

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING SEPTEMBER 17, 2007**

CALL TO ORDER: 7:30 P.M.

President of Council Ronald Arndt called the North Ridgeville City Council Regular meeting dated Monday, September 17, 2007 to order.

INVOCATION: lead by President Arndt.

PLEDGE OF ALLEGIANCE: by all.

CALLING OF THE ROLL - ROLL CALL:

Present were Council Members Nancy Buescher, Dennis Boose, Richard Jaenke, Bob Olesen, Bernadine Butkowski, Gayle Manning 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 Charles Norris.

President Arndt: Before we move into our meeting agenda tonight, first, I would like to introduce Wayne who is our new camera man from Time Warner. We want to make certain that everything is working a-okay. Thanks and welcome Wayne.

Secondly, I would like to explain for all the members sitting up here on Council, the two minor changes in your agenda. If you will notice that there is a fresh agenda that was sitting before you and for your edification, there are only two very minor changes that were the result of simple typos. Under page two, please note that under Board of Zoning and Building Appeals minutes of Special meeting, August, the date was blank. It has been corrected and replaced with August 30, 2007. Also, the second and final correction to the agenda is on page six under the topic upcoming meeting announcements; item number two. What was changed was that it had originally said T 119-2007 and it has been corrected to T 121-2007. Those are the only changes to your meeting agenda. Having clarified that, Dr. Norris if you would begin with our minutes for any corrections or modifications and approval.

MINUTES - Corrections (if any) and Approval:

Clerk of Council Norris: Council has before it the:

Public Hearing Minutes of September 4, 2007 re: T 47-2007 and T 48-2007
moved by Manning, seconded by Boose to approve the Public Hearing minutes of
September 4, 2007 regarding T 47 and T 48

President Arndt: Is there any discussion? Will the Clerk please take roll?

Yes, 5 No, 0 Abstain, 2 (Olesen, Butkowski)

Clerk of Council Norris: Minutes are approved by a vote of five to zero and two abstentions.

Public Hearing Minutes of September 4, 2007 re: JEDD District

moved by Manning, seconded by Jaenke to approve the Public Hearing minutes of September 4, 2007 regarding the JEDD District

President Arndt: Is there any discussion? There being none, will the Clerk please take roll?

Yes, 5 No, 0 Abstain, 2 (Olesen, Butkowski)

Clerk of Council Norris: Minutes are approved by a vote of five to zero and two abstentions.

Clerk of Council Norris: Council will also please note, that it has before it the:

Board of Zoning & Building Appeals Minutes of special meeting August 30, 2007 and
Planning Commission Minutes of regular meeting September 11, 2007.

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

MAYOR AND DIRECTORS REPORTS:

• **Mayor:**

Mayor Gillock: Thank you, Mr. President and good evening everyone. First, I would like to thank our Auditor Chris Costin and his staff, particularly, Deputy Auditor Donna Kiraly for another outstanding Comprehensive Annual Financial Report. I am sure, again, this year, they will receive an award for this year's CAFR. Copies are available in my office. Included with this is a copy of a letter from Auditor of State, Mary Taylor, with the State's opinion regarding our financial statements. As usual, the report is good and no material defects were noted. Great job, Chris. I know this takes a tremendous amount of work in to getting this done and put together. It is full of valuable information on the state of the City's finances.

I would like to mention a couple of construction projects that will cause detours or slowdowns over the next few weeks. Mills Road between Lear Road and Mills Creek Drive will be closed today and will be closed until the middle of December; possibly even longer depending on weather. The bridge is being totally replaced in a joint venture project between North Ridgeville, the City of Avon and the Lorain County Engineer's office, who is supervising the project. New lights and a turning lane are being installed at Sugar Ridge and Route 83. This project is also expected to take approximately 90 days. The roads will remain open. However, the speed limit in that area is reduced to 25 miles an hour. Please be aware and drive carefully when traveling through that area. Lastly, the new traffic lights at Bagley and Lorain Road will begin full operation tomorrow morning. Please drive carefully in that area as drivers get used to the new lights. That concludes my report. Thank you.

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

- **Safety-Service Director:**

Safety-Service Director Johnson: Thank you, Mr. President. I want to first ask that Council pass T 128 tonight with the emergency clause in order to qualify for grant funding from State Issue 1. We are attempting to use these grant funds to continue improvements on Lorain Road between Bagley and Root Road.

Next, I would like Council and the viewing public to know that we are aware of the poor conditions of the restrooms at South Central Park. The facilities are often vandalized and simply not adequate for the increased crowds we have seen this year, with several parties in the park and the popularity of the splash pad. We are investigating several options including grant funding to correct the problems. We expect to be able to take care of this as soon as possible. That concludes my report.

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

- **Engineer:**

Engineer Griffith: Thank you, Mr. President. Before I get started with three small items of interest, would you excuse me for a minute?

President Arndt: Yes, do not let anyone say that our Engineer doesn't have a sense of humor.

Engineer Griffith: Thank you. Now to business. I'm sure you all know this, but I am going to say this anyway. This is National Pollution Week. I'm sure everyone knew that. Please do your best to continue to do your best not to pollute.

On Saturday, September 29, the Lorain County Solid Waste Management District will hold their second 2007 household hazardous waste collection day. Materials can be disposed of by either taking it to PC Campana Industrial Park at 300 Leavitt Road in Lorain or Grafton Township Hall at 17109 Avon Belden Road.

A few seconds ago, you saw me take a drink from a plastic bottle. That was very convenient. The label on this bottle says, filled with the finest Avon Lake drinking water. The water I just drank is from the Avon Lake Utilities Department. That also happens to be where we obtain 90 percent of our tap water. There is nothing wrong with having the convenience of a handy bottle of water. Just don't be fooled into paying two dollars for it. Would anyone like to guess how much the good tasting tap water cost that is in this bottle? Less than one third of a cent. Thank you, that concludes my report.

President Arndt: Truly, a man of impact. Less than one third of a cent versus two dollars for a bottle of water. Thank you, Mr. Engineer, that's fascinating. Mr. Costin, our Auditor has the floor at this moment.

Auditor:

Auditor Costin: I am not going to make any comment about what he added to the water, though. Actually, tonight is catch up after August recess. You have received the Auditor's report for the month of July and the month of August, which the first order of business tonight is to request your passage.

Auditor's Written Financial Report for July 2007

moved by Boose, seconded by Buescher to approve the Auditor's Written Financial Report for July 2007

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

Yes, 7 No, 0

Auditor's Written Financial Report for August 2007

moved by Boose, seconded by Buescher to approve the Auditor's Written Financial Report for August 2007

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

Yes, 7 No, 0

Auditor Costin: Lastly, as the Mayor indicated, the Auditor of State did release our audit this past week. You were forwarded and should have all received a copy of this year's CAFR. It is highlighted in red. I assure you that is no way indicative of our year end financial position. We are just running out of colors to use. I would draw your attention to a myriad of additional information that has just been added this year for the use of administration cost on the citizens in section s. There is significantly more comparative information and information that is less technical than the front and it makes it much easier for the reader to compare, understand and view the trends of the City, which fortunately for us are headed in an upward direction overall, right now. That concludes my report and comments.

President Arndt: Thank you, Mr. Costin. Dr. Norris if you will read our other reports please.

Other Reports:

Clerk of Council Norris: Other reports before Council this evening include:

Police Department Summary Annual Report for June 2007.

President Arndt: Before we go on, the Chair wants to make a comment. Just as we've seen that our Engineer is quite a presenter and can make his point, our Police Chief, Mr. Thomas really has identified himself as a master at presentations and substance because the Chair has found this report that we have received to be rather detailed and thoughtful and lest anyone think that I am

sucking up to the Police Chief in hopes of avoiding any kind of citations, I would simply suggest that you visit his office and take a look at the report. Just as Mr. Costin has all these colorful descriptions, I believe that this is something that everybody in our community really needs to take a look at. Having said that, if you will continue on, Dr. Norris.

Clerk of Council Norris: Also, before Council this evening is the:

Mayor's Court Report for August 2007 and
Fire Department Report for August 2007.

Planning Commission Report to Council of regular meeting August 14, 2007:

APPLICANT: Clarence Watkins, P.E., Bramhall Engineering and Surveying Co., 801
Moore Road, Avon, Ohio, 44011
OWNER: FJD Properties LLC., 37000 Center Ridge Road
REQUEST: Preliminary plan approval to construct a 63-unit condominium
development to be known as Eagle Lake Condominiums
LOCATION: North of Center Ridge Road and on the east side of Meadow Lakes Blvd.
in a B-2 District
Permanent Parcel No. 07-00-033-101-014 and 07-00-033-101-015
PC ACTION: Approved by a vote of four to zero subject to a sidewalk being installed
along the parameter of the development to access the bike path; the
condominium documentation to be thorough in the maintenance
responsibility and the purchaser understanding those responsibilities; and
the parking in drives to be approved by Chief Building Official
moved by Jaenke, seconded by Manning to approve the Planning Commission action to
construct a 63-unit condominium development to be known as Eagle Lake
Condominiums

President Arndt: Is there any discussion?

Council Member Jaenke: Mr. President, a couple of comments. The Commission spent a considerable amount of time discussing the need for sidewalks. This is a private street situation where sidewalks are really not required. However, for the safety of the children that might be riding bikes or scooters, the developer did agree that he would install sidewalks on the perimeter, which would allow children to ride their bikes on the sidewalk, rather than in the street. That was a very positive move that the developer agreed to. In addition, this being a private project in terms of the streets; just so everyone is aware, that whenever there is a private community, such as this, the City is not responsible for maintaining the streets, snow plowing, the sewers and water lines. That is all maintained by the association. We have had problems in the past, whereby some of the existing private developments had difficulty with the winter snow and had a total misunderstanding that when you are talking about a private community, the City doesn't have that responsibility for maintenance. What they agreed to do was, that when they close on a property, that the condominium documents be very clear and that the buyer understands completely what the City's responsibilities are. There have been misunderstandings, where people have purchased condominiums in a private area and a year or two later they are asking

questions such as, why isn't the City plowing; why isn't the City maintaining the sewers, streets and water. This is an attempt to be sure that every buyer has a clear understanding of what they are purchasing and what the City's responsibilities are and that is all I have. Thank you.

Council Member Buescher: Mr. President, I believe from reading the minutes that it also was expressed that it must be made very clear that those are private streets in the final plan, rather than the responsibility of the City.

President Arndt: Are there any other comments?

Council Member Manning: Mr. President, I would just like to say that I appreciate Mr. Jaenke taking the time that he did, as I saw how he really pushed for those sidewalks and made sure that those things were discussed in great detail. I am glad you did that.

President Arndt: Any other comments or questions? Just a reminder, we have a motion on the floor by Mr. Jaenke and a second by Mrs. Manning. All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

President Arndt: Dr. Norris, if you will read our Council Committee report.

COUNCIL COMMITTEE REPORTS:

Clerk of Council Norris: We have a singular committee report tonight.

1) ADMINISTRATIVE COMMITTEE REPORT #5682 Members of Council: We have considered the matter of T 103, an ordinance creating the non-sworn part-time position of Services Division Assistant and recommend that this request be approved and T 103 be adopted by Council

Signed by Chairperson Olesen, members Jaenke and Boose

moved by Olesen, seconded by Jaenke to accept Administrative Committee Report #5682

President Arndt: Is there any discussion?

Council Member Olesen: Mr. President, I think that it is important to realize that this position is very important in the Police Department. It will be established without any new funding. It has already existed in the Police Department; therefore, there is no new monies to be expended to hire this person.

President Arndt: Any other comments? There being none, all those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

President Arndt: We now move to correspondence for which we have two. Dr. Norris, if you will begin with the first please.

CORRESPONDENCE:

Clerk of Council Norris: First item of correspondence this evening:

1) Received a letter from Council Member Dennis Boose submitting correspondence from

Donald and Diane Pischel of Olive Avenue stating their opposition to the proposed Burda rezoning request because they purchased their property in 2004 thinking they would have undeveloped land behind their home.

2) Received a letter from Council Member Dennis Boose expressing his opinion on the lack of followup on the review process of the pending sidewalk ordinance.

President Arndt: THE CHAIR REFERS THIS BACK TO STREETS, SIDEWALKS AND BRIDGES COMMITTEE.

Council Member Boose: Thank you.

President Arndt: There is no new business and we will now move to our audience participation section of our meeting tonight.

AUDIENCE PARTICIPATION (Lobby):

President Arndt: Any members of our audience tonight are invited to address your City Council. We request that you fill out the lobby form that you can find in the back corner of the room because it gives us the opportunity to contact you personally should there be a need to do so. You are now welcome to approach the podium immediately to the right of Mrs. Buescher and when you do come forward, please clearly state your name and address and limit your comments to three minutes. The lobby is now open for anybody who would like to address your City Council.

1) Gary Crumley of 37773 Avalon Drive explained that he was present tonight to followup on the petition consisting of 300 hundred names which he presented to Council referring to the opposition of Otten Road connecting Avalon Estates and Meadow Lakes. He was asked by the residents to provide them with status. He noted that he had conversations with Oster, the developer.

President Arndt: Is there any comment from the Mayor, Administration or Engineer at this particular point in time? Have you been in contact with them?

Gary Crumley: I have not.

Mayor Gillock: I would just make a comment in regard to terminology. We have not insisted that Oster put the street in. Oster came to the City and went through a long lengthy approval process to get the approval to put that street in. They appeared before Planning at least twice. It was before Council at least twice and it went through Public Hearings. They wanted to put the streets in and therefore, the project went through an entire approval process and right now it is not a dedicated street. It is a paper street. The Engineer has had discussions with Oster in regards to it. We haven't done anything more than that. The Fire Chief would like to see the road go in. We are still in discussions and decisions have not been made yet. If Oster wants to put that road in, they can put it in. Actually, this is the first that I have heard that they might be willing to reconsider. It would save them a lot of money not to put that road in. We will continue having discussions with them. We are not, at this point, insisting that they put that road in. I just wanted to clear that up.

Council Member Boose: Mr. President, just to clarify so that I understand correctly, if Oster decided not to put it in, would that be okay with the City?

Mayor Gillock: I can't say that at this point. We have not made a decision. The Fire Chief would like to see that road go in. We have other residents that would like to see that road go in. Even though there are 300 people on that petition, we have heard from others that have said that they want the road. It will be a cut through. They have felt that it would be more convenient. We haven't made that decision. Oster, at this point, has received approval for the plans of their development, which specifically called out a road to go there. That is what they applied for and that is what was approved by the Planning Commission. They have gone through the whole process. This project has reached almost 99 percent of completion and now we are trying to back up. Again, we have not made that decision at all.

Gary Crumley: Obviously, probably back in the day when this was going through the Planning Commission; when the residents were able to be here for the meeting, I'm sure the developments weren't in. People that are directly affected by that decision at that point in time, weren't there. We're here now. When I got those 300 signatures, it was a holiday weekend. I didn't hit everyone up. I'm sure I can get more, if that is what would be needed. However, when I talked with Mr. Eavenson, he said that if the City would allow them and say that it was okay not to connect, leave the ten feet and make a bike path, whatever, they would be willing to do it. I know the Fire Department and the Fire Chief want it. I think I said this the last time, there is no way that if there is a fire in Avalon or Meadow Lakes that the Fire Department is going to cut through; wind through either development to get to the other. I don't think that is an issue. As the Mayor just said, they want it as a cut through and that is the problem. We don't want the cut through. We already have a lot of traffic from people cutting through from Case to Stoney Ridge on Avalon. It's a development and I wish the City and the Mayor would remember that. It's a development, it's not a main street like 83, Case, Center Ridge and so forth. It's a development. It appears that the City wants this to become a nice major east-west cut through for the City and being a resident there, I disagree with that and as a development, I think it should be a development.

Safety-Service Director Johnson: I think that there might be a little loss of terminology here. The City would probably not allow, as Mr. Eavenson might be suggesting, that the road go in and a block be put in the middle so that it is a dead end from both ends. He has lots on both sides of that street, as I understand it, that he is going to have to improve. I doubt that he would just walk away from that. There has to be a difference in terminology between what he is saying and what the City is saying. If he is indeed willing to do something to accommodate the citizens, then he needs to come in and talk about it.

Mayor Gillock: Mr. President, during the Planning Commission process, Meadow Lakes Boulevard was designed to be a major thoroughfare. Ultimately, it was originally a 100 foot easement and it has been reduced to 80. However, you have utility easements outside of that. That road was originally designed to go from Otten down to Center Ridge. We never finished an engineering design. However, from there it would go to Sugar Ridge and then from there it continues on down to Waterbury; following the entire westerly sewer project. That was all part of that project and that was designed to be a major east-west route. It wasn't designed to be a development side street. It was constructed to be a major thoroughfare.

President Arndt: Mr. Crumley, it sounds to me like it would be wise if there's a way that you

could stay in touch with the Mayor to discover what that difference of language that we're hearing with the Oster people and the Administration. The best thing I think that we can suggest at this point, is that the road is not completed and at least if you can stay in touch with them and find out exactly what Oster is willing to do and what the City's long range plans are. I was not aware and I don't know if any one of us on Council were aware that, that is what the Fire Chief is looking for and that is something for us to absolutely have to consider.

Mayor Gillock: Mr. President, we will stay in communications with Gary and we will be talking to Oster, but to stop it, would take legislative action. We would have to go back through Planning and we are willing to do that. However, I just want everyone to be aware that it is not just a simple matter of saying don't build the street.

Gary Crumley: We're not asking them not to build the street. We're not trying to keep Oster from being able to build. We're just trying to keep the street from actually connecting the two developments. Such as, even if the street would go where they could put a few houses and then turn it into a bike path to connect the two developments. I don't know if that is possible. We're not trying to prevent Oster from building or change any plans on that aspect, because I don't know what that would entail. However, the residents don't want the traffic.

Council Member Olesen: Mr. President, I just thought that perhaps this is an item that the City Planner should review to determine whether this road is necessary, because if we cut ourselves off, are we going to pay for this in the future with some problems? We have done that on a lot of streets off Center Ridge, where they end and they don't go anywhere. People have to travel in and out the same way. I don't want to run into that kind of situation.

Council Member Butkowski: Mr. Chairman, lest we forget the fire that we had last year with the street that didn't connect.

President Arndt: Thank you. One more comment and that will be the end of the three minutes, because this is not really intended to be a debate other than to make certain that the facts are out as best we can.

Gary Crumley: Just relating to the fire, I believe the street was cut off and they had names on both ends of the cut off. A simple way to resolve that is to give the street in Avalon a different name. I just hope we can move on this because they are working on it now.

2) Dick Brent of 8659 Harris Drive gave praise to the wonderful job the City did in making the intersection at Bagley and Lorain a safer intersection. He expressed his concern relating to the dangerous intersection of Root Road and Reed Road and provided an example of almost being hit while coming onto Root Road from Reed Road. He asked if there were any plans on making that intersection safer, since other intersections have been worked on.

3) Ray McLaughlin of 7183 Kensington Drive spoke regarding his concerns with the current Planned Community Development legislation and asked Council to review this legislation by removing the PCD business section, the detention or retention ponds from being considered as green space and require that the lot sizes within the PCD be larger than what is required today.

4) Paul Papes of 5240 Lear Nagle spoke regarding a discussion that was held during the last Council meeting in reference to support cars.

President Arndt: Correct me if I'm wrong. We had no conversation about support cars or police cars. I do believe that there was a piece of legislation requesting approval to purchase a back hoe. A back hoe is separate from support cars.

Paul Papes: I would like to bring up the 25 mile an hour speed limit on Sugar Ridge and 83. How did they get a 25 mile an hour zone after they do their work with the stop light?

President Arndt: We can get some clarification from our Safety-Service Director.

Safety-Service Director Johnson: That is a temporary construction reduction for the safety of the construction crew.

Paul Papes: Then it isn't permanent?

Safety-Service Director Johnson: No.

Paul Papes: Okay, then I'll be out of here real quick, because this gentleman back here took all of my time anyway. My next one would be for Mrs. Manning. The last meeting I attended, you were very much in favor of a business industrial park for taxes. My question is, why haven't we gone in that direction? Why are we continually building, building, building and our taxes are going higher, higher and higher?

President Arndt: Mr. Papes, the opportunity for our lobby right now, is not to direct questions specifically to a particular Council person. It is to address issues related to the City and of course we hear that. It is about having clear communications. If you have an issue, you are welcome to bring it up. However, we are not going to allow directed questions to specific Council persons where they are being put on the spot.

Paul Papes: The reason I asked the name was because it was stated. One person stated it and I was just wondering that as a Council, why haven't we gone that direction. It seems like the best way to go. Surely, housing is not helping the schools. Housing isn't helping our tax structure. Unless, only to support the Police and Fire Unions, because that is the only thing that is going to increase. I would like to see more industry with a lower tax structure and who is ever behind all the building, I think it is the wrong direction to go. I didn't mean to imply anything with Mrs. Manning. I know others are for building and others are against building. I will withdraw my comments and I apologize if I offended you.

Council Member Manning: It is not a problem and I would be happy to answer that.

Paul Papes: I will be a little bit more cautious.

President Arndt: It is important that you really do speak up and we absolutely encourage that and some of the questions, that we hear when they come up on Council floor, are really not even possible to come up with a legitimate answer. In defense of Mrs. Manning or any one of us on Council, I want you to understand that this isn't an issue where you can't speak with your Council persons or you can't bring up an issue. On the contraire, we really encourage that. We encourage you to keep coming to every meeting.

Paul Papes: I will be here. Furthermore, you probably should have struck the last one, like I said about dialog, because you brought it up.

President Arndt: Thank you, for correcting me. I appreciate that. Anybody else in our lobby who would like to speak with your City Council, please feel free to come forward.

moved by Arndt, seconded by Boose to suspend By-Laws tonight to dispense with recess
President Arndt: Is there any discussion? All those in favor signify by yes. All those opposed by
no. Any abstentions?

Yes, 7 No, 0

RECESS: dispensed with

President Arndt: We now move into our ordinance and resolution submittals and Dr. Norris, if
you would please begin with our T 126.

ORDINANCES AND RESOLUTIONS:

• **Ordinances & Resolutions Submittals**

Clerk of Council Norris:

T 126-2007 AN ORDINANCE AMENDING NRCO SECTION 1030.09, ORDERS TO
TRIM, PRESERVE OR REMOVE [TREES].

President Arndt: THE CHAIR REFERS THIS TO BUILDING AND LANDS COMMITTEE.

T 127-2007 AN ORDINANCE AMENDING NRCO § 1242.99 PENALTY, AND MAKING
LIEN PROCEDURES APPLICABLE TO THE ZONING CODE.

T 128-2007 A RESOLUTION OF SUPPORT FOR OHIO PUBLIC WORKS COMMISSION
PROJECT PRIORITIES.

moved by Boose, seconded by Buescher to suspend our By-Laws tonight to give T 128
its first reading

President Arndt: Is there any discussion?

Mayor Gillock: Mr. President, each year we put in a request for funds from the Ohio Public
Works Commission. These are state funds that come through District 9 Integrating Committee,
which I serve on, as well as the Executive Committee. The Lorain County Engineer is the
Chairman of that. We get approximately 300,000 dollars each year for infrastructure
improvements. This year, we will be reconstructing Lorain Road from Bagley to Root Road. It
is substantially more than 300,000 dollars, in which we bonded the rest. However, that helps pay
for that phase. This particular request would be for next year's project. We are applying to do
the next phase of Lorain Road, which will go from Root Road to approximately Honeycut Drive.
That is approximately 1,000,000 dollars, of which the City would be looking at in excess of
600,000 dollars. Then, planning ahead in 2009 we would do the next phase, which would be
from Honeycut Drive to Island, which is where the pavement has been redone before. That
would complete the reconstruction of Lorain Road. We would like to get this passed this
evening with the emergency so that we can get that back into the pipeline for funding for next
year's project.

President Arndt: Thank you, Mr. Mayor. Yes, Mr. Johnson?

Safety-Service Director Johnson: I just want to clarify that I spoke before during my report, where I indicated that we are looking at funding this project from Bagley to Root. As the Mayor just mentioned, that already is in the works. This resolution refers to funding the improvement project from Root to Honeycut as the Mayor indicated.

Mayor Gillock: There is a minor typo on the Exhibit. On the back, where it lists the total cost and the City's portion, it refers to Issue 2 portion. This used to be called Issue 2. It is now referred to as Issue 1. However, I believe that is just a referral and we will make that correction. It doesn't change the resolution. I just wanted everyone to know that it is known as Issue 1 now.

President Arndt: Also, the Chair discovered that he made a mistake and called out T 127. For clarification purposes, so that we all know that we are voting on T 128. To recant the motion on floor, Mr. Boose made the motion, seconded by Mrs. Buescher to suspend our By-Laws tonight to give T 128 its first reading. All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

President Arndt: That concludes all of our ordinance and resolution submittals. We now move to our first readings. Dr. Norris, if you will begin with T 118, please.

- **First Readings**

Clerk of Council Norris:

T 118-2007 AN ORDINANCE AMENDING NRCO CHAPTER 1480, PROPERTY MAINTENANCE CODE, AND ADDING LIEN PROCEDURES AND ENHANCED ENFORCEMENT ABILITIES AGAINST REPEAT OFFENDERS.
First Reading

T 119-2007 AN ORDINANCE AMENDING NRCO § 650.02, PUBLIC NUISANCE PROHIBITED; NOTICE TO ABATE; COMPLIANCE, AND ADDING ENHANCED ENFORCEMENT ABILITIES AGAINST REPEAT OFFENDERS.
First Reading

T 120-2007 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH
4460-2007 RIDGEVILLE TO PURCHASE A NEW BACK HOE INCLUDING APPURTENANCES FROM THE STATE CO-OP, OR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT WITH AN OUTSIDE VENDOR ACCORDING TO LAW AND IN A MANNER PRESCRIBED BY LAW, NOT TO EXCEED \$77,000.00.
First Reading
moved by Mayor Gillock, seconded by Olesen to dispense with the second and third readings tonight on T 120

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 Olesen, seconded by Butkowski to adopt T 120

President Arndt: Is there any discussion?

Council Member Boose: Mr. President, just clarification to improve my recollection and perhaps the Auditor would know this. However, it is my recollection that we approved this in appropriations for up to 85,000 dollars. There is no problem with the funds being available. Is that correct?

Auditor Costin: That is absolutely correct. Great memory.

Council Member Boose: Thank you.

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

Yes, 7 No, 0

Clerk of Council Norris: T 120 is adopted and becoming permanent ordinance number 4460-2007.

Permanent Ordinance No. 4460-2007

T 121-2007 AN ORDINANCE AMENDING ORDINANCE NO. 4429-2007 OUTLINING
GENERAL REQUIREMENTS REGARDING LIENS.
First Reading

T 128-2007 A RESOLUTION OF SUPPORT FOR OHIO PUBLIC WORKS COMMISSION
1111-2007 PROJECT PRIORITIES.

First Reading

moved by Boose, seconded by Buescher to dispense with the second and third readings tonight on T 128

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

Yes, 7 No, 0

moved by Boose, seconded by Buescher to adopt tonight T 128

moved by Boose, seconded by Buescher to add the emergency in order to meet the deadline to qualify for grant funding

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

Yes, 7 No, 0

President Arndt: Additionally, we have a motion on the floor by Mr. Boose and a second by Mrs. Buescher to adopt tonight T 128 with the emergency. Is there any discussion? All those in favor signify by yes. All those opposed by no. Any abstentions?

Yes, 7 No, 0

Clerk of Council Norris: T 128 is adopted with the emergency becoming permanent resolution number 1111-2007.

Permanent Ordinance No. 1111-2007

President Arndt: That concludes all of our first readings. We are now on second readings. We have only one and that is T 115.

- **Second Readings**

Clerk of Council Norris:

T 115-2007 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH EATON TOWNSHIP TO CREATE AND PROVIDE FOR THE OPERATION OF A JOINT ECONOMIC DEVELOPMENT DISTRICT (JEDD) IN ACCORDANCE WITH THE OHIO REVISED CODE FOR THE MUTUAL BENEFIT OF THE RESIDENTS OF EATON TOWNSHIP AND THE CITY OF NORTH RIDGEVILLE.

Second Reading

President Arndt: That concludes all of our second readings. We move to our third readings tonight, beginning with T 64.

- **Third Readings**

Clerk of Council Norris:

T 64-2007 AN ORDINANCE AMENDING SECTION 1240.01 OF THE CODIFIED
4461-2007 ORDINANCES OF THE CITY OF NORTH RIDGEVILLE, OHIO KNOWN AS THE ZONING CODE ORDINANCE, TO RE-ZONE THE FOLLOWING LAND: 34626 CENTER RIDGE ROAD AND 34564 CENTER RIDGE ROAD, ALSO KNOWN AS PERMANENT PARCEL NUMBERS 07-00-016-101-007 AND NO. 07-00-016-101-008 (AS SHOWN BY LEGAL DESCRIPTION BELOW); FROM R-1 RESIDENCE DISTRICT TO B-3 HIGHWAY COMMERCIAL DISTRICT AND OWNED BY JOZSEF AND KATALIN BURDA.

Third Reading

moved by Jaenke, seconded by Manning to adopt tonight T 64

President Arndt: Is there any discussion?

Council Member Boose: Mr. President, just a reminder to yourself and other members of Council, that since I am an adjoining property owner to this property being considered for rezoning, I must abstain on the vote in order to avoid any potential conflict of interest.

President Arndt: I have that duly noted. Any other discussion? Will the Clerk please take roll.

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

Clerk of Council Norris: Motion is approved by a vote of six, zero and one abstention and T 64 becomes permanent ordinance number 4461-2007.

Permanent Ordinance Number 4461-2007

T 91-2007 AN ORDINANCE DEDICATING PERMANENT PARCEL NO. 07-00-020-138-
4462-2007 012 FOR PUBLIC PURPOSES.

Third Reading

moved by Jaenke, seconded by Manning to adopt tonight T 91

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

Yes, 7 No, 0

Clerk of Council Norris: T 91 is adopted and becomes permanent ordinance 4462-2007.
Permanent Ordinance No. 4462-2007

T 108-2007 AN ORDINANCE AMENDING NRCO SECTION 1046.06 BILLING TO ADD
4463-2007 THE LIEN PROCEDURES CONTAINED IN ORDINANCE NO. 4429-2007
FOR COLLECTING DELINQUENT DEBTS.

Third Reading

moved by Jaenke, seconded by Butkowski to adopt tonight T 108

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

Yes, 7 No, 0

Clerk of Council Norris: T 108 is adopted and becomes permanent ordinance 4463-2007.
Permanent Ordinance No. 4463-2007

T 109-2007 AN ORDINANCE AMENDING NRCO SECTION 1046.18 SECURITY
4464-2007 DEPOSITS.

Third Reading

moved by Butkowski, seconded by Olesen to adopt tonight T 109

President Arndt: Is there any discussion?

Council Member Boose: Mr. President, I just want to make a comment that this is one example of citizens making certain that their voices are heard and affecting legislation. Several months ago, a resident of our community came to lobby portion of our meeting and spoke on this very issue. It was submitted to the Utilities Committee and the report came out that this legislation should be brought out to make the changes recommended by this citizen and here we are this evening, voting on this particular issue. It does show that your voice is heard and that is democracy in action. Thank you.

President Arndt: Thank you, Mr. Boose. Are there any other comments? There being none, will the Clerk please take roll.

Yes, 7 No, 0

Clerk of Council Norris: T 109 is adopted by a vote of seven to zero and becomes permanent ordinance 4464-2007.

Permanent Ordinance No. 4464-2007

President Arndt: I have just received a note. We have completed all of our third readings. Mrs. Buescher has asked for a moment of time.

Council Member Buescher: Under old business.

OLD BUSINESS:

President Arndt: Under old business and the topic is?

Council Member Buescher: The last Council meeting.

President Arndt: Before we do that, then, since we don't have old business on our agenda, we need a motion on the floor to suspend our By-Laws to give you the opportunity to speak.

 moved by Boose, seconded by Butkowski to suspend our By-Laws to enter into old business comments by Mrs. Buescher

President Arndt: Is there any discussion? There being none, will the Clerk please take roll.

 Yes, 6 No, 1 (Arndt)

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

President Arndt: You are free to speak Mrs. Buescher.

Council Member Buescher: Thank you. I ask Council to bear with me on this important subject. The last City Council meeting was held the evening of September 4. On the morning of September 5, Chief Deputy Clerk of Council informed the members that the meeting minutes of the night before were not recorded. A procedure, which is standard practice for record keeping in this City. It is apparent that some minutes were recorded previous to and after the crucial portion of the recording which involved the discussion and vote concerning the Lorain Bagley nursing home project. Since this portion is missing, I will read for the record, word for word, what I read and gave copies to The Press that evening regarding this issue. Also, for the record, it has been reported from the Council office that viewers had difficulty either seeing or hearing the television meeting on the cable that evening. And so, I'll proceed.

A project at the corner of Bagley and Lorain Roads under the Special Development District Zoning classification has been recommended by the Planning Commission to City Council for approval of the preliminary plan. Special Development District legislation has specific and unique regulations which require in Chapter 1273.03 (a) of our Codified Ordinances that the preliminary plan shall indicate all uses proposed, the location and arrangement of all uses. Only non applicable items can be waived by the Commission. The City Planner indicated that not all the requirements were in place and others on the Planning Commission including the Law Director, the Assistant Law Director actually, were aware that not all requirements were in place as specified in the legislation. It was also acknowledged that the Commission was not familiar with the legislation itself. However, the Assistant Law Director ultimately told the Commission that they could waive anything until final approve and so, Councilman Jaenke made the motion to send everything on to final approval without anyone on the Commission even being aware of what was required to be in place at that meeting. The only logical thing to have done the evening of August 14, was to postpone the proposal of the applicant until such time as the Planning Commission could familiarize itself with the legislation so that all requirements would have been in place for presentation to the Planning Commission and ultimately to City Council for a vote at a later date. This evening, the only logical thing for Council to do is to vote no on what is an inadequate and incomplete recommendation by the Planning Commission. It will give the applicant time to get all his ducks in a row before coming back before the City for approval. If City Council should approve the recommendation of the Planning Commission, I will after the

vote make the motion to approve an outside legal opinion as is provided to City Council in the City Charter, which has been approved by a vote of the people as a safeguard for the taxpayers in this City. Since the Law Director, according to Charter, serves at the pleasure of the Mayor, this provision has been added because Council and the Administration are separate branches of government in cases such as this, no attorney can serve two masters. I will specifically request Attorney John Keyes Walker, who is familiar with the legislation, who cleaned up the original poorly written legislation and who rewrote it for Council in 2002. Then, after Council's 3-1-1 vote to accept the Planning Commission action, I made a motion to approve retaining an outside attorney as is provided to City Council in our Charter, specifically, Attorney John Keyes Walker of Elyria to advise on the validity of the decision of the Planning Commission to recommend approval of the preliminary plan of the August 14 meeting of the Commission and to provide a legal opinion on the Special Development District legislation in our Codified Ordinances. City Council did not second the motion. Mr. President, this evening, on the 17th of September, I again moved by Buescher, seconded by Butkowski to retain an outside attorney as is provided to City Council in our Charter; specifically, Attorney, John Keyes Walker of Elyria to advise on the validity of the decision of the Planning Commission to recommend approval of the preliminary plan of the August 14 meeting of the Commission and to provide a legal opinion on the Special Development District legislation in our Codified Ordinances

President Arndt: Is there any discussion?

Council Member Jaenke: Mr. President, if I remember correctly, I believe I asked our Law Director to give us his opinion as it relates to the legal action that the Planning Commission took that particular evening and if I recall, I think the Law Director indicated that the Planning Commission acted in a legal fashion. I am not sure if it is appropriate to have the Law Director comment again or not.

President Arndt: If he should so choose.

Law Director Crites: I'm satisfied on the response that I gave on that date. For the lack of a record, I will state that the answer to your question, Mrs. Buescher, is that in the 05 section of that ordinance, which I believe you may have failed to see. I don't have the ordinance in front of me, but the Special Development District ordinance is not limited to the first section. All the discussion that was held during that Planning Commission meeting was about the first section and whether or not something that can be waived and as to whether it is applicable or not. If you actually read the entire ordinance, which I suggest is a good practice if you intend to apply it to an application for a development in our City, you will see the 05 section, which is a broad grant of discretion given to the Planning Commission to do what Planning Commissions are supposed to do. That is to make good recommendations specific to the facts of every application to this Council, which has the ultimate deciding authority. Because the actions, albeit, not as smooth as it could have been at that Planning Commission meeting, I think largely for the point that you raised in that Planning Commission wasn't accustomed to dealing with that piece of legislation, the Special Development District legislation. That being the case, I believe that Planning Commission's actions fall well within their authority as Planning Commission and therefore would be upheld if ever challenged.

Council Member Butkowski: I seconded the motion to hire Mr. Keyes Walker simply for the fact

that this whole project is cloudy and while it is a viable project and everything, to keep its value, I think that we should just go ahead and hire Mr. Keyes Walker, who is very familiar with this Special Development District legislation because he did go over it and spent a lot of time on it. He straightened out a lot of things and Council accepted what he came back with. He is very familiar with government legislation. He works all over our County. He is a local Attorney. He was reasonably priced and he did a good timely job of going over it. If they want to get a quality project going, let's just be sure that everything is right so that we don't run into a problem down the line with it. Just send it to him. Let him take care of it and we could just move on with this without any clouds and questions about it.

Council Member Manning: As you know, I voted for this project. That is why I was surprised that Mr. Papes questioned me about it. Obviously, I am for business, rather than fighting it. I also think spending 2,000 dollars toward asking for a preliminary approval of a project that we have all seen and think is an excellent project, I think is a waste of our tax payer's money. So, I will be voting no.

Council Member Olesen: Mr. President, I too will be voting no because I think our Law Director has made his decision. It is a viable project and we can go ahead. I don't want to send another bad signal to developers wanting to bring business into our City.

Council Member Buescher: Mr. President, the bad signal is that the laws are not being followed in this City in our legislation and as far as what the Law Director said about the second section of that piece of legislation, it talks about adjustments and adjustments are minor changes. There haven't been any adjustments made. Things were just forwarded right on without even looking at what was required. In fact, some of the things weren't even listed that were required. The Assistant Law Director wasn't even aware of what was all required. That is messy, sloppy work and I feel that this Council should have no problem having the man who already had to correct this legislation look at it again and tell us exactly what it means because now any other Special Development applicant that comes forward is going to be able to have cart blanche in whatever he does. This is a real shame.

Council Member Boose: I would just ask if Mrs. Buescher could reread the first part of her motion. There are two parts of the motion and I just want to make sure that I understand the first part of it.

Council Member Buescher: To approve retaining an outside attorney as is provided to City Council in our Charter, to advise on the validity of the decision of the Planning Commission to recommend approval of the preliminary plan of the August 14 meeting of the Commission.

Council Member Boose: Mr. President, as I have stated numerous times on this particular subject, I must abstain on this to avoid any potential conflict of interest.

Mayor Gillock: Mr. President, I would like to make two points. One, the actions of the Planning Commission technically have not waived any of the requirements. They simply postponed them until the final development. They are still going to be required to provide all the information that was addressed in the first part of the ordinance. They are not being allowed to skip any of the steps. They simply have been allowed to postpone them. The other point I want to make is Mrs. Buescher talked about following our laws. This whole discussion in my opinion is highly irregular. Your By-Laws require you to follow Roberts Rules of Order, which do not allow you to go back and discuss an item that has already been voted on. This was voted on during the last

meeting and the issue was settled. The only way you can bring it back up for discussion is by a majority vote of the majority and Mrs. Buescher by not having minutes has effectively circumvented the Roberts Rules of Order to bring this up for discussion again and the whole discussion is factually highly irregular.

Council Member Buescher: Mr. President, it is also highly irregular that all the minutes have gone missing from the last meeting including the television recording. How do we have a record of this if we don't discuss it at this meeting.

Mayor Gillock: It is not required.

Council Member Buescher: I think it is required to the people that live in this City.

President Arndt: The Chair is going to call the question. We have a motion on the floor by Mrs. Buescher and a second by Mrs. Butkowski for the motion as she has described to hire outside counsel for advice on the validity of the actions of our Planning Commission and City Council. Will the Clerk please take roll. This is a motion to hire outside counsel. A yes vote means yes, we agree that, that is something that our Council needs or should be doing. A no vote is to say no, we are comfortable with the decision we have right now. Any confusion before we take a vote because I don't want to hear that again. That being the case, will the Clerk please take roll.

Yes, 2 No, 4 (Jaenke, Olesen, Manning, Arndt) Abstain, 1 (Boose)

Clerk of Council Norris: Motion fails by a vote of four to two and one abstention.

Council Member Buescher: Also, for the record I find it necessary to request an official written ruling by the Law Director concerning his opinion to accept the Planning Commission report to Council for a vote.

President Arndt: Would you state that once again. I am not certain I am clear on that.

Council Member Buescher: I want a ruling by the Law Director concerning his opinion to accept the Planning Commission report and send it to Council for a vote. We definitely need a written opinion.

President Arndt: That concludes all of our old business and Dr. Norris, if you will read our upcoming meeting announcements.

UPCOMING MEETING ANNOUNCEMENTS:

Clerk of Council Norris:

Next Regular Council Meeting Monday, October 1, 2007 at 7:30 P.M. in Council Chambers

Safety Committee meeting Monday, September 24, 2007 at 6:00 P.M.

Public Hearing to be held Monday, October 1, 2007 beginning at 7:15 P.M. in the following order:

- 1) T 118-2007, adding lien procedures and enhanced enforcement abilities against repeat offenders

- 2) T 121-2007, giving landowners 5 days to file an appeal with the Board of Zoning and Building Appeals after receiving a notice of intent to lien a property

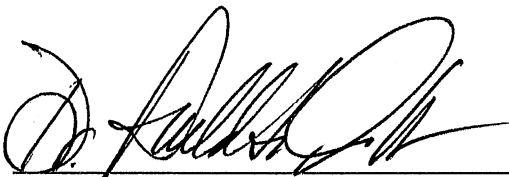
ADJOURN:

moved by Jaenke to adjourn

Meeting adjourned at 8:57 P.M.

MOTION Jaenke 2ND Olesen DATE October 1, 2007

YES 7 NO 0 ABSTAIN 0



PRESIDENT OF COUNCIL DR. RONALD F. ARNDT



CLERK OF COUNCIL CHARLES A. NORRIS