROVED CONTINGENT UPON RECEIPT OF THE ASSISTANT
LAW DIRECTOR'S ADVICE ON THE MATTER.

moved by Jaenke, seconded by Olesen to approve

Law Director Crites: If I may again, now that I'm warmed up, Mr. President.

President Arndt: Absolutely. We're going to hear a little conversation about de minimis.

Law Director Crites: I refuse to use that word in my explanation of this issue. It was just in the fact that word appeared in a memo my Assistant Law Director, I think, that was part, not at all to push any blame toward my Assistant Law Director but, a lot of dull blossom and to be taken out of context for more than what it was. What this is, is one individual builder coming to the Building Department, the Chief Building official saying, hey, we have a little change we have to make here in our lot. I believe one of the lots, the project supervisor is here but, I promised I wouldn't make him speak but, I believe specifically it was to move or to add a parking space into a lot. Mike? You made two lots larger, okay. That's somewhat off the subject but I think is important for background. Rather than, because, hoping that the City Building Official and actually, in difference to the builder, rather than just doing it, was up front about it and said hey, we have to make a minor change here but, it doesn't change the essence of the situation or the development of the plat scheme whatsoever. Planning Commission or Chief Building Official, can we do this without having to go through all the process and delay us the 60 days or more it would take to do the Public Hearing process, etcetera. Chief Building Official takes it to Planning Commission and says Planning Commission this is a minor change but, I don't want to

sign off unless you say it's okay. Planning Commission says, well it is a minor change. We say it's okay, the Assistant Law Director says it's okay, which she did and I do concur with. So, if I can summerize, where it got blown out of proportion is, I believe, understandably, the way it came up and the way the memo was disseminated, it looked like what we were proposing here is to change our code or change procedures by which preliminary plans, amendments, or final plans were approved by the City, by this Council. By no means is that what is on the table here and by no means do I recommend that for this instance that we do that whatsoever. This is not a proposal or a change of the process or a grant of authority to anybody in the City which doesn't already have it and that's primarily Council, the legislative body. What this is, is one recommendation, one action from the Planning Commission saying, we've approved a minor change being we, being the Planning Commission which, by way, we empower to make these decisions which we see as being a change so minor that it should not require a public hearing. Basically, it is now before Council to approve or disapprove that Planning Commission recommendation.

Council Member Olesen: Mr. President, the last Planning Commission meeting they reaffirmed that they are okay with the project and I think I'm convinced too, it's all right so, I would say just go ahead with it.

Council Member Buescher: Mr. President, I have no problem with approving this tonight either but, I still have a concern about making minimal changes without coming back to the Planning Commission in general. I think that is something we should do and what other cities do is allow minimal changes but, they have to come back to Planning Commission and the changes are basically laid out as to what consists of minimal changes. That's what I would like to see. Thank you.

President Arndt: Is there any discussion? We have a motion on the floor by Mr. Jaenke and a second by Mr. Olesen to approve the Planning Commission action approving and allowing Jordan Place to amend their final plat. All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

UPCOMING COMMITTEE MEETING ANNOUNCEMENTS:

Clerk of Council Norris:

Next Regular Council Meeting Monday, October 18, 2004 at 7:30 P.M. in Council Chambers

Public Hearing November 1, 2004 at 7:20 P.M. regarding Mould Development, LLC, 9449 Island Road

Final approval for plat of Bliss Parkway in a Special Development District

Public Hearing Monday, November 15, 2004 at 7:20 P.M. regarding FJD Properties, 37000 Center Ridge Road, North Ridgeville, Ohio 44039

Final Approval of Subdivision 7 in Phase 3 of Meadow Lakes PCD

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING OCTOBER 4, 2004**

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Council Member Butkowski: Mr. President, could the Mayor, one more time, tell us when the Trick or Treat times are going to be.

Mayor Gillock: It will be Sunday evening, October 31. I'm not sure of the time. I think it's 6:00 P.M. to 7:30 P.M. We're in agreement through the Lorain County Community Alliance with several other cities that all went together and said when it will be. It is on October 31, Sunday evening.

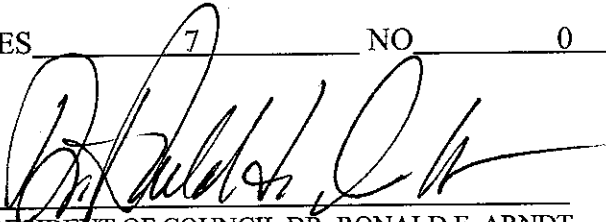
ADJOURNMENT:

motion to adjourn by Swindig

Meeting adjourned at 8:47 P.M.

MOTION Butkowski 2ND Olesen DATE October 18, 2004

YES 7 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL DR. RONALD F. ARNDT



CLERK OF COUNCIL CHARLES A. NORRIS