

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING OCTOBER 2, 2000**

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

President Brown: Thank you. Roll call please, Mr. White.

ROLL CALL

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

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

Auditor Chris Costin arrived at 7:32 P.M.

MINUTES

President Brown: Please note:

Regular Council Minutes of September 19, 2000 corrected for October 2, 2000 meeting motion by Swindig to approve, 2nd by Butkowski

President Brown: Is there any discussion? Roll call.

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

Council Clerk White: Motion carries six, zero, one.

President Brown: Please note:

Parks & Recreation Commission Minutes of August 23, 2000;

Planning Commission Minutes of September 12, 2000;

Civil Service Commission Minutes of September 19, 2000.

COMMITTEE REPORTS

1) **STREETS, SIDEWALKS & BRIDGES COMMITTEE REPORT NO. 7042** Members of Council we have considered the matter of sidewalks from Stoney Ridge Road east on Center Ridge Road on both the north and south side to Lear Nagle north. 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. The costs to be assessed to property owners. Recommend that this request be approved and proper legislation be drawn authorizing installation of sidewalks.

Signed: Karen Borocz, Bernadine Butkowski and Gail Minnick.

motion by Borocz to accept, 2nd by Minnick

President Brown: Discussion?

Council Member Swindig: Madame Chairman?

President Brown: Yes Mr. Swindig?

Council Member Swindig: I would like to know is, will the property owners have a chance to put in their own sidewalks if this is passed?

President Brown: Mr. Zagrans, do you have?

Law Director Zagrans: I'm sorry I didn't know that that was being directed to me. I would have to defer that to Stewart, the Engineer, for a response.

Engineer Lovece: You mean the homeowners elected....

Council Member Swindig: The homeowners electing to do it themselves.

Engineer Lovece: Providing they're qualified or they have a licensed contractor. I think that's a possibility and we leave them out of the assessment.

Council Member Swindig: Thank you.

President Brown: Does that satisfy you? Thank you. Okay, next.

Council Clerk White: Roll call.

President Brown: Roll call, sorry.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

2) **BUILDINGS & LANDS COMMITTEE REPORT No. 7043** Members of Council we have considered the matter of Ridgefield Subdivision Phase VI and recommend that this request be approved and proper legislation be drawn authorizing.

Signed: Larry Overby, Dave Gillock and Allen Swindig.

motion by Swindig to accept, 2nd by Overby

President Brown: Discussion? Please note, Clerk, that Mr. Costin is here.

Council Clerk White: I did.

President Brown: Thank you. Any discussion? If not, roll please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero.

3) **BUILDINGS & LANDS COMMITTEE REPORT NO. 7044** Members of Council we have considered the matter of 99 year lease of park land behind North Ridgeville Racquet Club and recommend that this request be denied.

Signed: Larry Overby, David Gillock and Allen Swindig.

motion by Overby to accept, 2nd by Gillock

President Brown: Discussion? None.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. That's all the committee reports that I have.

President Brown: Thank you. Mayor's report.

MAYORS REPORT

Mayor Hill: Madame President, everyone will be pleased to learn that I don't have a report

tonight.

President Brown: Okay.

SAFETY SERVICE DIRECTOR'S REPORT

Safety Service Director Johnson: The Service Department has paved Ronald, Roosevelt and the final section of Elyria Avenue

Street pads, sidewalks and drive apron work has been performed on Chesterfield, Manchester, Denise, Meadow Moss, Hickory, Deborah and south Mills Creek Lane. Three asphalt aprons were also done on Lear Nagle.

Patching was performed on Race, Stoney Ridge, Barres, Case, Bagley and Lorain.

There were several water problems in the last two weeks on Center Ridge, Gate Moss Oval, Fern Tree and Root Road

Ditch cleaning and piping took place on Jaycox, Ridgeview, Lear Nagle, May and the creek behind Gail called Davis Ditch.

Sewer cleaning, tree trimming, roadside mowing and weed whipping took place in the last two weeks as manpower and time allowed.

That concludes my report.

President Brown: Any questions of the Safety-Service Director's Report? Seeing none, moving on to the Engineer's Report

ENGINEER'S REPORT

Engineer Lovece: Thank you Madame President. Bainbridge Road reconstruction work is continuing on the south side of Bainbridge. It's actually going quite well. Some of the deep cuts that they were doing, that's called undercutting, and they're almost complete with the undercutting or removal of the bad soil from Root Road all the way to Wil-Lou. So we'll keep everyone informed but, things seem to be going quite well.

Wallace Boulevard water main reconstruction, they're continuing to make the connections into the water main. The old line, we noticed a lot of leaks that have probably been around for years so we're really glad we're taking this old main out of service. We should save on the City's water bill a little bit. What we're going to do, Service Department, after that, probably late this month, we're going to grind up the old asphalt road and pave just the base coat of asphalt. The reason I don't want to top it is because we could have some minor settlement where that main is. This way we'll top it next year. If there's any little dipsy doodles, as they call them, we can pave

right over that nice and smooth. Later this month, early next month, you should have a road that's probably ten times better than what's out there. It will be nice.

A little update about the FEMA map revision. We just got a letter back from FEMA dated the 25th of September. This is the second round of correspondence between our consulting engineer doing the work and FEMA. There's still some, it's smaller less now, there's some minor issues they have. I would still anticipate that by the end of this year we can get approval. We're one step closer, not out of the woods yet, one step closer to approval.

One other thing. We had some heavy rain two Saturdays ago, September 23rd. I was told we had about two and three-quarters of an inch of rain and maybe a couple of back yard issues, but the City fared quite well, very well.

One last thing, last but not least, you'll see at the northern end of the City that there's some concrete pipe being unloaded. What that is, it's the beginning of the high pressure water transmission main that Rural Water is installing from Avon Lake to Medina. That's all I have this evening.

President Brown: Any questions of the Engineer's report? Seeing none, going on to the Auditor, Mr. Costin.

AUDITOR'S REPORT

Auditor Costin: Madame Chairman, there is no financial report scheduled for this meeting. I do have one request though and as I noted at an earlier meeting, two meetings ago, there is a revised amended appropriation ordinance, T 128-2000, that I would request that you pass tonight. I will be glad to answer any questions if in fact, if and when it has its first reading.

President Brown: Any questions of our Auditor, Mr. Costin, on his report? If none, okay, Mr. Zagrans, Law Director's report please.

LAW DIRECTOR'S REPORT

Law Director Zagrans: Thank you Madame President. I feel tonight a little bit like the Cleveland Indians must feel. We came so close and I needed just one more. In this case I'm talking about the decision of the Ohio Supreme Court that was rendered on, late on Friday afternoon, September 29th. And the one more I'm talking about is one more vote. Three Justices of Ohio's highest Court agreed with the City that the ordinance dealing with Kingston Place should not go on the ballot on November the 7th. Unfortunately ~~Fortunately~~ a majority of the Ohio Supreme Court is four Justices, not three. And four Justices rule that it does have to go on the ballot. They said that our action back on April the 17th in attempting to repeal ordinance 3543-2000 by motion was not proper and that what we should have done was enact a new ordinance to repeal the old ordinance. The Court in its ruling made an unprecedented decision for a chartered

municipality in Ohio that has a time limit for referendum petitions like we do. Never before has the Supreme Court said that under the circumstances that our Charter mandates that we could not accede ~~exceed~~ to a successful referendum petition by motion rather than the ordinary way that legislation is repealed and that is by further legislation. I believed and despite what four Justices, I think, I continue to believe, that when our Charter says that for zoning ordinances we have to have three readings, when it says rezoning ordinances we have to hold a public hearing and when it says rezoning ordinances that it has to be submitted to Planning Commission. I continue to think that those are incompatible and inconsistent with the further charter provision that says that it has to be repealed within thirty days. You can't do all of those things within thirty days under our Charter. The Supreme Court said that you don't have to hold a public hearing, you don't have to submit it to Planning Commission, and you don't have to have three readings if you are rescinding legislation that has already had those formalities in the original adoption in the ordinance. Obviously my crystal ball was not functioning correctly. Moreover, I am concerned that the majority opinion undermines the home rule powers that chartered municipalities have under the Ohio Constitution. It calls in the question whether or not our Charter can have provisions like the ones we have in Article XIII and Article III and Article IX of our Charter and give those provisions full force and effect without being sort of read out at a time when it may be expedient to do so. However, that's my opinion and I am overruled by the highest Court of the State of Ohio and therefore you will find on your desks tonight, an ordinance that I have drafted and that the Mayor is submitting to you in accordance with the order of the Ohio Supreme Court seeking your authorization and approval to place Ordinance No. 3543-2000 on the question of Kingston Place zoning on the ballot in the General Election to be held on November the 7th of this year. I would ask that someone move to suspend By-Laws in order to give this ordinance a T number and place it on the agenda for first reading tonight. I would thereafter ask somebody to move to suspend By-Laws when the time comes to be taken up to waive second and third readings and to go ahead and adopt this ordinance by emergency tonight so that we can get the ballot language to the Board of Elections tomorrow morning so that it could be properly placed on the ballot for the General Election. I believe, that given the decision of the Ohio Supreme Court where they say we do not have to have three readings, that we must take the Court at face value and we can go ahead and pass this by suspending By-Laws and by emergency tonight as I believe we must. That concludes my report.

President Brown: Thank you. Is there any questions of the Law Director's Report? Mrs. Minnick.

Council Member Minnick: Mr. Zagrans, I got the opinion and order off the internet and I do believe the only issue that was addressed in a dissenting vote was the doctrine of laches that is that the case was filed too late, the writ of mandamus was filed too late to have merit. I don't see anywhere where they said that they disagreed with any other opinion. Am I reading that wrong? Law Director Zagrans: Well there's two comments to make about that. One is that this is not yet a final decision. It says all over it's subject to further editing and review and it will not be a final

decision by the Ohio Supreme Court until ten days from September 29th. By that time I expect that Justice Pfeifer's dissenting opinion will be available and announced and posted on the internet.

Council Member Minnick: But right now the only dissenting vote was the doctrine of laches, is that correct?

Law Director Zagrans: No, the only dissenting opinion that was issued was by Justice Cook who is the Justice from this area as it happens. The Chief Justice of Ohio concurred in her dissenting opinion and in her dissenting opinion she says she wouldn't have even gotten to the question of putting this on the ballot because of her view that the lawsuit was filed seriously late.

Council Member Minnick: Thank you.

President Brown: Any other discussion? Please note the other reports.

OTHER REPORTS

President Brown: Please note:

Police Department Support Car Report for August 2000;

Building Department Report for August 2000.

Parks and Recreation Commission Liaison Report:

President Brown: Do you have anything Mr. Overby?

Council Member Overby: Not this evening.

Planning Commission Liaison Report:

President Brown: Anything Mr. Gillock?

Council Member Gillock: No ma'am.

OLD BUSINESS

President Brown: Old business? Going into new business, Clerk.

Council Clerk White: New business.

NEW BUSINESS

T 128-2000 An ordinance amending appropriation Ordinance No. 3545-2000 and 3561-2000 for the City of North Ridgeville, Ohio for the period commencing January 1, 2000 and ending December 31, 2000.

 motion by Swindig to suspend By-Laws to give T 128-2000 a first reading tonight, 2nd by Butkowski

President Brown: Any discussion? This is the one that you asked about Mr. Costin?

Council Clerk White: Yes it is.

Council Member Swindig: Madame Chairman, do we have a tape for this? Was this taped?

Council Clerk White: It wasn't taped to my knowledge. On the amendments only, we normally don't tape, okay.

Council Member Swindig: All right.

Council Clerk White: What, Mr. Costin?

Auditor Costin: I did discuss with her about possibly taping it. I'm not sure if the tape got that far to you or not.

Council Clerk White: It didn't get to me.

Auditor Costin: Then we'll have to read it in its entirety.

Council Clerk White: Okay, when it goes to first readings.

Auditor Costin: Correct.

President Brown: Do we have to have a roll please?

Council Clerk White: Yes ma'am.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 128-2000 will have first reading tonight.

T 129-2000 A resolution accepting the donation of two cellular biomedical ECG telemetry units to the North Ridgeville Fire Department from a North Ridgeville business owner.

motion by Swindig to give T 129-2000 a first reading tonight, 2nd by Gillock

President Brown: Discussion? No discussion.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 129-2000 will have its first reading tonight.

Council Member Butkowski: Madame President, we have to put a T number on this...

President Brown: That's right, on this ordinance for the election.

Council Clerk White: T number for the ordinance authorizing and directing the submission to the electors of proposed Ordinance No. 3543-00 of the City of North Ridgeville, Ohio will be T number 130-2000.

motion by Butkowski to have a first reading tonight, 2nd by Minnick

President Brown: Any discussion? Vote please.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 130-2000 to have its first reading.

President Brown: Mr. Gillock?

Council Member Gillock: Madame President, you also have an ordinance accepting the Kingston Place PCD Phase I plat for you. I would like a T number for that assigned. This came out of last Council meeting from Planning Commission. Normally legislation is automatically drawn up and was not so we're introducing it this way just to get it started through and I'd like to make a motion that this have its first reading tonight.

Council Clerk White: We need to assign the T number first.

Council Member Gillock: Yes, I asked for that.

Council Clerk White: T 131-2000. Now you have a motion for first reading?

motion by Gillock for a first reading, 2nd by Swindig

President Brown: Discussion?

Council Member Butkowski: Madame President?

President Brown: Yes?

Council Member Butkowski: Considering that we're going to have an election in November, I don't see any reason to hurry up and have some readings for it.

President Brown: Other discussion? Seeing none, please take a vote.

Yes, 5 No. 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. T 131-2000 has a first reading tonight.

President Brown: Thank you.

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

CORRESPONDENCE

1) Received a memo from AT&T/Broadband Corporate Affairs Manager Joan Lowry explaining satellite signal outages due to the satellites position between the sun and the earth during the month of October.

2) Received a memo from Safety-Service Director Jim Johnson announcing that Treat-or-Treat will be held on October 31, 2000 from 6:00 P.M. to 7:30 P.M..

3) Received a letter from North Ridgeville Haunted House agent Donald J. Ladanyi in association with the North Ridgeville Community Care requesting a special resolution to permit an exception to the North Ridgeville's Code Section 816 which only allows standard permits for amusements rides and concessions for two consecutive days.

President Brown: I would like to REFER THAT TO THE BUILDINGS & LANDS, Mr. Overby please.

Also, I have a note here that I would like to REFER TO THE BUILDINGS & LANDS, that we have brought up a couple years ago and that is regarding selling cars in front of your home and they're not belonging to the people that live there. Some people take advantage of it and they have a car out there every single day and I think it's time that we look into it and try to rectify it.

Council Clerk White: You're referring that to Buildings & Lands?

President Brown: I'm REFERRING THAT TO BUILDINGS & LANDS, yes.

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

President Brown: Thank you. We will go into lobby. Make sure that you fill out one of those forms from the back. We'll listen to the people that have anything to say.

LOBBY

1) Bob Miles of 34582 Lorain Road, spoke his opinion; spoke about Council doing their homework and him coming to the realization that they are not always right.

2) Joe Antush of 38500 Otten Road, passed on information while circulating petitions in the northeast section of the City that many residents complained of sewage backup into their basements, flooding, low water pressure, traffic congestion, etc. Stated that these issues should have been addressed at the time the development was approved. Spoke of his interest in having answers to the questions.

3) Maryann Miles of 34582 Lorain Road, quoted from the Supreme Court decision on the writ of mandamus filed by STAMP. Spoke about following proper procedures.

President Brown: Anyone else wishing to speak?

4) Nancy Buescher of 3669 Center Ridge Road, stated her wish for the taxpayers of the City of North Ridgeville to have the opportunity to read the ruling of the Ohio Supreme Court.

5) John Prajzner of 335140 Mildred Street, #216, spoke about the start of petitions asking to have the ordinance rezoning Kingston Place put on the ballot. Spoke about the Law Director statements and opinions and the Ohio Supreme Court's decision. Spoke on his opinion in regard to the Law Director's legal advice.

President Brown: Anyone else wishing to speak?

6) Gerald Phillips of 35955 Detroit Road, Avon, Ohio responded to Mr. Zagrans's comments. Quoted language from the Ohio Supreme Court's decision.

President Brown: Anyone else wishing to speak?

7) Chris Crobaugh of 38460 Otten Road, stated that he found the language contained in the Supreme Court ruling interesting. Spoke about articles and a letter by the Chamber of Commerce. Spoke about the administration and Council holding citizens in contempt.

President Brown: Anyone else wishing to speak?

8) Eric Zagrans, 5338 Meadow Lane Court, Elyria, stated that he has heard this debate going on for five or six months and spoke about personal attacks. Noted that his legal opinion which three Justices, including the Chief Justices supported, which was not putting this item on the ballot. Stated that there is no reason to have personal attacks on anyone from the Mayor to Members of Council merely because of a political disagreement. Commended Mr. Phillips for his case presentation to the Supreme Court. Noted cases that were ruled on by Supreme Courts and not correct, but that was the ruling. Maintained that his opinion was correct even though the Ohio Supreme Court has disagreed. Their decision is the law, not his.

President Brown: Anyone else wishing to speak?

9) Gerald Phillips spoke about T 104-2000.

10) Chris Crobaugh of 38460 Otten Road, stated that he agrees with most of what Mr. Zagrans had to say. Disagreeing strongly but civilly is what lawyering is all about. Stated that in his disagreements with Mr. Zagrans, he's been a gentleman. Spoke on the matter about personal attacks. Commented on letters to the editor by Bob Schmidt, Karen Borocz and Dave Gillock. Spoke about the argument with methods and not PCD's.

President Brown: I don't think we'll break for a recess. I think we'll just continue on.

11) Nancy Buescher spoke about differences of opinion and intelligent debate not being taken into consideration.

President Brown: Now, we are not going to break for a recess. We're going into first readings. We have plenty of time so we will not break.

Council Clerk White: You're the boss. I have no problem.

President Brown: We're not breaking for recess then.

Auditor Costin: Madame Chairman, I would request that T 128 have its first reading tonight. It would be absolutely necessary to pass it with the emergency at the next meeting. However, the large number in here is the repayment of our notes and our notes actually will not come due until October 19th. So, accordingly we can pass this legislation by emergency on the 16th and be well within our law for the expenditure of the repayment of the notes. Accordingly, I would request that you have the first reading and we'll make sure the entire ordinance is recorded for the next meeting as not to absorb your valuable time and I apologize for that oversight.

Council Clerk White: So do I. I didn't know it wasn't until I got here.

President Brown: So we're having a first reading tonight.

Council Clerk White: Yes ma'am.

RECESS None

FIRST READINGS

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

First Reading

Council Clerk White: I accept responsibility, not being on tape. That's my office, no one else.

T 129-2000 A RESOLUTION ACCEPTING THE DONATION OF TWO CELLULAR
903-2000 BIOMEDICAL ECG TELEMETRY UNITS TO THE NORTH RIDGEVILLE
FIRE DEPARTMENT FROM A NORTH RIDGEVILLE BUSINESS OWNER.

First Reading

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

President Brown: Discussion? Vote please.

Yes, 7 No, 0

motion by Swindig to adopt, 2nd by Gillock

motion by Swindig to add the emergency for the health, safety and welfare of the
Citizens of North Ridgeville, 2nd by Gillock

President Brown: Discussion? Take a vote please.

Yes, 7 No, 0

Council Clerk White: Seven, zero on the emergency. Now, for the adoption.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 129-2000 becomes Resolution No. 903-
2000.

Permanent Ordinance No. 903-2000

T 130-2000 AN ORDINANCE AUTHORIZING AND DIRECTING THE SUBMISSION TO
3617-2000 THE ELECTORS OF PROPOSED ORDINANCE NO. 3543-00 OF THE CITY
OF NORTH RIDGEVILLE, OHIO

First Reading

motion by Butkowski to suspend second and third readings, 2nd by Minnick

President Brown: Any discussion? Seeing none...

Council Member Butkowski: Moved to add the emergency.

Council Clerk White: Time, we have to vote.

Yes, 7 No, 0

motion by Gillock to adopt

Council Member Butkowski: Move to add the emergency.

Council Clerk White: No, not yet, you have to have a second on the adoption
2nd by Borocz

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

Yes, 7 No, 0

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

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero. T 130-2000 becomes Ordinance 3617-2000
with the emergency.

Permanent Ordinance No. 3617-2000

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

First Reading

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

President Brown: Second readings.

SECOND READINGS

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

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

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

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

President Brown: That constitutes second readings.

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

THIRD READINGS

T 103-2000 AN ORDINANCE AUTHORIZING THE MAYOR TO NEGOTIATE AND
3618-2000 ENTER INTO A SUBDIVIDER-DEVELOPMENT AGREEMENT WITH FOREST CITY MANAGEMENT FOR THE DEVELOPMENT OF THE WATERBURY PCD.
Third Reading

President Brown: May we have a motion to accept?
motion by Overby to adopt, 2nd by Swindig

President Brown: Discussion?
motion by Overby to add the emergency, 2nd by Swindig

President Brown: Discussion? Roll on the emergency.
Yes, 5 No, 2 ((Minnick, Butkowski)

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

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. T 103-2000 becomes Ordinance 3618-2000 with emergency.

Permanent Ordinance No. 3618-2000

T 104-2000 A RESOLUTION GRANTING PRELIMINARY APPROVAL FOR THE
904-2000 PROPOSED PLANNED COMMUNITY DEVELOPMENT SITUATED ON
APPROXIMATELY 640 ACRES LOCATED BETWEEN SUGAR RIDGE,
BENDER, AND CHESTNUT RIDGE ROADS AND ADJACENT TO THE
BORDER WITH EATON TOWNSHIP AND KNOWN A WATERBURY.

Third Reading

President Brown: Can we have a motion to accept?
motion by Overby to adopt, 2nd by Swindig

President Brown: Discussion?
motion by Overby to add the emergency, 2nd by Swindig

President Brown: I though we had to discuss it first. Don't we?

Council Member Swindig: That is discussion.

Council Member Overby: That is part of discussion.

Council Member Minnick: Then I have two questions. Why are we adding the emergency?

Council Member Overby: For the betterment of the community; for the sanitary sewers and roadway.

Council Member Minnick: I have several comments to make about Waterbury. We must have another ordinance for rezoning per the Ohio Supreme Court decision this past week. Number two, I was under the impression the commercial should be in the interior of the development so as not to impact the rest of the area. The plan for necessity of neighborhood businesses was so people could walk to the store. If not in the center, that doesn't serve the purposes. Number three, according to the traffic study, two intersections received a D rating, Sugar Ridge Road and Route 83 east and the driveway off of Chestnut Ridge south bound. Eight thousand five hundred trips daily are calculated. The land set, by the way that doesn't include Meadow Lakes coming up that way. Four, the land set aside for an elementary school is insufficient and inferior. It is six acres but is triangular shape on a collector road which will be heavily used if it ever goes through to Chestnut Ridge. The land also includes either a detention basin or wetland. I'm not quite sure. Five, it limits expansion of the Shady Drive Baseball Complex. Six, no guest parking is indicated for the clusters. Per B.10 there are to be two spaces plus one space for each five units. Seven, the density figure includes all property including commercial and the density is touted to 3.24. However, in the cluster areas, the density is 6.446 per acre. The clustering shows no detailed site plan as required in B.11, 12 and 13. Nine, no wetland studies is on file. This plan will have to be altered if there are wetlands and I don't see how we can improve the preliminary plan. Ten, no directional flow or proposed storm water management program is on file as required in A.03 B. Eleven, the current dead end streets that will connect to future developments must be T configured, which is not shown. Twelve, landscaping and buffering is

not shown on Keyspine Road. Thirteen, notes from the City Planner referred to an eighty foot road but we are told it is one hundred foot. Fourteen, the curb cut must be approved by the Lorain County Engineer. I think it is irresponsible to approve that preliminary plan and in light of what just happen this past week if we don't study history we are doomed to repeat the mistakes. That's all I have to say.

Council Member Butkowski: Madame President, on Monday, September 25th I requested a declaration of covenants from Waterbury, Kingston and Meadow Lakes. They were to get them to me and agreed by Friday, September 29th. To date I have received only one from Waterbury and that was this afternoon. In order to vote on these developments wisely, this document is very important. If these covenants are not in place and in effect to protect the City we will be maintaining walking trails, green spaces and retention basins all over town forever. I cannot vote for any other developments until these covenants are complete to protect the City from undue, unreasonable expenses that we will have to maintain for the life of this development and all of our lives.

Council Member Gillock: Madame President?

President Brown: Yes Mr. Gillock?

Council Member Gillock: Most of not all the items that been brought up were discussed in Planning and in great detail with the City Engineer. The homeowners agreement was discussed in great detail and was referred to the Law Director for clarification because there were some specific items in there that Planning identified. There was a wetland study in the packet that was provided. I don't believe there's anything in the PCD...(tape end)...(tape begin)...in the middle. They didn't want and the term was used "a Polly's by their houses" a small candy store located down on Lear Nagle. So, they want it to be on the outside and this is not in the ordinance where it goes. The school land, the Waterbury Group said that they would donate this land. I don't believe there's been any discussion with the schools whether they would ever put a school there. This land is available, they could sell it, they could trade it. I don't think it's an element of the Planning Board's approval for the PCD whether this is appropriate or large enough for a school. Waterbury provided a quite comprehensive document that went step by step through the points of the PCD ordinance. There were items in there that were not complete that Planning discussed with the Engineer that, are you satisfied with this or do you need more information or what do you need to do here, and those questions were answered. We are not lawyers, we are the Planning Commission, I'm the liaison to Planning. We can't read that article of covenants and say, this meets our approval or not. We have to depend on our Law Director for items like that and I contend that the Planning Commission went through the documents provided by Waterbury in conjunction with the Planned Community Development requirements and met our responsibility.

President Brown: Thank you.

Council Member Butkowski: Madame President, at that meeting that I had and Mr. Gillock was there, he heard them say they would get these declarations of covenants to me by Friday.

Meadow Lakes doesn't even have theirs written up. The man that represented Meadow Lakes said so. Kingston, I don't know why they didn't get theirs and Waterbury told me that they were,

that it wasn't complete. They have given us one but it is not complete. I did get it this afternoon. I did not have time to go over it. I mean, he said Friday and I don't have time.

President Brown: Mr. Gillock?

Council Member Gillock: Madame Chairman, as far as that same meeting, she is absolutely correct and she does now have, the Councilwomen does now have Waterbury's. Part of that same discussion was that, to answer Councilman Butkowski's concerns about the covenants was perhaps that we might pass an ordinance or change the PCD ordinance in that the Law Director or, in this case, their group could look at these covenants before anything was done. We're trying to satisfy their desires in that area so if there is concerns about these covenants we want them to be part of the warranty deed where, if the homeowners do not meet their obligation there are some proper legal recourse. So, that is all being, trying to be looked at and made a part of the procedure.

President Brown: Mr. Johnson?

Safety-Service Director Johnson: Madame President, did I hear something about meetings that Council people were at? Are all the Council people at these meetings? Are they open to the public? Are some Council people meeting with developers? Behind close doors? Whoa. This seems to be a little funny....

Council Member Butkowski: No, they are not, they are public meetings.

Safety-Service Director Johnson: Are they making their decisions behind closed doors?

Council Member Butkowski: No.

Safety-Service Director Johnson: Are these people negotiating with developments?

Council Member Butkowski: No.

Safety-Service Director Johnson: Council people, I think it's a legislative job.

Council Member Butkowski: No.

Safety-Service Director Johnson: You know negotiations are to be done by the administration.

Council Member Butkowski: We were not negotiating and Mayor Hill knows about it. She talked to Richard Noll about it and she knows all about it.

President Brown: Mr. Gillock?

Council Member Gillock: Yes, there are the meetings that I think, as everyone knows, Dick Noll has held trying to resolve questions that the STAMP group might have.

President Brown: Mr. Johnson?

Safety-Service Director Johnson: Why shouldn't all the other Council people be at that? So they...

Council Member Gillock: They're welcomed but, if they do, have a violation of the sunshine agreement. But, the only ones that have been there, there's been one meeting that Council Member Butkowski and I both attended.

Council Member Minnick: Madame President?

President Brown: I would like to call for the vote please.

Council Member Minnick: No, Madame President I have one more question please. Mr. Zagrans do you plan on writing an ordinance for the rezoning on this or are you going to push it through? is it going to be pushed through without a separate ordinance for rezoning?

Law Director Zagrans: Well, I don't know about being pushed through, I don't agree with that. But, as I have indicated before, Ordinance 3491 of 99 indicates that the approval of the preliminary plan, once it's approved by Planning Commission and accepted by Council constitutes the rezoning.

Council Member Minnick: So, does that mean that you will not go by the Supreme Court ruling, you're going to go by your own ruling on this.

Law Director Zagrans: No, the Supreme Court ruling said that when we had an ordinance that was challenged by referendum, by having the requisite number of signatures, Council failed to repeal it by the proper procedure and therefore it needed to go on the ballot. We are certainly complying with the Supreme Court's decision.

Council Member Minnick: All right, I'm not going to argue with you about it. So, your decision is that there will not be a separate ordinance.

Law Director Zagrans: If Council decides to approve T 104-2000 tonight, that will accomplish the rezoning of the 640 acres to PCD.

Council Member Minnick: Thank you.

President Brown: Call for the question please, Mr. White.

Yes, 5 No, 2 (Minnick, Butkowski)

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

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. T 104-2000 becomes Resolution No. 904-2000 with the emergency.

Permanent Resolution No. 904-2000

T 108-2000 AN ORDINANCE AUTHORIZING THE MAYOR TO NEGOTIATE AND
3619-2000 ENTER INTO A SUBDIVIDER-DEVELOPMENT AGREEMENT WITH ALL-
PURPOSE CONSTRUCTION, INC. FOR THE DEVELOPMENT OF THE
MEADOW LAKES PCD.

Third Reading

motion by Overby to adopt, 2nd by Swindig

President Brown: Discussion? Take the vote please.

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. T 108-2000 becomes Ordinance No. 3619-2000.

Permanent Ordinance No. 3619-2000

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

Third Reading

motion by Overby that this be postponed until the October 16th, when the Public Hearing is...

President Brown: So we can have a hearing.

2nd by Swindig

Council Clerk White: Discussion?

President Brown: Take a vote.

Yes, 7 No, 0

Council Clerk White: Motion carries seven, zero for T 109-2000 to be postponed until the Public Hearing on 10-16.

T 110-2000 AN ORDINANCE AUTHORIZING THE MAYOR TO NEGOTIATE AND
3620-2000 ENTER INTO A SUBDIVIDER-DEVELOPMENT AGREEMENT WITH NRP
 GROUP LLC FOR THE DEVELOPMENT OF THE KINGSTON PLACE PCD.
 Third Reading

motion by Overby to adopt, 2nd by Swindig

President Brown: Discussion?

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

President Brown: Discussion?

Council Clerk White: Reason?

Council Member Swindig: Health, welfare of the Citizens.

Council Clerk White: Discussion?

President Brown: Discussion? Please take the roll then.

Council Clerk White: On the emergency:

Yes, 5 No, 2 (Minnick, Butkowski)

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

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. T 110-2000 becomes Ordinance No. 3620-2000 with the emergency.

President Brown: 3620?

Permanent Ordinance No. 3620-2000

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

UNFINISHED BUSINESS

President Brown: We have no unfinished business. Committee meeting announcements please and meeting announcements.

COMMITTEE MEETING ANNOUNCEMENTS

Council Clerk White:

The Next Regular Council Meeting Monday, October 16, 2000 at 7:30 P.M.

There will be a Public Hearing Monday, October 16, 2000 at 6:45 P.M. on T 123-2000.

A Public Hearing Monday, October 16, 2000 at 6:50 P.M. on T 124-2000.

A Public Hearing Monday, October 16, 2000 at 6:55 P.M. on T 125-2000.

A Public Hearing Monday, October 16, 2000 at 7:00 P.M. on the PCD for Meadow Lakes.

That's all the announcements and committee meetings that I have.

Law Director Zagrans: Madame President?

President Brown: Yes?

Law Director Zagrans: Thank you. I just realize as we were coming to the end of the third readings that T 104-2000 was designated a resolution rather than an ordinance. I don't understand why that nomenclature was used. I'm not sure that it's a distinction that has much of a difference, but I would ask if a Member of Council would move to reconsider the approval of Resolution 904-2000, only to the extent of amending the word resolution to be ordinance.

Council Member Overby: I'll make that motion.

Council Member Swindig: I'll second it.

motion by Overby to reconsider Resolution No. 904-2000, 2nd by Swindig

Law Director Zagrans: There has to be now, a vote on whether or not to reconsider, then a vote on whether or not to substitute the word ordinance for resolution where it appears and then resolution number 9042-2000 will get an ordinance number rather than resolution number.

President Brown: Would that be an amendment, adding that word resolution?

Law Director Zagrans: It would be a substitution, that's right.

President Brown: Okay. Take a vote please.

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two.

T 104-2000: Permanent Ordinance No. 3621-2000

President Brown: Motion now on the change.

Council Clerk White: On the change of the word resolution to ordinance.

motion by Swindig to change the word "resolution" to the word "ordinance", 2nd
by Overby

President Brown: Take a vote please.

Council Clerk White: Discussion?

President Brown: Discussion? Take a vote.

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two.

Council Member Swindig: Madame Chairman?

President Brown: Yes.

Council Member Swindig: May I direct this question to the Law Director, do we have to read the top?

Law Director Zagrans: Re-vote now?

Council Member Swindig: Yes.

Law Director Zagrans: I think technically under Roberts Rules where a reconsideration is permitted as it is at the same meeting and you have voted to reconsider that a re-adoption would be appropriate together with the emergency just to make it sure the right procedure is followed.

motion by Swindig to adopt, 2nd by Overby

Law Director Zagrans: You're going to need to move for the emergency.

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

President Brown: Discussion?

Council Clerk White: You're moving to fast for me here. I'm writing. I don't take shorthand. I don't take longhand either. That was Overby and Swindig on the emergency.

President Brown: Now, take roll please.

Council Clerk White: Roll on the emergency:

Yes, 5 No, 2 (Minnick, Butkowski)

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

Yes, 5 No, 2 (Minnick, Butkowski)

Council Clerk White: Motion carries five, two. T 104-2000 becomes Ordinance No. 3621-2000 with the emergency.

Ordinance No. 3621-2000

ADJOURNMENT

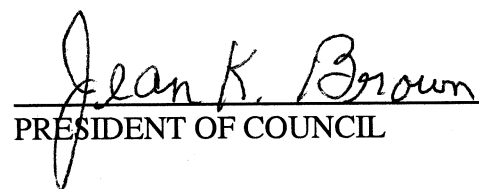
motion by Swindig to adjourn, 2nd by Overby

President Brown: Meeting adjourned.

Meeting adjourned at 8:43 P.M.

MOTION _____ Swindig _____ 2ND _____ Butkowski _____ DATE _____ October 16, 2000 _____

YES _____ 7 _____ NO _____ 0 _____ ABSTAIN _____ 0 _____



PRESIDENT OF COUNCIL



CLERK OF COUNCIL