

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING SEPTEMBER 20, 2004**

CALL TO ORDER: 7:30 P.M.

President Ronald Arndt: The Chair calls to order the North Ridgeville City Council regular meeting dated September 20, 2004. If you will all rise, please, for the Invocation and the Pledge.

INVOCATION: lead by President Arndt.

PLEDGE OF ALLEGIANCE: by all.

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, Engineer Larry Griffith, Auditor Chris Costin and Clerk of Council Chuck Norris.

MINUTES - Corrections (if any) and Approval:

Clerk of Council Norris: Minutes before Council this evening include:

Public Hearing Minutes of September 7, 2004 regarding T 91-2004

 moved by Butkowski, seconded by Olesen to approve the Public Hearing Minutes of September 7.

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

 Yes, 7 No, 0

Clerk of Council Norris:

Public Hearing Minutes of September 7, 2004 regarding T 101-2004

 moved by Butkowski, seconded by Olesen to approve the Public Hearing Minutes of September 7.

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

 Yes, 7 No, 0

Clerk of Council Norris:

Public Hearing Minutes of September 7, 2004 regarding T 102-2004

 moved by Butkowski, seconded by Olesen to approve the Public Hearing Minutes of September 7.

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

 Yes, 7 No, 0

Clerk of Council Norris:

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING SEPTEMBER 20, 2004**

Page 2

Public Hearing Minutes of September 7, 2004 regarding T 103-2004

moved by Butkowski, seconded by Olesen to approve the Public Hearing Minutes of September 7.

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

Yes, 7 No, 0

Clerk of Council Norris:

Council Minutes of regular meeting held September 7, 2004

moved by Butkowski, seconded by Swindig to approve the Public Hearing Minutes of September 7

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

Yes, 7 No, 0

Clerk of Council Norris: Please Note:

Board of Zoning and Building Appeals Minutes of regular meeting August 26, 2004;
Parks & Recreation Commission Minutes of regular meeting of August 25, 2004; and
Planning Commission Minutes of regular meeting September 14, 2004.

MAYOR AND DIRECTORS REPORTS:

President Arndt: We now have the opportunity to come to our Mayor and Directors reports. The Chair now invites the Mayor and the Directors the opportunity to provide Council with an oral report and we would like to begin with our Mayor. Mr. Gillock?

Mayor

Mayor Gillock: Good evening. First, each Councilman will find a copy of the brand new North Ridgeville magazine at their seat. This magazine is sponsored by the City of North Ridgeville and the North Ridgeville Chamber of Commerce and will be mailed to each household in the City. There will also be copies available at City Hall, the Library and the Chamber, in the near future, for those that do not receive a copy or would like extra copies. I would like to thank the Chamber for spearheading this long awaited marketing piece, showcasing our great City. It is also invaluable to our residents for its Community Guide information, providing contact information for businesses, churches and the like throughout our City.

Next, I would like to nominate Rich ~~Bachman~~ *Backman* to the Income Tax Review Board. Rich is here this evening, Rich will you stand up. Rich has lived in North Ridgeville for several years and is a CPA. He is a member of the Rotary and Kiwanis Clubs and is the owner of Draperies Plus and the Blue Barn Antique shop. I would make that motion at this time.

moved by Mayor Gillock, seconded by Buescher to approve Mr. Rich Backman to the Income Tax Board

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

President Arndt: Welcome, Mr. Backman, to our Income Tax Board and thank you for your contributions in wanting to serve our City.

Mayor Gillock: Thank you, Rich. I also appreciate your willingness to assist and serve. Thank you.

Lastly, I want to tell Council and the residents about a joint project to be done in partnership with Home Depot Home Improvement Store. On October 9, at South Central Park, several employees from Home Depot will be here to work with our volunteers to repair, paint and improve items in the park. They will also be providing material as needed. We need to provide volunteers. So, if your boy or girl scout troop, Lions, Rotary, Kiwanis, church group, K of C, and so forth or just you and the kids can help, please be there. We will be painting safety poles, parking lot bumpers, parking space lines, the pump house, replacing and fixing swings, fixing and repairing picnic tables and whatever else needs to be done. I understand they will be doing kids activities where kids, with adult help, can build a project provided by Home Depot. This is an activity that they have on the third Saturdays where the kids come into Home Depot and they help them build a race car or a bird house or some other project. The kids really like it. They're going to be doing that also. My grand kids have been there and done it and really enjoy it. Please be at South Central no later than 9:00 A.M., on Saturday, October 9 and wear your work clothes. Of course, I expect to see all Councilmen there bright and early. Thank you.

President Arndt: I think we've been challenged here. Thank you, Mr. Mayor. We now have the opportunity to hear from our Safety-Service Director, Mr. Johnson.

Safety-Service Director

Safety-Service Director Johnson: Thank you and I believe that was a challenge. Our Computer Service Department has been working hard to update the City's web site. The new site will be launched for public access within a week and will allow each department to present updated information in real time. The new format will allow us to provide much more information for residents in a more timely manner. Look for the new site to be available by week's end.

We're having trouble with stolen traffic signs in construction areas. Besides the obvious safety hazard, these signs are expensive to replace and can cause confusion for a motorist. If anyone has seen one of these signs in a field, a ditch or a teen bedroom, please return it to the Service Garage on Bainbridge Road. They can be left at the gate after hours, if needed. That concludes my report.

President Arndt: Was there an interest, on your part, to request an executive session?

Safety-Service Director Johnson: Yes. The subject matter would be contracts.

President Arndt: We will call that executive session at our recess to review contracts. Thank you. We now have the opportunity to hear from our Engineer, Mr. Griffith.

Engineer

Engineer Griffith: Thank you, Mr. President. Tonight, I'm sure that most of you have noticed all around the City, dotted all over the place, the fruit and vegetable stands or you may even have your own garden. What you may not realize is that by obtaining produce from these stands or from having your own garden, you are actually reducing pollution. Let me read you this EPA environmental tip. "Eat a locally produced diet. Grow your own food and support local farmers, natural food stores and farm co-ops. You'll save money, eat quality foods, create local jobs, increase farmlands and strengthen your community. You'll also reduce pollution generated by transportation and energy costs for shipping food."

So, when you go out to your own garden or stop at a nearby vegetable stand, you not only are buying good food at a reasonable price, you are also helping to reduce pollution. Thank you.

President Arndt: Thank you, Mr. Griffith. We now have the opportunity to hear from our Auditor, Mr. Costin.

Auditor

Auditor Costin: Thank you, Mr. Chairman. I have two items of financial business tonight, the first of which is the August report that Council should have already received.

Auditor's Written Financial Report for August 2004

moved by Swindig, seconded by Butkowski to approve

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

Auditor Costin: The second item, I would request that Council consider passing tonight two resolutions, T 109-2004 and T 110-2004. These are formalities that have been requested by the Ohio Police and Pension Board for us to pass. It will actually have no affect whatsoever. It relates to the pickup that we have for our employee that has been set up several years ago to be a pre tax pickup. Again, I would request that you pass it tonight. They have requested us to do so and it will have no affect on our financial whatsoever. Thank you.

President Arndt: Mr. Costin, the question is, no need for an emergency?

Auditor Costin: No need for an emergency. We just need to pass it and move it along to their board. Thank you.

President Arndt: Thank you, Mr. Costin. Will the Clerk please read our other reports.

Other Reports

Clerk of Council Norris: Other reports that appear before Council this evening includes: Service Department Activity Report from August 1, through August 31, 2004 and September 1 through September 13, 2004;

Mayor's Court Operating Trust Fund/Bail Trust Fund Report for August 2004;

Police Department Activity Report for July and August 2004;

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING SEPTEMBER 20, 2004**

Page 5

Fire Department Report for August 2004;
Water Distribution Monthly Operation Report for August 2004; and
Building Department Report for August 2004.

Planning Commission Report of regular meeting September 14, 2004:

APPLICANT: R.W. Beckett Corporation, P.O. Box 1289, Elyria, Ohio 44036
OWNER: Same
REQUEST: Approval to construct a 4,500 square foot addition to be used for warehousing of Computer Equipment.
LOCATION: 7630 Race Road in an I-3 District
Permanent Parcel No. 07-00-039-000-066
PC ACTION: APPROVED - 4-0
moved by Young, seconded by Olesen to approve the Planning Commission action related to the R.W. Beckett Corporation
President Arndt: Will the Clerk please take a roll.
Yes, 6 No, 0 Abstain, 1 (Butkowski)

Clerk of Council Norris: Motion is approved by a vote of six, zero, one abstention.

APPLICANT: Wolf Maison, 1814 E. 40th Street, Number 3B, Cleveland, Ohio 44103
OWNER: Kathryn I. Kothe, 707 Washington Avenue, Elyria, Ohio 44035
REQUEST: Approval to construct an 8,000 square foot addition to an existing building.
LOCATION: 38818 Taylor Parkway in an I-3 District
Permanent Parcel No. 07-00-047-000-095
PC ACTION: APPROVED - 4-0
moved by Mayor Gillock, seconded by Jaenke to approve the Planning Commission action with regard to the approval to construct an 8,000 square foot addition with regard to Wolf Maison

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

Council Member Butkowski: I would like to congratulate Mrs. Kothe for an addition to this new business that she brought to town and wish her success.

President Arndt: Thank you. Any other ~~conservation~~ conversation or discussion? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

Clerk of Council Norris: Motion is approved.

APPLICANT: Donald R. Mould, Mould Development, LLC, 9449 Island Road
OWNER: Same
REQUEST: Final approval for plat of Bliss Parkway, New Special Development District
LOCATION: Adjacent (eastside of) 32991 Lorain Road in a Special Development

District - Permanent Parcel Nos. 07-00-003-102-063 and
07-00-010-108-002

PC ACTION: APPROVED - 4-0

moved by Young, seconded by Olesen to approve the Planning Commission action, final approval for the plat of Bliss Parkway in the new Special Development District

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

Council Member Butkowski: When I was reviewing the Planning Commission's recommendations here, according to the Engineer, a performance bond had not been brought forward. I ask the Engineer, have we gotten a performance bond on this project yet?

Engineer Griffith: No, we do not. We're still finalizing the plans. It's a little difficult for them to calculate the cost.

Council Member Butkowski: In the past we've held back approvals until, I don't want to hold back on approving, I have no problem with this project, but we do have to have that performance bond and we've held back, recently, on other people that have not gotten a performance bond to us.

Council Member Buescher: Mr. President, we have to remain consistent on that. We've finally have gotten to that place where we are holding back if performance bonds aren't met and I think we're going to have to do that.

President Arndt: Mr. Engineer?

Engineer Griffith: I believe you've been holding back on the plat approval, not on the Planning Commission approval.

President Arndt: That was my understanding as well. Mr. Mayor, do you have anything to share?

Mayor Gillock: That's just what I was going to say. This is simply approving the actions of the Planning Commission. This is not the ordinance for the plat approval which is when we require the performance bond or the improvements to be made. This is just approval of Planning Commission actions. This is not when we require the performance bond.

Council Member Butkowski: Mr. Chairman, it says request final approval for plat of the Bliss Parkway, new Special Development District. That's what we have here.

Mayor Gillock: At which point, if this is approved, then an ordinance will be brought forth to approve the plat at which point you would require a performance bond. This is only Planning Commission. This is not an ordinance. It's the ordinance when you require the bond.

Council Member Buescher: Mr. President, I will accept that explanation.

President Arndt: Any other conversation? The Chair would just like to request, if there would be a way, seeing that we seem to come up against this frequently and I wonder if there is some kind of a protocol that could simply be laid out for all of us on Council so that we have a clear understanding to prevent these ongoing conversations, is this a final, is it not a final, is it a plat, is it not a plat. How might that be done so that we all are on the same page?

Mayor Gillock: The Assistant to the, Donna Tjotjos, has laid out a step by step sheet outlining these steps to follow so that you guys would know exactly what needs to be done.

President Arndt: I was not aware of it so, I'll speak to my ignorance to that and I will make a request that somehow, all of us get that copy and so we can have that in our minutes. I'll make that request. Thank you.

Mayor Gillock: Could I add one other point to that? It's not required in the final analysis. It's not required that they post a performance bond. They either have to complete the improvements before they obtain the final plat. If they want to obtain the final plat before they have completed the improvements, then they have to put the bond up. We're not at that point. We're still going through Planning.

President Arndt: Thank you, for that clarification.

Council Member Buescher: Mr. President, I agree with that but, we would also need to know which way the developer is going in that situation. Mr. Griffith has informed us when performance bonds were met in a couple of the other projects that we've had here and that's very important. I appreciate that.

President Arndt: Mr. Griffith?

Engineer Griffith: Council person Buescher took some of the words out of my mouth. When a plat is up for final approval, like there are two on the agenda for tonight, I always check to make sure that we either have that performance bond or I report to Council that we do not. As I read the ordinance book, it says I, as Engineer, cannot sign that plat until either the construction is completed or we have that performance bond.

President Arndt: The Chair's going to call the vote. We have a motion on the floor by Mr. Young. A second by Mr. Olesen to approve the Planning Commission's action with regard to the final approval for the plat of Bliss Parkway. Hopefully there's no further discussion? I will ask the Clerk to take roll.

Yes, 7 No, 0

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

COUNCIL COMMITTEE REPORTS:

Clerk of Council Norris: Are there any Council committees that need to report out tonight? If not, will the Clerk please read our correspondence.

CORRESPONDENCE:

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

1) Received certification of docket entries before the Supreme Court of Ohio; The office of the Ohio Consumers's Counsel, appellant versus The Public Utilities Commission of Ohio, Appellee; being before the PUCO in the matter of the notice of intent of Columbia Gas of Ohio, Inc. to file an application to increase rates; in the matter of the application of Columbia Gas of Ohio, Inc. to establish the Columbia Customer Choice Program; in the matter of the regulation of the purchased gas adjustment clause contained within the rate schedules of Columbia Gas of Ohio, Inc. and related matters; in the matter of the application of Columbia Gas of Ohio, Inc. to revise its tariffs to establish a new gas transfer service.

2) 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: Will the Clerk please read our new business.

NEW BUSINESS:

Clerk of Council Norris: Proposed By-Laws amendments as follows:

- 1) Request by Council Member Swindig to amend Section 29 to read as follows:
SECTION 29: SUSPENSION OF RULES
These rules may be suspended by a two-thirds (2/3) vote of all the Members of Council, on any specific issue, at any special or regular meeting of Council.

moved by Swindig, seconded by Young to approve the modification, Section 29,
Suspension of Rules

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

Council Member Butkowski: It says that for the suspension of rules, two-thirds of all Members of Council. Does that mean all Members of Council sitting there that evening or all Members of Council elected?

Council Member Swindig: Mr. Chairman, may I? You must have five members agree to suspend.

Council Member Butkowski: That's what we have in the rules right now. So, why the change?

Council Member Swindig: That's not the way it's written.

Council Member Buescher: Mr. President, the way it's written now, it says the majority of Council and it has five in parentheses after that which is a contradiction. We do need the change but, I would still like to see five in there because there is a question of whether it's the super majority of the Council Members sitting at any particular meeting or whether it is all the Council Members that serve on this Council. If we could amend that to add the five, I would appreciate that.

President Arndt: Allow me to check with our Law Director.

Law Director Crites: If we amend to add the five, we kind of bring back the same contradiction that existed by calling five two-thirds because five isn't two-thirds. Not to be splitting hairs, five is more than two-thirds. I think you've correctly identified the only potential concern or issue and that is the ambiguity which Council Member Butkowski obviously identified as well as whether this means of the members present at this meeting or all the members of Council. The way it reads is, of all the members of Council, is intended to mean and I was hoping, I don't know, did I draft this or did you Councilman Swindig? I remember I had a memo on this.

Council Member Swindig: I think you may have.

Law Director Crites: I think this is my language, probably. It's intended to mean of all seven of all the Council. I was hoping and I will say, let me take a stand on it, it's my opinion that that is what it says, a two-thirds of all the members of Council.

Council Member Buescher: Mr. President, we can say all seven members of Council and at sometime we have more members, we can just change that.

Law Director Crites: That would work and certainly eliminate the issue. I would recommend that because it would certainly stay true to the intent of what we're doing here and that is removing a conflict or ambiguity and it makes it clear. I guess it's good to continue to always make things clear and definitive as possible to be looking into the future because there may be a day when we're not here.

President Arndt: Mr. Olesen?

Council Member Olesen: I don't want to rock the boat but, if you go by numbers here. Three members are not two-thirds, four members are not two-thirds, you have to go to five to get two-thirds. It's real simple.

Law Director Crites: But, five isn't two-thirds.

Council Member Olesen: It isn't two-thirds but, you have to make that jump to get there.

President Arndt: The Chair would like to call the question. First of all, I need to discover, is there a motion to modify to change the reading, "These rules may be suspended by two-thirds vote of all seven members of Council on any specific issues at any special or regular meeting of Council.

 moved by Buescher, seconded by Jaenke to amend or modify Section 29, Suspension of Rules by the language "These rules may be suspended by two-thirds vote of all seven members of Council on any specific issue at any special or regular meeting of Council."

Council Member Olesen: Mr. President, this is Mr. Swindig's work so, are you all right with that?

Council Member Swindig: I'm fine with it because I think the seven and the all mean the same thing. I'll go along with putting the seven in there.

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

Council Member Buescher: I'd like to ask the Law Director, would that mean that all seven members would have to be present in order to take that vote?

Law Director Crites: No. You could have a quorum but, you would have to have five votes.

Mayor Gillock: Mr. President, any amendments, your By-Laws require 14 days notice, in writing.

 moved by Young, second by Jaenke to suspend By-Laws to permit us to make an amendment to Section 29, Suspension of Rules

Council Member Olesen: Mr. President, doesn't the letter that was sent to Council, more than 14 days ago, isn't that the notice that we need?

President Arndt: Regardless, there is a motion to suspend the By-Laws. Thank you. We will go ahead with the vote. Is there any discussion? There being none, all those in favor to suspend our By-Laws to allow us to make an amendment to Section 29, Suspension of Rules, please signify by yes. Any opposed by no. Any abstentions?

 Yes, 7 No, 0

President Arndt: We now have a motion on the floor by Mrs. Buescher, a second by Mr. Jaenke to amend Section 29, Suspension of the Rules by what I said earlier and if we need to clarify it, I'll say it again. Okay, "These rules may be suspended by a two-thirds vote of all seven members of Council on any specific issue at any special or regular meeting of Council. 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

President Arndt: We have a final motion, after we've come back about four motions deep, by Mr. Swindig and a second by Mr. Young to approve Section 29, Suspension of Rules as amended. 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

President Arndt: Thank you. Will the Clerk please read the next one.

Clerk of Council Norris:

2) Request by Council Member Swindig to amend Section 30 to read as follows:
SECTION 30: AMENDMENTS

These rules may be amended by a two-thirds (2/3) vote of all the Members of Council on at least 14 days notice, in writing, to all Members of Council. Such notice to consist of said proposed amendments.

moved by Arndt, seconded by Olesen to amend this motion to include a vote of all seven members of Council.

Council Member Swindig: I move that we suspend By-Laws to allow the amendment of changing the word "the" to "seven".

moved by Swindig, seconded by Young to suspend By-Laws to allow for the amendment to Section 30, Amendments

President Arndt: Is there any discussion?

Council Member Buescher: Mr. President, didn't we have to vote to approve this before we went through that process.

President Arndt: No. What we're voting on right now is the suspension of the By-Laws to do the amendment. We'll do the amendment and then we'll come back to the real thing. Thank you. Is there any further discussion on the motion to suspend our By-Laws? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

President Arndt: There's a motion by myself, Arndt, and a second by Olesen to amend Section 30, Amendments to read as follows "These rules may be amended by two-thirds vote of all seven members of Council on at least 14 days notice in writing to all Members of Council. Such notice to consist of said proposed amendments." 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

President Arndt: Now, the Chair will entertain a final motion for approval of Section 30.

moved by Arndt to approve Section 30, Amendments, as amended, seconded by Jaenke

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

Clerk of Council Norris:

3) Request by Council Member Olesen to amend the By-Laws by adding the following provision under Council Committees, subsection 2:

A Planning Commission Alternate Liaison shall be appointed by the President of Council and subject to the approval of a majority of all of the Members of Council, for such term as Council shall determine. The Planning Commission Alternate Liaison shall serve upon the request of the Planning Commission Liaison or when the Planning Commission

Liaison is unable for any cause to perform his or her duties. The Planning Commission Alternate Liaison shall have the same rights, powers and duties as the Planning Commission Liaison.

moved by Buescher, seconded by Young to approve

President Arndt: We're going to ask the Law Director to give us his opinion on this.

Law Director Crites: Because we are again amending your Council By-Laws, as his honor the Mayor so stoutly pointed out, there's issue with the 14 day notice. I would suggest that you first do a motion to suspend the By-Laws to allow us to do the amendment and if that passes then, make a motion to amend it accordingly. Do you understand? As you see in the last rule, which was just amended being Rule 30, that's the writing requirement. I would advise that you first make a motion to suspend the By-Laws to permit us to do the amendment tonight. Just as we did with the last two amendments.

President Arndt: The Chair makes the motion to suspend our By-Laws to permit us to make this modification.

Council Member Olesen: Second.

President Arndt: It's been moved by Arndt, second by Olesen to suspend our By-Laws permitting us to make this modification, Planning Commission Alternate. Is there any discussion?

Council Member Swindig: Mr. Chairman, it's got me puzzled but, I think this was written 14 days in advance but, if you want to suspend the By-Laws to do it again, I don't have a problem. But, I think this was in before.

President Arndt: It did come out 14 days ago?

Council Member Olesen: A letter came out to all Council Members.

President Arndt: Thank you for that clarification.

Council Member Buescher: Mr. President, we just have to vote on the amendment on those other two because we made a change but, this is exactly as this was given to us 14 days ago. I think we can just go ahead and vote on it.

Law Director Crites: If I could add my two cents. I was speaking out of my ignorance. I wasn't aware that it was ~~discriminated~~ disseminated over 14 days ago. That being the case, you don't need to suspend your By-Laws. Whoever motioned, can rescind.

President Arndt: I'll rescind my motion.

Council Member Olesen: I'll rescind my second.

Council Member Young: Mr. President, move to call the question on the issue that Mrs. Buescher first moved on and I seconded it which is the vote on this issue.

President Arndt: There's a motion on the floor by Mrs. Buescher and a second by Mr. Young, to approve the Planning Commission alternate Liaison. 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

President Arndt: At this time, the Chair would like to appoint, if it's appropriate, Mr. Olesen in that roll.

moved by Arndt, second by Jaenke to appoint Mr. Bob Olesen as the Planning Commission Alternate Liaison

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

President Arndt: Thank you, Mr. Olesen for serving in that position.

AUDIENCE PARTICIPATION (Lobby):

President Arndt: We now have reached the audience portion of our meeting. Any members of the audience tonight, are invited to address your Council. We request that you fill out the lobby form that you can find in the back of the room because in the event that there should be a need for us to contact you personally. You're now welcome and invited to approach the podium at this time, immediately to the right of Mrs. Buescher. However, please state your name and address and speak clearly if you would please and limit your comments to three minutes. The lobby is now open.

Walt Radowenchuk of 34145 of Jewel Circle read a signed petition by the majority of residents of Jewel Circle voicing their complaints concerning a neighbor who has turned their quite residential street into a neighborhood playground.

President Arndt: Thank you, Mr. Radowenchuk. Is there anyone else in the audience who would choose or care to speak and address your Council? There being none, the Chair moves to suggest we move to Executive Session.

moved by Arndt, seconded by Young that Council move to Executive Session

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

President Arndt: The purpose for this is to discuss contracts.

Council recessed into Executive Session at 8:25 P.M.

Council resumed from Executive Session at 8:55 P.M.

President Arndt: The Chair calls the regular session of Council back to order. We now move to our section of ordinances and resolutions.

ORDINANCES AND RESOLUTIONS:

• **Ordinances & Resolutions Submittals**

moved by Arndt, seconded by Butkowski to suspend our By-Laws not to send T 109 to committee to enable it to have its first reading

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

President Arndt: Will the Clerk please read T 109.

Clerk of Council Norris:

T 109-2004 A RESOLUTION TO RESTATE THE PREVIOUSLY ADOPTED PICK-UP, ALL ONE-HUNDRED PERCENT (100%) OF THE TEN PERCENT (10%) MANDATORY CONTRIBUTIONS REQUIRED TO BE PAID UNDER SECTION 742.31 OF THE OHIO REVISED CODE FOR PARTICIPATING EMPLOYEES OF THE FIRE DEPARTMENT WHO ARE MEMBERS OF THE OHIO POLICE AND FIRE PENSION FUND.

 moved by Arndt, seconded by Swindig to suspend our By-Laws not to send T 110 to committee to enable it to have its first reading

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

President Arndt: Will the Clerk please read T 110.

Clerk of Council Norris:

T 110-2004 A RESOLUTION TO RESTATE THE PREVIOUSLY ADOPTED PICK-UP, ALL ONE-HUNDRED PERCENT (100%) OF THE TEN PERCENT (10%) MANDATORY CONTRIBUTIONS REQUIRED TO BE PAID UNDER SECTION 742.31 OF THE OHIO REVISED CODE FOR PARTICIPATING EMPLOYEES OF THE POLICE DEPARTMENT WHO ARE MEMBERS OF THE OHIO POLICE AND FIRE PENSION FUND.

T 111-2004 A RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON ALL NEW PROPOSALS FOR PLANNED COMMUNITY DEVELOPMENT (PCD) IN A R-1 ZONING DISTRICT.

President Arndt: REFERRED TO BUILDINGS AND LANDS COMMITTEE.

Clerk of Council Norris:

T 112-2004 A RESOLUTION AUTHORIZING THE DONATION OF USED CELLULAR TELEPHONES FROM THE CITY OF NORTH RIDGEVILLE TO AND FOR THE BENEFIT OF THE LORAIN COUNTY RAPE CRISES SERVICE, A PROGRAM OF THE W.G. NORD CENTER.

 moved by Mayor Gillock, seconded by Butkowski to suspend By-Laws to give T 112 its first reading this evening

President Arndt: Is there any discussion?

Mayor Gillock: Mr. President, these are used cellular phones which have no use and basically, no value at all to us, that can be used by the Lorain County Rape Crises Services Center which is part of the Nord Center in order to assist victims of sexual assault. It would be a very nice gesture on our part, on Council's part. We'll just donate these phones to them rather than just throwing them away. Thank you.

President Arndt: Any other discussion? Yes, Mr. Swindig?

Council Member Swindig: We use to take cell phones to the seniors too. I don't know if they still do or not.

Council Member Buescher: Mr. Chairman, I neglected at the point where you referred the moratorium to Buildings and Lands to make a motion to not refer that . . .

President Arndt: Point of order, Mrs. Buescher. We are currently on T 112 at this particular point.

Council Member Buescher: Will we be able to refer back to this? I was not expecting that you would refer it to Buildings and Lands and I know that Council can vote to overturn that decision by a majority vote.

President Arndt: What I would like to do is to deal with the issue on the floor right now, T 112. There is a motion on the floor by Mr. Mayor and a second by Mrs. Butkowski to suspend our By-Laws to give T 112 its first reading tonight. 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

President Arndt: With regard to T 111, I believe that the way we might revisit that is a motion on the floor and a second to revisit T 111.

 moved by Buescher, seconded by Butkowski to revisit the decision by the Chair to refer T 111 to Buildings and Lands

President Arndt: Is there any discussion?

Mayor Gillock: Mr. President, would you clarify the motion again, please?

President Arndt: The motion by Mrs. Buescher and a second by Mrs. Butkowski is to revisit the motion or revisit the directive by the Chair to refer T 111 to Buildings and Lands.

Mayor Gillock: This is a motion to, basically, reconsider and there'll be an additional motion to override the action of the Chair. Correct?

President Arndt: Let me make certain I understand. The motion on the floor is to revisit and overrule the chair? Is that what I understand?

Mayor Gillock: No. This motion is simply to open it up for re-discussion, to revisit T 111. If you agree to that, than Mrs. Buescher can bring up whatever she wishes to bring up.

President Arndt: For clarification purposes, the motion by Mrs. Buescher, the second by Mrs. Butkowski is to revisit T 111 with regard to discussion purposes only. Any further conversation or discussion before a vote is called. Will the Clerk please take roll.

Yes, 4 No, 3 (Swindig, Young, Arndt)

Clerk of Council Norris: The motion fails by a lack of majority, it's four, three.

Mayor Gillock: I believed it passed four to three.

Council Member Young: Isn't that basically the same as a suspension of the By-Laws as it requires a two-thirds vote? The Chair, in the By-Laws, has the ability to refer it to committee and to bring it back would be essentially a suspension in overriding the chair. It would be the same as the suspension of the By-Laws and that would require a two-thirds vote.

Law Director Crites: It's interesting. There's two issues, actually. The motion to reconsider requires a simple majority. But, the motion to reconsider is only appropriately voiced towards a previous motion that was on the floor. That's what my quandary that I've been pouring through my Roberts Rules, cheaters' version of. It was the act of the President of Council which actually took place rather than a motion which was put on the floor and voted upon. The question in mind, on the floor, is whether or not the act of the President of Council can be reconsidered by a

majority vote of Council and I don't think it can. I think because of our By-Laws, actually, our By-Laws state that everything that Council considers is referred to Committee. So, it would be my opinion that once it's referred to committee, it goes to committee and that's where the legislative body consideration of voting takes place. It would be one thing if it was a motion discussed, voted upon, then it takes a simple majority to reconsider the motion of the action that took place. But, it wasn't a motion. It was the direction of the President of Council to send it to committee where it will continue to be considered by Council and it is the appropriate venue than, for the discussion to take place.

Council Member Buescher: I know that the Council does have the ability to override the President of Council sending that to committee by a majority vote.

Law Director Crites: I have to be honest, I don't have the exact response of that but, that would, because his, President's Arndt power to send it to committee is in our By-Laws, I would agree that the vote to override that power would require a suspension of the By-Laws and the suspension of the By-Laws requires a two-thirds majority. That's my logical analysis of it.

Council Member Buescher: Mr. President, I would just hope that there will be a committee meeting called because this is the second piece of legislation that I have presented to the Council and the first one was ignored. This is an important issue to the people in this City and I think that it should be addressed. The reason for the moratorium request for tonight, it needed to be past on an emergency in order for that to take effect to effectively eliminate the possibility of someone coming forward with another proposal.

President Arndt: Point of order, Mrs. Buescher. Will the Clerk please move onto T 113.

Clerk of Council Norris:

T 113-2004 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO ENTER INTO VARIOUS AGREEMENTS WITH THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT.

 moved by Swindig, seconded by Olesen to suspend By-Laws to give T 113 its first reading

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

Clerk of Council Norris:

T 114-2004 AN ORDINANCE AMENDING ORDINANCE NO. 3738-2001 PROVIDING FOR WAGES AND FRINGE BENEFITS FOR THE CHIEF AND ASSISTANT CHIEF OF THE NORTH RIDGEVILLE FIRE DEPARTMENT.

President Arndt: REFERRED TO THE ADMINISTRATIVE COMMITTEE.

Clerk of Council Norris:

T 115-2004 AN ORDINANCE AMENDING ORDINANCE NO. 3693-2001 PROVIDING FOR WAGES AND FRINGE BENEFITS FOR THE POLICE CHIEF AND NON-BARGAINING UNIT CAPTAIN.

President Arndt: REFERRED TO THE ADMINISTRATIVE COMMITTEE.

Clerk of Council Norris:

T 116-2004 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO ENTER INTO A CONTRACT WITH THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 2129, AFL-CIO.

President Arndt: REFERRED TO THE ADMINISTRATIVE COMMITTEE.

Clerk of Council Norris:

T 117-2004 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO ENTER INTO A CONTRACT WITH THE FRATERNAL ORDER OF POLICE, LODGE NO. 25, NORTH RIDGEVILLE DIVISION, NON-SWORN, PATROLMEN, AND PROMOTED UNITS.

President Arndt: REFERRED TO THE ADMINISTRATIVE COMMITTEE.

Clerk of Council Norris:

T 118-2004 AN ORDINANCE AMENDING ORDINANCES NO. 2752-93, NO. 1922-84, NO. 1559-79 AND NO. 1275-77.

President Arndt: REFERRED TO THE ADMINISTRATIVE COMMITTEE. Will the Clerk please read our first readings.

• **First Readings**

Clerk of Council Norris:

T 109-2004 A RESOLUTION TO RESTATE THE PREVIOUSLY ADOPTED PICK-UP,
1018-2004 ALL ONE-HUNDRED PERCENT (100%) OF THE TEN PERCENT (10%) MANDATORY CONTRIBUTIONS REQUIRED TO BE PAID UNDER SECTION 742.31 OF THE OHIO REVISED CODE FOR PARTICIPATING EMPLOYEES OF THE FIRE DEPARTMENT WHO ARE MEMBERS OF THE OHIO POLICE AND FIRE PENSION FUND.

First Reading

moved by Butkowski, seconded by Swindig to dispense with second and third readings

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

moved by Butkowski, seconded by Swindig to adopt T 109

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

Clerk of Council Norris: Motion is approved and becomes permanent resolution 1018-2004.
Permanent Resolution No. 1018-2004

T 110-2004 A RESOLUTION TO RESTATE THE PREVIOUSLY ADOPTED PICK-UP,
1019-2004 ALL ONE-HUNDRED PERCENT (100%) OF THE TEN PERCENT (10%)

**MANDATORY CONTRIBUTIONS REQUIRED TO BE PAID UNDER
SECTION 742.31 OF THE OHIO REVISED CODE FOR PARTICIPATING
EMPLOYEES OF THE POLICE DEPARTMENT WHO ARE MEMBERS OF
THE OHIO POLICE AND FIRE PENSION FUND.**

First Reading

moved by Butkowski, seconded by Swindig to dispense with second and third readings tonight on T 110

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

moved by Butkowski, seconded by Swindig to adopt T 110

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

Clerk of Council Norris: T 110 is adopted becoming permanent resolution 1019-2004.
Permanent Resolution No. 1019-2004

T 112-2004 A RESOLUTION AUTHORIZING THE DONATION OF USED CELLULAR
1020-2004 TELEPHONES FROM THE CITY OF NORTH RIDGEVILLE TO AND FOR
 THE BENEFIT OF THE LORAIN COUNTY RAPE CRISES SERVICE, A
 PROGRAM OF THE W.G. NORD CENTER.

First Reading

moved by Swindig, seconded by Young to dispense with second and third readings tonight on T 112

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

moved by Swindig, seconded by Young to adopt T 112

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

Council Member Butkowski: Mr. Chairman, I just wanted to comment that there's a lot of people out there in our audience that also have these cell phones that they are no longer using. They can also donate their cell phones to this and a lot of other organizations where they can be very valuable. If you have them, take them in and ask senior citizens, battered women or the rape crisis, any of those. Donate your cell phone instead of filling up the dump with them.

President Arndt: Thank you. Great advice. Any other conversation? There being none, all those opposed by no. Any abstentions?

Yes, 7 No, 0

Clerk of Council Norris: T 112 is adopted becoming permanent resolution 1020-2004.
Permanent Resolution No. 1020-2004

T 113-2004 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH
4060-2004 RIDGEVILLE, OHIO, TO ENTER INTO VARIOUS AGREEMENTS WITH
 THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT.

First Reading

moved by Swindig, seconded by Young to dispense with second and third readings tonight on T 113

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

moved by Young, seconded by Jaenke to adopt T 113

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

Clerk of Council Norris: T 113 is adopted becoming permanent ordinance 4060-2004.
Permanent Ordinance No. 4060-2004

President Arndt: That concludes our first readings. Now, onto our second readings.

• **Second Readings**

Clerk of Council Norris: Second readings before Council this evening include:

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.

Second Reading

Mayor Gillock: Mr. President, if I might just advise Council of the status of this. If you recall, we brought this forward last meeting. There's a question that we're trying to postpone this until next year. The Treasurer is checking with the State through CT Consultants and he's fairly certain that we can get the extension but, he does not have a definite answer. He thought he'd have it tomorrow so, if we can wait one more meeting until we decide specifically what we need to do with this.

President Arndt: Mr. Costin?

Auditor Costin: The problem being in the current year. We may not have the ability to finance this project without issuance of bond anticipation notes and that may not be cost effective for us to do if we can move it into the spring of next year and still accomplish our same goal.

President Arndt: That concludes our second readings for tonight. Will the Clerk please read our third readings.

• **Third Readings**

T 101-2004 AN ORDINANCE APPROVING THE FINAL PLAT OF WATERBURY

4056-2004 PHASE 4 - SUBDIVISION 4 FOR RECORDING PURPOSES ONLY.

Third Reading

moved by Olesen, seconded by Jaenke to adopt T 101

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

Clerk of Council Norris: T 101 is adopted becoming permanent ordinance 4056-2004.

Permanent Ordinance No. 4056-2004

T 102-2004 AN ORDINANCE APPROVING THE FINAL PLAT OF WATERBURY

4057-2004 PHASE 5 - SUBDIVISION 5 FOR RECORDING PURPOSES ONLY.

Third Reading

moved by Olesen, seconded by Jaenke to adopt T 102

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

Clerk of Council Norris: T 102 is adopted becoming permanent ordinance 4057-2004.

Permanent Ordinance No. 4057-2004

T 103-2004 AN ORDINANCE AMENDING AND CLARIFYING ORDINANCE NO. 3735-

4058-2004 2001 AND APPROVING THE RELATED VACATION PLAT.

Third Reading

moved by Olesen, seconded by Jaenke to adopt T 103

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

Clerk of Council Norris: T 103 is adopted becoming permanent ordinance 4058-2004.

Permanent Ordinance No. 4058-2004

OLD BUSINESS:

President Arndt: Is there any old Business to come brought before Council tonight?

Council Member Buescher: Mr. President, I don't know how old the business has to be but, I have a point of order on your point of order when I was speaking. Roberts Rules indicates that when someone makes a point of order, you have to give a reason why you called a point of order.

President Arndt: I do, Mrs. Buescher, believe I did make that reason clear and that was, the conversation that you were having with regard to T 111 was out of order in that we were discussing and there was a motion on the floor, at the time, related to T 112.

Council Member Buescher: Yes, you are correct in that but, I'm referring to the last remarks that I made when you called a point of order and just went on with regular Council business without giving me an explanation.

Council Member Young: Mr. President, I also called a point of order. It was because the motion had already been decided upon and there was no motion on the floor.

Council Member Buescher: Thank you, but it needs to be done at the time. You can't simply

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING SEPTEMBER 20, 2004**

Page 20

cut off a speaker without giving a reason.

Council Member Young: A point of order, I apologize for not giving you the reason. I thought Mr. President did.

Council Member Buescher: I didn't even hear you give the point of order, I just heard the President.

President Arndt: Any other old business? Will the Clerk please read our upcoming meeting announcements.

UPCOMING COMMITTEE MEETING ANNOUNCEMENTS:

Clerk of Council Norris:

Next Regular Council Meeting Monday, October 4, 2004 at 7:30 P.M. in Council Chambers

ADJOURNMENT:

motion to adjourn by Swindig

Meeting adjourned at 9:25 P.M.

President Arndt: The Chair apologizes and reopens the meeting for a slight oversight and that slight oversight is, we have the rest of the upcoming meeting announcements and the Chair would request that our Clerk read the Pubic Hearings on page 9.

Clerk of Council Norris: I will be happy to. Apparently it was necessary to turn the page. Having now turn to page nine.

There will be a Public Hearing Monday, October 4, 2004 at 7:20 P.M. regarding the Mould Development, Preliminary Plan Approval of a Subdivision to include one street and one tenant in a Special Development District.

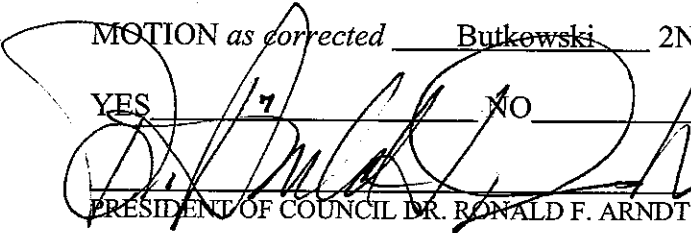
Additionally, a Public Hearing will be held Monday, November 1, 2004 at 7:20 P.M. regarding the request from FJD Properties, LLC, 37000 Center Ridge Road, North Ridgeville, Ohio 44039 to:

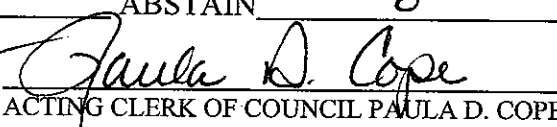
- 1) Amend a portion of the final plan of Phase III of Meadow Lakes PCD
- 2) Amend the preliminary PCD of Meadow Lakes to be known as Phase IV of Meadow Lakes PCD

Meeting adjourned 9:27 P.M.

MOTION *as corrected* _____ Butkewski _____ 2ND _____ Buescher _____ DATE _____ October 4, 2004

YES 7 _____ NO 0 _____ ABSTAIN 0 _____


PRESIDENT OF COUNCIL DR. RONALD F. ARNDT


ACTING CLERK OF COUNCIL PAULA D. COPE