

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING SEPTEMBER 4, 2001**

CALL TO ORDER 7:30 P.M.

President of Council Jean Brown: I would like to call this North Ridgeville Municipal Council Regular meeting to order for September 4, year 2001. Please stand for the Invocation and the Pledge of Allegiance.

INVOCATION by Council President Brown.

PLEDGE OF ALLEGIANCE by all.

ROLL CALL

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

Absent was Council Member Larry Overby.

Also, present were Mayor Deanna Hill, Safety-Service Director Jim Johnson, Law Director Eric Zagrans, Auditor Chris Costin and Clerk of Council Jim White.

Clerk of Council White: I have a note from Mr. Overby that he has an emergency situation at work so, he will not be here.

MINUTES

Public Hearing Minutes of July 16, 2001 on the budget
motion by Borocz to accept 2nd by Swindig

President Brown: Any discussion? Take roll please

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero.

Regular Council Minutes of July 16, 2001

motion by Swindig to accept, 2nd by Borocz

President Brown: Discussion? Take roll please.

Yes, 6 No, 0

Council Clerk White: Motion carries six, zero.

Public Hearing Minutes of July 24, 2001 (Waterbury PCD)

motion by Borocz to accept, 2nd by Swindig

President Brown: Discussion? Take roll please, Mr. White.

Yes, 5 No, 0 Abstain, 1 (Butkowski)

Clerk of Council White: Motion carries six, zero.

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Council Member Butkowski: I abstained.

Clerk of Council White: Thank you. I went right by you. I apologize to you Mrs. Butkowski.
Did I hear you say that?

Council Member Butkowski: I abstain.

Clerk of Council White: Thank you. I deeply apologize.

Special Council Minutes of July 24, 2001 (T 99-2001)

motion by Swindig to accept, 2nd by Borocz

President Brown: Discussion? Please take roll

Yes, 4 No, 0 Abstain, 2 (Butkowski, Gillock)

Clerk of Council White: Motion carries four, zero, two.

Special Council Minutes of July 24, 2001 (T 107-2001)

motion by Borocz

(inaudible)

President Brown: Well, I don't know. Would it be easier if we did that?

Law Director Zagrans: If there's no objection.

President Brown: Would there be an objection from anyone if we took all the twenty-fourth's together and all the thirty-first's together?

Council Member Minnick: No, twenty-fourth would be okay. Thirty-first I have some comments on.

President Brown: Okay. We'll do both of these twenty-fourth's then, 106 and 108. I need a motion now for both of them.

motion to by Borocz to accept, 2nd by Swindig

President Brown: Discussion?

Council Member Butkowski: Madame President, I think you have to vote on 107 yet too.

President Brown: I thought we did that one.

Clerk of Council White: No, we didn't, 99.

President Brown: Can I include that in then, 107?

Council Member Borocz: Yes.

President Brown: That's all for the 24th of July.

Council Member Minnick: Madame President, I think we need to clarify we're doing T 107, T 106 and T 108.

President Brown: Okay. Thank you. No other discussion, please take roll.

Special Council Minutes of July 24, 2001 (T 107-2001)

Special Council Minutes of July 24, 2001 (T 106-2001)

Special Council Minutes of July 24, 2001 (T 108-2001)

Yes, 4 No, 0 Abstain, 2 (Butkowski, Gillock)

Clerk of Council White: Motion carries four, zero, two for T 107, T 106 and T 108 meetings of July 24th.

President Brown: We have eight for July 31st. Can we bunch some of them together or do we have to do them all separate, Mr. Zagrans?

Law Director Zagrans: Again, if there's no problem in taking them together, as long as there is no objection. If people have corrections or comments to the minutes, they can specify which of the ones they want to address.

Council Member Minnick: Madame President, I have a correction on T 109.

President Brown: T 109, you want to give it to us? First we have to have, make a motion. Let's make a motion to accept T 109, T 110, T 111, T 112, T 113, T 114. That's it because the other ones are special work sessions.

Special Council Minutes of July 31, 2001 (T 109-2001)

Special Council Minutes of July 31, 2001 (T 110-2001)

Special Council Minutes of July 31, 2001 (T 111-2001)

Special Council Minutes of July 31, 2001 (T 112-2001)

Special Council Minutes of July 31, 2001 (T 113-2001)

Special Council Minutes of July 31, 2001 (T 114-2001)

motion to accept by Borocz, 2nd by Swindig

President Brown: Discussion?

Council Member Minnick: I have a correction on T 109-2001. Page six, line 18, it ends in this entire sorted, it's suppose to be sordid, affair. Then, on line 23, after, I'm sorry page six, line 23, that is an absolute lie and you are not to lie about my voting record.

President Brown: Line 23, page six.

Council Member Minnick: It's on there. It says, not to make dot, dot, dot. It should read, you are not to lie about my voting record. Then, on page seven, line four, after President Brown, Thank you, I said I have another comment and Mrs. Brown said I'd like to call for the vote please. That's all I have.

Clerk of Council White: Before I continue, does any of the rest of Council have any objections to any of these last few, there was stuff added in. The first one I can accept. If no one does then that's fine.

President Brown: Anyone? Please take roll. This is on all the ones for the thirty-first that have numbers.

Council Member Minnick: Could you read one more time what these all entail?

Clerk of Council White: T 109-2001, T 110-2001, T 111-2001, T 112-2001, T 113-2001 and T 114-2001. All on July 31st.

President Brown: Roll.

Yes, 5 No, 0 Abstain, 1 (Gillock)

Clerk of Council White: Five, zero, one.

Special Council Minutes of July 31, 2001 (Executive Session)

motion by Swindig to accept, 2nd by Borocz

President Brown: Discussion? Take roll please.

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Yes, 3 No, 0 Abstain, 3 (Butkowski, Gillock, Brown)

Clerk of Council White: Three, three.

Special Council Minutes of July 31, 2001 (Work Session)

motion by Swindig to accept, 2nd by Borocz

President Brown: Discussion?

Yes, 3 No, 0 Abstain, 3 (Butkowski, Gillock, Brown)

Clerk of Council White: Three, zero, three.

President Brown: We have seven for August 2nd. Do I have a motion to accept?

Clerk of Council White: Let's go ahead like they've asked. On August 2nd we're addressing T 109-2001, T 110-2001, T 112-2001, T 114-2001, T 99-2001, T 106-2001 and T 96-2001.

Special Council Minutes of August 2, 2001 (T 109-2001)

Special Council Minutes of August 2, 2001 (T 110-2001)

Special Council Minutes of August 2, 2001 (T 112-2001)

Special Council Minutes of August 2, 2001 (T 114-2001)

Special Council Minutes of August 2, 2001 (T 99-2001)

Special Council Minutes of August 2, 2001 (T 106-2001)

Special Council Minutes of August 2, 2001 (T 96-2001)

motion by Borocz to accept, 2nd by Swindig

President Brown: Discussion? Please take roll.

Yes, 3 No, 0 Abstain, 3 (Minnick, Butkowski, Gillock)

Clerk of Council White: Three, zero, three for T 109, T 110, T 112, T 114, T 99, T 106 and T 96.

Special Council Minutes of August 8, 2001 (T 109-2001)

Special Council Minutes of August 8, 2001 (T 110-2001)

Special Council Minutes of August 8, 2001 (T 112-2001)

Special Council Minutes of August 8, 2001 (T 114-2001)

Special Council Minutes of August 8, 2001 (T 115-2001)

Special Council Minutes of August 8, 2001 (T 116-2001)

Special Council Minutes of August 8, 2001 (T 117-2001)

motion by Borocz to accept, 2nd by Swindig

President Brown: Discussion? Please take roll on the August 8.

Yes, 6 No, 0 Abstain, 0

Clerk of Council White: Motion carries six, zero. The last one on your agenda, it says, Council Minutes of August 8th, those are Council minutes of August 23rd.

Special Council Minutes of August 23, 2001 (FCWTP Expansion)

motion by Swindig to accept, 2nd by Gillock

President Brown: Any discussion? This is on the French Creek Wastewater Treatment Plant.

Anyone? Please take roll.

Yes, 4 No, 0 Abstain, 2 (Minnick, Butkowski)

Clerk of Council White: Motion carries four, zero, two.

President Brown: Please note:

Civil Service Commission Minutes of July 17, 2001 and August 28, 2001;

Planning Commission Minutes of August 2, 2001, August 14, 2001 and August 27, 2001;

Parks & Recreation Commission Minutes of June 27, 2001 and July 25, 2001;

Board of Zoning & Building Appeals Minutes of June 28, 2001 and Regular and Special Minutes of July 26, 2001, and August 23, 2001;

COMMITTEE REPORTS None

MAYORS REPORT

Mayor Hill: Thank you President. The Western Reserve Area Agency on Aging performed a monitoring visit of our Center for Older Adults to identify noncompliance or recommendations for improvement as they do on an annual basis. Again, our Center shines. There were no noncompliance problems, no recommended plan of corrective action, no recommendations or suggestions for improvement or services enhancement. The only comments were that all documentation requirements meet the standards and quote, the program continues to be well organized and provides excellent services for the community of North Ridgeville. Keep up the good work, end quote. Thank you to the Director, Sally Balog, and the staff at the center.

For the second time, we have been awarded the maximum amount allowable for the Community Housing Improvement Program. This is the program that provides funds for private home rehabilitation, emergency repairs and first-time home buyers. The award is based on demonstrated need and successful and effective administration of the program monies. We were the only community in this region to receive the funding. Last time the maximum, which we received, was for six hundred thousand dollars. The Ohio Department of Development has dropped the maximum to five hundred thousand, but at the same time permits larger expenditures for individual applicants. With the last round, we had a long waiting list of applicants that did not receive the money because the awards are based on need balanced against income levels and others were more qualified. Some were not awarded because the expenditures were greater than those permitted under federal guidelines. We are hoping to help those who remained on the waiting list or new applicants beginning this fall. Remember, the program is for those who are buying a home for the first time or who can't afford to make home repairs that are needed and that includes many of our seniors who would be forced to leave their homes without this financial aid. You may call our City Treasurer, that's Jim McVeigh, at 353-0854. That's 353-0854 for more information.

motion by Mayor Hill to adjourn into executive session to discuss personnel immediately,

2nd by Borocz

President Brown: Discussion? Take roll please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero to adjourn to Executive Session.

Council adjourned into Executive Session at 7:45 P.M.

Council reconvened from Executive Session at 7:51 P.M.

President Brown: I need a motion, Mayor, to accept Mr. Beutler.

Mayor Hill: Yes, at this time I'm nominating Mr. Thomas Beutler, who sits right here in front of me, for City Engineer. Mr. Beutler has extensive experience in design of storm water, wastewater, roadway, drainage and water line projects. He has also served as project manager and reviewer for residential, commercial and industrial sites. Mr. Beutler has prepared bid documents and grant applications for a variety of city projects. He has served as consultant and city engineer for Garfield Heights, Hudson during its high-growth period and merger, and Munroe Falls.

motion by Mayor Hill to appoint Mr. Beutler as City Engineer, 2nd by Borocz

President Brown: Any discussion? Please take roll.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. Mr. Beutler is now our City Engineer. Thank you.

President Brown: Welcome aboard.

Mayor Hill: Congratulations and welcome to our family. Thank concludes my report.

President Brown: Thank you Mayor. Safety-Service Director, Mr. Johnson.

SAFETY SERVICE DIRECTOR'S REPORT

Safety-Service Director Johnson: Thank you, Madame President. Ditch cleaning and piping was performed on Ridge Plaza, Root, Highland, Jaycox, Route 83, Poplar, Wallace, Forest Park and the Hamker ditch.

There were 16 water breaks in the last seven weeks and two hydrant repairs.

Concrete pads were poured on Opal, Pearl and Dorchester.

Partial depth repair was performed on Emerald, Opal, Wil-Lou and Dorchester.

The following streets were paved, Ridge Plaza, Aurensen and Wallace.

Catch basin work was done on the following streets, Spruce, Washington and Cary.

Sanitary sewers were cleaned on Blanchard, Davis, Lincoln and Main Street.

Storm lines were cleaned on Bainbridge, Race, Sugar Ridge and relocated 83.

Spot berming, street patching, roadside mowing, landscaping and weed whipping took place as manpower and time allowed and that concludes my report.

President Brown: Thank you Mr. Johnson. Do we have an Engineer's report tonight? Auditor's Report, Mr. Costin.

ENGINEER'S REPORT None

AUDITOR'S REPORT

Auditor Costin: Thank you Madame Chairman. The first item of business is the July Financial Report which Council should have received.

Auditor's Written Financial Report for July 2001
motion by Swindig to accept, 2nd by Butkowski

President Brown: Discussion? Take roll please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero to accept.

Auditor Costin: One other item of financial business. Under new business you'll find T 124, 125, 126, 127, 128. These deal with the issuance of bonds to pay off our maturing bond anticipation notes. I would request that the Council suspend rules to have its first reading and pass each of these tonight with the emergency so that we can embark on our application to Moody Investor Services for our bond rating and to avail the City of the unusually low interest rates that are in effect at this present time. So, I would request the Council for your consideration of passage of each of these tonight with the emergency. I had indicated several times in the past that this was our plan and the timing, I'm sorry it's last minute again in this particular case due to our obvious recess. But, with that in mind, I believe you were aware they were coming and we are on budget. It's a tight budget. We are on budget to proceed with the issuance of the bonds. All of our notes that we've issued in the last two or so years have been lined up to expire simultaneously to be paid off with these bonds. Thank you.

President Brown: Thank you Mr. Costin.

Clerk of Council White: That's 125, 126, 127 and 128. Those four.

Auditor Costin: One twenty-four, five, six, seven, eight.

Clerk of Council White: Twenty-four also, okay. Thank you.

President Brown: Thank you Mr. Costin. Law Director, Mr. Zagrans, your report.

LAW DIRECTOR'S REPORT

Law Director Zagrans: Thank you. A lot happened since the last regular Council meeting and the City's legal scorecard during that period of time shows one victory, no defeats and two no decisions as of yet. First, the City's victory took place in the Ohio Supreme Court on August 23rd the Supreme Court ruled in favor of the City by a six to one vote in dismissing a suit by members of STAMP and their attorney that challenged the Meadow Lakes and Waterbury PCD preliminary plan approvals. Although the City had filed a declaratory judgment action in last

December that sought the guidance of the courts on the question of whether the emergency passage of the two PCD ordinances complied with the City Charter and Ohio law, STAMP waited over six months until June 2001 to file a mandamus action in the Supreme Court that attempted to short-circuit the City's declaratory judgement action. STAMP and Mr. Phillips asked the Supreme Court to order the City to put the two PCD ordinances on the November 2001 ballot. In contrast, the City sought dismissal of the mandamus case. In its August 23rd ruling, the Supreme Court sided with the City and dismissed the STAMP mandamus case. After first rejecting Mr. Phillips' contention that the City's answer was filed two days too late, six of the seven Justices of the Court agreed that the mandamus action was not justified and should be dismissed. Now, by the way this dismissal follows on the heels of the Supreme Court's unanimous rejection back on May 23rd of an earlier mandamus challenge to the same two ordinances. That challenge brought by Mr. Phillips and his clients had asked the Court to compel the City to remove what Mr. Phillips' called, quote, the illegal notations of PCD zoning for the Waterbury and Meadow Lakes developments from the City's official zoning map, close quote. The Supreme Court dismissed that previous case and ruled that the City had no duty to remove the PCD classification from the zoning map. In fact, the Court ruled that Jim White, the Clerk of Council had precisely the opposite duty under City ordinances. In this current case, the Supreme Court vindicated the City's position on two issues. First, the procedural point that the City's answer was timely filed in the face of the claims that it was late and second, on the more important substantive point that the two challenged ordinances were validly adopted as emergency measures, and therefore were not the proper subject of a referendum.

Second, the City's first no decision came at the hands of the Lorain County Board of Elections. On a two to two tie vote along party lines, the Board of Elections neither sustained nor overruled a protest to the City's request that it place three proposed Charter amendments on the ballot at the next General Election on November 6, 2001. The Charter Review Committee, as Members of Council will recall, chaired by former Mayor Noll determined that these three amendments along with three others should be submitted to the voters and be adopted. Once such a determination has been made in the exercise of the Charter Review Committee's judgment, Section 16.1 of the City Charter is clear about what must happen next. I quote, Council shall submit to the electors any such proposed amendments to the Charter at the next regular November election, end quote. City Council, as I ruled previously has no choice and no discretion in the matter. Council may not substitute its judgement for that of the Charter Review Committee regarding the wisdom or efficacy of any proposed Charter amendment. If the Committee determines the amendments should be made, then Council's duty is to submit the proposed amendment to the Electors at the next General Election. Since our Charter mandates that it has to go on the November Ballot, I urged Council to adopt them by emergency to avoid any possible problem with getting them on the November ballot. While Council adopted the other three proposed amendments by emergency, if failed to do so with regard to the three proposed amendments in question. However, while adoption of these three ordinances as emergency measures would have prevented the present controversy from ever materializing, Council's failure to adopt them as emergency

measures turns out not to be decisive under these circumstances. I'll explain why. On August 9th, the day after they were duly enacted, the Clerk of Council took certified copies of Ordinance Numbers 3716, 3718 and 3719 to the Board of Elections and notified the Board that City Council had approved placing these three proposed Charter amendments on the November ballot. These three ordinances become effective this coming Friday, September 7, 2001 which is the 60th day before the November 6th General Election. The Ohio Revised Code requires that the form of official ballots which will be used at a General Election must be certified by the 60th day before the election. Therefore, the submission to the Board of Elections is timely and valid, in my opinion, because the ordinances authorizing the amendments to go before the voters become effective on the last day for certifying ballots under Ohio law and therefore is timely. Second, regardless of the effective date of the ordinances coinciding with the date for certifying the ballots, Section 3.13 of our City Charter specifically allows the City to give immediate notice of an ordinance as soon as it has been enacted regardless of whether it's an emergency. That is exactly what the City did. It gave notice to the Board of Elections the day after the three ordinances were enacted. The Board of Elections was thus on notice two weeks before its claimed August 23rd deadline that City Council had authorized these three proposed Charter amendments to go on the November ballot, and that such Council authorization would become legally effective a full two months before the election and in time for the form of ballot to include these proposed amendments. Under these circumstances, failing to place these issues on the November 6th ballot would violate the requirements of Section 16.1 of our Charter. That's the position that the City took. The issue now goes to Secretary of State Kenneth Blackwell in Columbus to break the tie. We hope that Mr. Blackwell will uphold the City's position and order these proposed Charter amendments to be submitted to the voters at the November 6th General Election.

The final no decision involves a new, recently-filed lawsuit you may have heard about. On August 22nd, six members of STAMP together with Council Member Minnick sued the City of North Ridgeville, the Mayor and the Council President in Federal District court in Cleveland. Represented by the ACLU, they allege that two out of the 37 rules adopted by City Council on December 16, 2000, are unconstitutional on their face because they violate the free speech rights of members of the public and of City Council, respectively. Council Rule III(5), part of the Rules governing public comment during lobby sessions, states in relevant part, quote, no one addressing Council shall use offensive or inappropriate language or engage in any profane, vulgar or offensive act or display at any time in any manner whatever. In addressing Council, no one shall be permitted to impugn the motives, character or integrity of any other person, end quote. Now, this rule should be understood in the light of Council's express statement of findings and declaration of policy that accompanied the Rules. I'll quote just a small part of that policy to refresh your recollection. Quote, City Council finds and declares as its policy its determination to provide greater access to public information and greater public participation at its public meetings than is minimally required by law. At the same time, Council certifies that it may lawfully and constitutionally impose reasonable time, place and manner restrictions and

regulations on such public meetings. We therefore declare, promulgate and adopt, pursuant to the provisions of Section 3.11 of the City Charter, the following Rules for the conduct of City Council meetings as necessary for our ability to have orderly and appropriate official proceedings, and in furtherance of our legal power, authority and responsibility to regulate such public meetings. While the public's freedom to question, critique or criticize the official acts of Council, the Administration or any public official is beyond doubt and shall not be abridged or denied, this right is subject to proper rules requiring decorum and civility in public debate and discourse. Accordingly, the right to criticize does not mean a license to indulge in personal abuses or ridicule. Civility and decorum in public discourse must be maintained at all times during Council meetings, end of quote. A similar rule, as you will recall, was adopted pursuant to the same policy considerations for Members of Council. Let's talk about what the First Amendment means a little bit. The First Amendment to the Constitution which was adopted in 1791, provides in relevant part, quote, Congress shall make no law abridging the freedom of speech or of the press, end quote. The strictures of the First Amendment are also binding on state and local governments by their incorporation into the due process clause of the Fourteenth Amendment. As Justice Harlan wrote, the constitutional right of free expression puts the decision as to what views shall be voiced largely in the hands of each of us, in the hope that use of such freedom will ultimately produce a more capable citizenry and more perfect polity, and in the belief that no other approach would comport with the premise of individual dignity and choice upon which our political system rests. This statement echoes the masterful words of Justice Brandeis some 75 years ago, I quote, those who won our independence believed that the final end of the State was to make men free to develop their faculties. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty. Justice Brandeis wisely went on to defend, quote, freedom to think as you will and to speak as you think, end quote. As a means indispensable to the discovery and spread of political truth and as essential both to the stable government and to political change. Freedom of speech is central to the workings of a tolerant society and a responsive and responsible democracy. While protecting a rich variety of expressional modes, however, the First Amendment has never been viewed as offering absolute protection to all expression or all speech. Even those who believe the First Amendment is an absolute, as for example Professor Alexander Meiklejohn, confine their beliefs to a limited category of discourse or expression. Regardless of the mantra that we all hear, we live in a free Country or we're free to speak as we please, the First Amendment does not protect someone who incites a panic by falsely shouting fire in a crowded movie theater. No one can slander or defame another person's name or reputation without being liable in damages. These restrictions on freedom of speech are accepted and non-controversial. So, let's consider the proper contours of our First Amendment freedoms. We need to examine the kinds of actions that governments can take, and then analyze whether the First Amendment allows or forbids such government action. Government, including a City government can abridge speech in either of two ways. First, government can take action aimed at specific ideas, messages or viewpoints. The Sedition Act of 1798, making it illegal to criticize the government, is an example of this. This first form of abridgement encompasses governmental actions aimed

at communicative impact. Second, government can constrict the flow of information and ideas while pursuing other goals, either by limiting an activity through which information and ideas might be conveyed, or by enforcing rules that discourage the communication of ideas or information. A ban on loudspeakers in a residential neighborhood is an example of the former; limits on campaign contributions is an example of the latter. This second kind of abridgement involves governmental action aimed at non-communicative impact, which nevertheless has adverse effects on communicative opportunity. With respect to the first way, any adverse government action aimed at communicative impact presumptively violates the First Amendment. Ordinarily at least, government has no power to restrict expression because of its message, its ideas, its subject matter, or its content. However, to declare that the First Amendment completely forecloses governmental regulation of speech because of its content is ultimately an untenable position because that's exactly what's done in the areas of defamation, obscenity and commercial speech. Therefore, if a government regulation is aimed at the communicative impact of a speech or an act, the regulation is unconstitutional unless the government shows that the message being suppressed, one, poses a clear and present danger, two, constitutes a defamatory falsehood, or three, otherwise falls on the unprotected side of the line that the Courts have drawn to distinguish protected expression from unprotected expression. A governmental action belonging to the second category of regulation is of a different order altogether. If a ban on noisy picketing in a hospital zone is considered acceptable by most people, the reason must be that the harmful consequences of this particular form of expressive behavior, quite apart from any ideas that would be conveyed by it, outweigh the good. This balancing of the harm versus the benefits is precisely the kind of test that the Courts have sanctioned. A balancing of competing interests. The First Amendment doesn't make the choice for us. Instead the First Amendment acts as kind of a thumb on the scale to assure that the balance struck in any particular situation properly reflects the importance of free expression in our society. This balancing is done on a case by case basis. That brings us to the case of the rules of Council. The Council Rules challenged by the STAMP lawsuit are aimed, not at the content of speech as such, but at the time place and manner of speech, so as to ensure the orderly presentation of public comment and debate during the business meetings of City Council. They do so in three ways. First, the Rules regulate place, in that they allow the public to address Council during each City Council meeting. It may come as a surprise to some, but the public does not have a First Amendment right to speak during a City Council meeting. A person's right to attend a public meeting under the Ohio Open Meetings Act, that's the so-called Sunshine Law, does not translate into his or her right to be heard at such a meeting. Indeed, many cities do not permit public comment or address of any kind during their Council meetings. So, the North Ridgeville City Council accords its citizens greater rights than it is legally or constitutionally required to do by permitting the public to speak to Council and to the Administration during City Council meetings. But, having been granted the right of access and a right to speak during such public meetings, a person can forfeit such rights by behaving in a disruptive or disturbing manner. As the Court of Appeals for Cuyahoga County has held, City Council has the legal right to conduct an orderly meeting, quote, this right extends even to the point of requesting that an individual leave a council meeting or having him

physically removed if necessary. The right to regulate its own meetings is an inherent part of City Council's power to make decisions and pass laws. Otherwise, Council's powers would be hampered by any individual who chose to interject chaos into an orderly, productive assembly, close quote. Some commentators have referred to this circumstance as the hecklers veto and the decision of the Court of Appeals for Cuyahoga County effectively states that Council can take measures to avoid or eliminate the hecklers veto. The second thing the Council Rule does is regulate the time of public speech to Council. Members of the public are not permitted to request or take the floor whenever they choose or talk for as long as they wish. Nor are they allowed to shout out their thoughts or comments from their seats whenever they want during the meeting. The public is permitted to address Council only during the lobby session of the meeting agenda and only for two minutes per speaker on any single topic. This limitation on the time devoted to public speech during a Council meeting is necessary in order to conduct the Council business in an orderly fashion. However, the Rule expresses no limitation on the total amount of time to be devoted to a lobby session, and indeed regular observers of City Council meetings will confirm that lobby sessions during the last two years have sometimes lasted as long as 45 minutes or an hour, in total. Finally, and now we come to the nub of what the Court case challenges. The Council Rules regulate the manner in which the public is permitted to address Council. Contrary to the popular and trite misconception, the Rule does not silence those who don't have something nice to say about Council or about the Administration. It does not stifle criticism, opposition, dissension, disagreement or complaints. It does not authorize or countenance censorship of ideas or information based on the content of the views expressed. Similarly, the Rule does not target or silence any particular group or class of speakers. It dictates neither the subjects about which persons may speak nor the speakers who may address Council. All of these features and aspects of the Rules are consistent with the central axiom of the First Amendment. A government lacks constitutional power to silence its critics, or in James Madison's memorable phrase, quote, the censorial power is in the people over the government, and not in the government over the people. Anyone speaking at a Council meeting is free to criticize whomever or whatever they wish for any and every reason they can articulate. As anyone who has ever attended a North Ridgeville City Council meeting knows quite well, strenuous, even strident criticism of various public officials and members of Council on a wide range of issues is free flowing and incessant. The lobby sessions turn into a parade of people voicing their complaints about the Mayor, the Safety Service Director, the Law Director, Members of Council, and occasionally others. People have criticized the Mayor's programs and policies, pressed for her recall, urged the Law Director to resign, advocated the defeat of various Council Members at the next elections, all without being silenced or told to stop. The Rules are not aimed at such expressions of public or political objection or discontent. Rather, the two Rules are narrowly and precisely drawn to create a close nexus between their means and their legitimate ends which is the compelling governmental interest in having orderly City Council meetings at which the important public business of the City may be conducted. They are efficacious means to achieve permissible objections, and are narrowly aimed at those permissive objectives so as not unnecessarily to reach expressive conduct protected by the First Amendment. Expression has special value only in the context of a

dialogue, communication in which the participants seek to persuade, or are persuaded. Communication, which is about changing or maintaining beliefs, or taking or refusing to take action on the basis of one's beliefs. It is not plausible to uphold the right to use words as projectiles where no exchange of views is involved. Should a racial or religious slur be permitted to be uttered towards someone in Council Chambers? I should hope that the answer of every reasonable and intelligent person to that rhetorical question would be self-evident. The harm that is sought to be prevented by the Rules forbidding offensive or abusive language or name-calling cannot be prevented or remedied by dialogue or by more speech. The very specter of such an exchange. One person saying, you're a subhuman jerk, I am not, are too, am not, is too immature and unseemly to imagine. Such speech, does absolutely nothing to advance an exchange of ideas. It is speech that hurts. Speech used as a weapon rather than speech that communicates. It is therefore, speech that is outside the purview of the First Amendment. Similarly, verbal assaults on privacy, personality and reputation are within the same category where the very utterance itself causes injury that no further dialogue is likely to redress. A lie once loosed is hardly quelled by self-serving denials, and an attack on one's personality or reputation once made is like a bell that, once it is rung, cannot be unrung. This is not just the Law Director's opinion. The United States Supreme Court upheld the criminal conviction, under a New Hampshire law prohibiting insults in a public place, of a person who called a city official a racketeer and a damned fascist. It upheld the criminal conviction of the speaker of those words. Such epithets were termed fighting words by the Court, a class of provocations which are not part of human discourse but in reality are weapons hurled to inflict injury or invite retaliation. Thus, they are not protected speech within the meaning of the First Amendment. The two rules in question were modeled on the Rules of Conduct adopted by the Congress of the United States in Washington and the Ohio General Assembly in Columbus for conducting their own legislative sessions. If it's good enough for Congress and the Ohio legislature, how can it not be good enough for North Ridgeville? Accordingly, the lawsuit brought by Mrs. Minnick, the six STAMP members and the ACLU to challenge these two Council Rules is, in my judgment, unfortunate and without merit. Thank you for your attention to these lengthy matters. That mercifully concludes my report.

President Brown: Thank you Mr. Zagrans.

OTHER REPORTS

President Brown: Please note:

Water Operations Report for June and July 2001;

Fire Department Report for June and July 2001;

Mayor's Court Operating Trust Fund/Bail Trust Fund Report for July 2001;

Police Department Support Car Report for July 2001;

Police Department Activity Report for July 2001; and

Mayor's Court Case Report for July 2001.

Parks & Recreation Commission Liaison Report: None

Mr. Overby is not here tonight for the Parks and Recreation Commission Liaison Report.

Senior Citizens Advisory Board Liaison Report:

President Brown: As Senior Citizen Advisory Liaison, I'd like to advise you that on September 21st from five to 7 P.M. there will be a spaghetti supper at the Senior Center.

Planning Commission Liaison Report:

Council Member Gillock: We have several items tonight. I'm sure there's no way we can just combine these into one motion can we? I didn't think so. First one is, from Planning Commission Report of August 2, 2001:

APPLICANT: SprintCom, Inc., 9801 W. Higgins #220, Chicago, IL 60018
 Lesley Gordon, Agent
OWNER: City of North Ridgeville
REQUEST: Co-locate antennas at 150 foot on existing 300 foot guyed lattice
 tower located behind the Service Garage on Kensington.
LOCATION: Kensington Drive, Permanent Parcel No. 07-00-016-104-030
PC ACTION: Application was approved.
 motion by Gillock to approve, 2nd Borocz

President Brown: Discussion? Please take roll.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero.

Council Member Gillock: Second one is:

APPLICANT: Eugene & Julia Kleinholz, 7324 Dyke Avenue
OWNER: Eugene & Julia Kleinholz, 7324 Dyke Avenue
REQUEST: Vacate Elmer Avenue, west of Dyke Avenue
LOCATION: Elmer Avenue, west of Dyke Avenue
 Permanent Parcel No. 07-00-045-105-022, 017 and 018
PC ACTION: Application was approved contingent upon lots being plotted so
 they are no longer landlocked.

motion by Gillock to approve, 2nd by Swindig

President Brown: Discussion? Please take roll.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero.

Council Member Gillock: Next one is:

APPLICANT: All American Sports Center, LLC, 37000 Center Ridge Road
OWNER: All American Sports Center, LLC, 37000 Center Ridge Road
REQUEST: Extension of sanitary sewer line.

LOCATION: 37500 Center Ridge Road, Permanent Parcel No 07-00-033-000-031, 032, 002, 001 and 07-00-034-000-124, in B-2.

PC ACTION: Application for sewer extension was approved.

motion by Gillock to approve, 2nd by Swindig

President Brown: Discussion? Please take roll.

Yes, 5 No, 0 Abstain, 1 (Minnick)

Clerk of Council White: Motion carries five, zero, one.

Council Member Gillock: The next one is:

APPLICANT: All Purpose Construction, Inc., 37000 Center Ridge Road

OWNER: All Purpose Construction, Inc., 37000 Center Ridge Road

REQUEST: Final Approval, Phase II of Meadow Lakes PCD

LOCATION: East of Meadow Lakes PCD; Phase 1, north of Barres Road and west of Stoney Ridge Road, zoning PCD

Permanent Parcel No. 07-00-042-000-005, 007, 009 and 012; 007-00-031-000-050 through 057; 07-00-043-000-019 and 032

PC ACTION: Application for Phase II was approved.

motion by Gillock to approve, 2nd by Borocz

President Brown: Discussion?

Council Member Minnick: Yes, according to Mr. Zagrans report, there's still an outstanding declaratory judgement and I don't think we should pursue with this.

President Brown: Any other discussion? Mr. Zagrans?

Law Director Zagrans: Yes. The Court in Lorain County has been notified of the decision of the Ohio Supreme Court last week.

President Brown: Thank you.

Council Member Butkowski: Madame President, the Planning Commission made some recommendations, do we have to wait or shouldn't we wait until those are fulfilled before we okay these?

President Brown: Mr. Zagrans?

Law Director Zagrans: I think Mr. Gillock knows the details of those.

Council Member Gillock: Madame President, we're basically just approving the actions of the Planning Commission, what they did. This still has to be approved by Council.

President Brown: Thank you. Any other discussion? Please take roll.

Yes, 5 No, 1 (Minnick)

Clerk of Council White: Motion carries five, one.

Council Member Gillock: Now, we go to the Planning Commission Report of August 14, 2001 and the first application:

APPLICANT: Don Nagel, D.L.N. Family Enterprise Ltd., 4274 Case Rd., Avon

OWNER: Donald C. Reisdorff, 36909 Chestnut Ridge Road, Elyria 44035
Mike Hanzel, 5209 Avon Belden Road

REQUEST: Preliminary Plat for 20 new homes, cluster subdivision with minimum square footage of 13,770 square feet
LOCATION: 5209 Avon Belden Road and unaddressed parcel, in R-1 Permanent Parcel No. 07-00-019-000-242 and -243
PC ACTION: Application was postponed until our new City Engineer has an opportunity to view the plans or until the next meeting and this was at the request of the Councilman from Ward I.

motion to approve by Gillock, 2nd by Borocz

President Brown: Discussion? Take roll please Mr. White.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero.

Council Member Gillock: Next one is from:

APPLICANT: All Purpose Construction, Inc., 37000 Center Ridge Road
OWNER: All Purpose Construction, Inc., 37000 Center Ridge Road
REQUEST: Final Approval, Phase III of Meadow Lakes PCD
LOCATION: South of Meadow Lakes PCD Phase II and Barres Road, north of Center Ridge Road and west of Stoney Ridge Road, zoning PCD Permanent Parcel No. 07-00-032-000-013, 031, 043 through 048 07-00-032-000-051 and 010; 07-00-033-000-001 and 002; 07-00-040-000-007
PC ACTION: Application was approved contingent upon meeting all City Engineer's recommendations.

motion by Gillock to approve, 2nd by Swindig

President Brown: Discussion?

Council Member Minnick: Madame Chairman, again, I'd like to say there's an outstanding declaratory judgement.

President Brown: Any other discussion? Please take roll.

Yes, 5 No, 1 (Minnick)

Clerk of Council White: Motion carries five, one.

Council Member Gillock: The next one,

REQUEST: City Council received a letter from Dale R. Haywood, P.E., requesting favorable consideration in regard to the Joe Marsico proposed sanitary sewer extension as noted in correspondence at the meeting of July 16, 2001.
PC ACTION: Planning Commission has looked at this again because, Mr. Haywood's correspondence had been referred back to Planning and because there was additional information. The Planning Commission recommendation remains unchanged. Planning's report for the meeting of June 12, 2001 stated: Approved upon the

basis that if all the efforts to take the sewer down Case Road are exhausted and if it is proven that the support is not there, that we give temporary approval for connecting across Case Road, contingent upon Mr. Marsico abandoning the connection when sewers are brought down Case Road and paying his proportionate share.

motion by Gillock to approve, 2nd by Borocz

President Brown: Discussion? Take roll please, Mr. White.

Yes, 5 No, 0 Abstain, 1 (Minnick)

Clerk of Council White: Motion carries five, zero, one.

Council Member Gillock:

REQUEST: Ed Surovi of Forest City Land Group asked for street name changes in Waterbury PCD, Phase 1, which was passed by Council.

PC ACTION: Name changes were approved contingent upon the names not being duplicated with current streets after final checking through CBO Fursdon's office.

motion by Gillock to approve, 2nd by Swindig

President Brown: Discussion? Take roll, please.

Yes, 5 No, 0 Abstain, 1 (Minnick)

Clerk of Council White: Motion carries five, zero, one.

Council Member Gillock: The next one is

REQUEST: Review T 103-2001 as referred by City Council at the July 16, 2001 meeting. This is an Ordinance amending Codified Ordinance Section 1294.03 - Detached private garages and adding outbuilding.

PC ACTION: Planning Commission recommends that Council refer this to Buildings and Lands to consider the size of garages, attached or not, and the number of out or storage buildings allowed.

motion by Gillock to approve, 2nd by Swindig

President Brown: Discussion?

Council Member Butkowski: Madame President, I think that's already in Buildings and Lands, but that's okay. We referred it.

President Brown: I think I already referred that to Buildings and Lands.

Council Member Swindig: Madame Chairman, I think this is just accepting Planning Commission's recommendation.

President Brown: Take roll please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero.

Council Member Gillock: Now we go to Planning Commission Report to Council for August 27, 2001:

APPLICANT:	Con-Hirz Inc., 32505 Center Ridge Road
OWNER:	Balikey Ltd., 15788 Indian Hollow Road, Grafton, 44044
REQUEST:	Install gasoline facility and widening of approach for in and out traffic
LOCATION	32505 Center Ridge Road in B-3
PC ACTION:	Application was approved as submitted contingent upon obtaining the two variances needed from the Zoning Board

motion by Gillock to approve, 2nd by Borocz.

Council Member Butkowski: Madame President, can we refer this to Buildings and Lands, please?

President Brown: I was going to ask Mr. Gillock, is this Convenient?

Council Member Gillock: Yes.

President Brown: Isn't that kind of, okay? Yes, I would like to refer this to Buildings & Lands please.

Clerk of Council White: We need to continue with.

President Brown: That's right. Please take roll.

Clerk of Council White: Swindig?

Council Member Swindig: Yes.

Clerk of Council White: Borocz?

Council Member Borocz: Yes.

Clerk of Council White: Minnick?

Council Member Minnick: Is this to refer to Buildings and Lands?

Clerk of Council White: No ma'am.

Council Member Minnick: Or to approve this.

President Brown: This is to approve and then will refer it.

Council Member Minnick: No.

Clerk of Council White: Butkowski?

Council Member Butkowski: Yes.

Clerk of Council White: Gillock?

Council Member Gillock: Yes.

Clerk of Council White: Brown?

President Brown: Yes.

Yes, 5 No, 1 (Minnick)

Clerk of Council White: Motion carries five, one and you're referring it to Buildings and Lands.

President Brown: I'm referring it to Buildings & Lands.

REFERRED TO BUILDINGS AND LANDS.

Council Member Gillock: That concludes my report.

President Brown: Thank you Mr. Gillock.

OLD BUSINESS None

NEW BUSINESS

Council Clerk White:

Request for D5 liquor permit transfer from Elyria Pizza, Inc., DBA Pizza Hut, 34160 Center Ridge Road to Hartzell Enterprises, Inc., DBA Our Place Restaurant & Lounge, 34160 Center Ridge Road.

Request for D1, D2, D3, D3A and D6 liquor permit transfer from Lormax 33312, Inc., DBA Century Tavern, 33312 Center Ridge Road, first floor and Basement. to Sherry Tavern, Inc., DBA Sherry Tavern, 33312 Center Ridge Road, first floor and basement.

T 120-2001 A resolution accepting the donation of 0.190 acres of land to the City of North Ridgeville from the family of Dr. Lee Hang Fu.

T 121-2001 A resolution to approve the expenditure of funds.

T 122-2001 An ordinance approving final plan of Phase II of Meadow Lakes PCD, including accepting the plat of Meadow Lakes PCD Phase II for final approval and for recording purposes.

T 123-2001 An ordinance approving final plan of Phase III of Meadow Lakes PCD, including accepting the plat of Meadow Lakes PCD Phase III for final approval and for recording purposes.

T 124-2001 An ordinance providing for the issuance and sale of bonds in a maximum aggregate principal amount of \$6,180,000 for the purpose of improving and expanding the City's French Creek Wastewater Treatment Plant and acquiring and installing instrumentation and equipment therefor, in each case together with the necessary appurtenances and work incidental thereto.

 motion by Swindig to suspend By-Laws to give T 124-2001 a first reading, 2nd by Borocz
President Brown: Discussion? Take roll, please.

 Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. T 124-2001 will have first reading tonight.

T 125-2001 An ordinance providing for the issuance and sale of bonds in a maximum aggregate principal amount of \$505,000 for the purpose of improving the City's Service Garage Complex by renovating, remodeling and adding to the existing Service Garage and constructing a Salt Storage Shed, together with the necessary appurtenances and work incidental thereto.

 motion by Borocz to suspend to give this a first reading tonight, 2nd by Swindig

President Brown: Discussion? Please take roll.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero for T 125-2001 to have first reading tonight.

T 126-2001 An ordinance providing for the issuance and sale of bonds in a maximum aggregate principal amount of \$505,000 for the purpose of improving Bainbridge Road from Avon Belden Road (State Route 83) to Chestnut Ridge Road, in cooperation with the Director of Transportation of the State of Ohio, by grading, draining, widening, constructing and reconstructing the pavement base, where necessary, surfacing and resurfacing and constructing curbs, gutters and sidewalks, together with necessary appurtenances and work incidental thereto.

motion by Swindig to suspend By-Laws to give T 126 a first reading, 2nd by Borocz

President Brown: Discussion? Take roll, please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero for T 126-2001 to have first reading tonight.

T 127-2001 An ordinance providing for the issuance and sale of bonds in a maximum aggregate principal amount of \$405,000 for the purpose of improving Stoney Ridge Road and certain other designated streets between certain termini in the City by reconstructing the pavement base, where necessary, preparing the surface and surfacing and resurfacing, in each case together with necessary appurtenances and work incidental thereto.

motion by Borocz to suspend to give this a first reading this evening, 2nd by Swindig

President Brown: Discussion? Please take roll.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero for T 127-2001 to have first reading tonight.

T 128-2001 An ordinance providing for the issuance and sale of bonds in a maximum aggregate principal amount of \$205,000 for the purpose of improving Case Road from Center Ridge Road to Burns Road by grading, draining, reconstructing the pavement base, preparing the surface and surfacing, in each case together with the necessary appurtenances and work incidental thereto.

motion by Borocz to suspend to give this a first reading this evening, 2nd by Swindig

President Brown: Discussion? Please take roll.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero for T 128-2001 to have first reading tonight.
That's all that I have.

Council Member Minnick: Madame President, I have something for new business. The Assistant Clerk of Council left some information regarding the Presidential's in my mailbox late Friday afternoon. I went to the office early Friday evening to retrieve it and it was not there. I talked to

Paula today and she said she did indeed place the information in my box and even highlighted some items for me. If by chance anyone received the information by mistake I'd appreciate it if you would give it to me as soon as possible. Thanks.

President Brown: Did anyone get it in their box?

President Brown: I didn't get nothing. Correspondence, Mr. White.

CORRESPONDENCE

Clerk of Council White: I have nine pieces of correspondence:

- 1) Received a letter from United States Senator George V. Voinovich updating on the Bush Administration's recent decision to seek a Section 201 action on behalf of the American steel industry.
- 2) Received a letter from Parks Director Jim Spaulding announcing the Parks & Recreation Commission approval of \$5,600.00 to be expended from the Parks & Recreation Improvement Fund to hire an architect for the construction of a new concession stand/restroom facility at the Shady Drive Complex and requesting verbal approval.
REFERRED TO FINANCE COMMITTEE.
- 3) Received a letter from the Charter Review Committee, publicly responding to and addressing several of the erroneous statements made and misconceptions that may be held about the committee and the work that they have done over the past months.
- 4) Received Notice from the Ohio Department of Commerce, Division of Liquor Control that all permits to sell alcoholic beverages will expire October 1, 2001.
- 5) Received a letter from Nancy Pajak expressing her opposition to the passage of an ordinance permitting ice cream trucks.
- 6) Received a letter from Gerald Phillips on behalf of individuals objecting to the approval of the final development plan for the Waterbury PCD Phase I.
- 7) Received a letter from Rebecca Jones, Planner III, Economic Development Specialist for the Lorain County Community Development Department submitting copies of the latest census data broken down by census tract for all of Lorain County.
- 8) Received a notice from Marilyn A. Jacobcik, Director of the Lorain County Board of Elections announcing a hearing on the protest filed by Helen Hurst at 2:30 P.M. on Thursday, August 30, 2001 on three proposed Charter amendments.
- 9) Received a memo from Mayor Hill recommending Thomas Beutler for the position of City Engineer.

LOBBY

President Brown: I will allow you two minutes to speak. Also, there is a paper in the back that you must fill out and leave on the podium.

- 1) Gerald W. Phillips, 35955 Detroit Road commented on violations to First Amendment Rights in the City this past year and the residents right to petition their government. Spoke about The Supreme Court action and pursuing the Mayor's recall. Requested extra time.
motion by Minnick to suspend By-Laws to give Mr. Phillips a few extra minutes, 2nd by Gillock

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. Mr. Phillips, continue.

Mr. Phillips commented on the Law Director's opinion of the lawsuit. Stated that he is wrong on the statement that the decision ruled on the emergency clause. Stated that there is no opinion and no where in the decision did the courts say that the frivolous use of the emergency clause was valid. That will be litigated in the Common Please Court.

- 2) John Prajzner of 35140 Mildred Street read a poem regarding the ACLU lawsuit to the tune of Santa Clause is Coming to Town. Spoke his concerns on Council's rules adopted in December of 2000. Stated that they are too restricted. Spoke about the lawsuit brought by the ACLU.

- 3) Dick Brent of 8695 Harris Drive asked if the administration has done anything about the blocked railroad crossings. Asked if we are going forward to get a grade separation. Suggested, if the City needs help, that a Citizen Committee be formed.

- 4) Nancy Buescher of 36669 Center Ridge Road stated that she agrees with Mr. Zagrans first part of his report and totally disagrees with the second part dealing with how Council rules are being carried out. Spoke about the February 20th Council meeting.

Mayor Hill: Mr. Brent asked about the railroad. It's still in the slow bureaucratic process that takes place out of Columbus. We have had several meetings. The last one was probably, two or three weeks ago that was held in Columbus. So, we're still talking to Norfolk Southern officials, the ODOT, the Railroad Commission and those are all the parties that are involved in it. You may be correct that you are sitting longer because while they have the trains moving more quickly, the trains are longer. So, we are still working on it. We're still at the top of the list for funding. It's just a bureaucratic nightmare.

RECESS from 8:50 P.M. to 9:00 P.M.

FIRST READINGS

Council Clerk White:

T 104-2001 AN ORDINANCE OF THE CITY OF NORTH RIDGEVILLE, LORAIN COUNTY, OHIO, PROHIBITING THE USE OF SPECIAL ENGINE BRAKES ON ANY MOTOR VEHICLE OPERATED WITHIN THE CITY OF NORTH RIDGEVILLE.

First Reading

T 119-2001 AN ORDINANCE REGULATING UTILITY SERVICE PROVIDERS AND CABLE OPERATORS WHO EXCAVATE ON PUBLIC LAND AND SETTING FEES, INCLUDING FRANCHISE FEES.

First Reading

T 124-2001 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
3722-2001 BONDS IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$6,180,000 FOR THE PURPOSE OF IMPROVING AND EXPANDING THE CITY'S FRENCH CREEK WASTEWATER TREATMENT PLANT AND ACQUIRING AND INSTALLING INSTRUMENTATION AND EQUIPMENT THEREFOR, IN EACH CASE TOGETHER WITH THE NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO.

First Reading

motion by Gillock to dispense with second and third reading, 2nd by Borocz

President Brown: Discussion? Please take roll on the suspension.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero to suspend second and third reading.

motion by Gillock to adopt, 2nd by Borocz

motion by Swindig to add the emergency due to the low interest rate of the bonding and the proper timing right now, 2nd by Gillock

President Brown: Any discussion regarding this? Please take roll on the emergency.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero on the emergency. Now for the adoption.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. T 124-2001 becomes Ordinance Number 3722-2001 with emergency.

Permanent Ordinance No. 3722-2001

T 125-2001 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
3723-2001 BONDS IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$505,000 FOR THE PURPOSE OF IMPROVING THE CITY'S SERVICE GARAGE COMPLEX BY RENOVATING, REMODELING AND ADDING TO THE

EXISTING SERVICE GARAGE AND CONSTRUCTING A SALT STORAGE SHED, TOGETHER WITH THE NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO.

First Reading

motion by Swindig to suspend second and third reading, 2nd by Gillock

President Brown: Discussion? Take the roll, please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero to suspend second and third reading.

motion by Swindig to adopt, 2nd by Borocz

motion by Swindig to add the emergency due to the time restraints of the low interest rate on the bonding, 2nd by Borocz

President Brown: Discussion? Take roll, Mr. White.

Clerk of Council White: On the emergency.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. On the adoption.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. T 125-2001 becomes Ordinance Number 3723-2001 with emergency.

Permanent Ordinance No. 3723-2001

T 126-2001 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
3724-2001 BONDS IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$505,000
FOR THE PURPOSE OF IMPROVING BAINBRIDGE ROAD FROM AVON
BELDEN ROAD (STATE ROUTE 83) TO CHESTNUT RIDGE ROAD, IN
COOPERATION WITH THE DIRECTOR OF TRANSPORTATION OF THE
STATE OF OHIO, BY GRADING, DRAINING, WIDENING,
CONSTRUCTING AND RECONSTRUCTING THE PAVEMENT BASE,
WHERE NECESSARY, SURFACING AND RESURFACING AND
CONSTRUCTING CURBS, GUTTERS AND SIDEWALKS, TOGETHER
WITH NECESSARY APPURTENANCES AND WORK INCIDENTAL
THERETO.

First Reading

motion by Borocz to suspend second and third reading, 2nd by Swindig

President Brown: Discussion? Take roll, please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero to suspend second and third reading.

motion by Borocz to adopt, 2nd by Swindig

motion by Swindig to add the emergency due to the low interest rate on the bonds right now, 2nd by Gillock

President Brown: Any discussion? Please take roll.

Clerk of Council White: On the emergency.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. On the adoption.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. T 126-2001 becomes Ordinance Number 3724-2001 with emergency.

Permanent Ordinance No. 3724-2001

T 127-2001 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
3725-2001 BONDS IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$405,000
FOR THE PURPOSE OF IMPROVING STONEY RIDGE ROAD AND
CERTAIN OTHER DESIGNATED STREETS BETWEEN CERTAIN TERMINI
IN THE CITY BY RECONSTRUCTING THE PAVEMENT BASE, WHERE
NECESSARY, PREPARING THE SURFACE AND SURFACING AND
RESURFACING, IN EACH CASE TOGETHER WITH NECESSARY
APPURTENANCES AND WORK INCIDENTAL THERETO.

First Reading

motion by Borocz to suspend second and third reading, 2nd by Swindig

President Brown: Discussion? Seeing none, take roll please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero to suspend second and third reading.

motion by Swindig to adopt, 2nd by Borocz

motion by Swindig to add the emergency due to the low interest rate on the bonds,
2nd by Borocz

President Brown: Discussion? Take roll, please.

Clerk of Council White: On the emergency.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. Now, for the adoption.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. T 127-2001 becomes Ordinance Number 3725-2001 with emergency.

Permanent Ordinance No. 3725-2001

T 128-2001 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF
3726-2001 BONDS IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$205,000
FOR THE PURPOSE OF IMPROVING CASE ROAD FROM CENTER RIDGE
ROAD TO BURNS ROAD BY GRADING, DRAINING, RECONSTRUCTING
THE PAVEMENT BASE, PREPARING THE SURFACE AND SURFACING,
IN EACH CASE TOGETHER WITH THE NECESSARY APPURTENANCES
AND WORK INCIDENTAL THERETO.

First Reading

motion by Borocz to suspend second and third reading, 2nd by Swindig

President Brown: Discussion? Take roll, please.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero.

motion by Borocz to adopt, 2nd by Swindig

motion by Swindig to add the emergency due to the low interest rate on the
bonding, 2nd by Gillock

President Brown: Discussion?

Council Member Gillock: Madame President, I'd just like to commend the Auditor for all of these. He's set these up so they all get done at the same time and with the French Creek, our interest rate, I believe you got was 3.01.

Auditor Costin: On the latest note issue.

Council Member Gillock: So, it's really a good time to do this because money is cheap and our Auditor's really doing a good job watching out for us on this. I'd just like to note that.

President Brown: Always has. Any other discussion?

Clerk of Council White: Vote on the emergency.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. Now, for the adoption.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. T 128-2001 becomes Ordinance Number 3726-2001 with emergency.

Permanent Ordinance No. 3726-2001

SECOND READINGS None

THIRD READINGS

T 97-2001 AN ORDINANCE AMENDING ORDINANCES 3489-99, 3483-99, AND 2725-
3727-2001 93 BY CHANGING THE ANNUAL BASE PAY OF THE PARKS AND
RECREATION PROGRAM DIRECTOR.

Third Reading

motion by Swindig to adopt, 2nd by Borocz

President Brown: Discussion? Please take roll on the adoption.

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. T 97-2001 becomes Ordinance Number 3727-2001.

Permanent Ordinance No. 3727-2001

UNFINISHED BUSINESS

motion by Swindig to give the Auditor permission from Council to amend the
appropriation ordinance and I would like to make that in a form of a verbal committee
report, 2nd by Butkowski

Council Member Gillock: Would somebody explain what we're doing?

Clerk of Council White: I want to know what the motion is.

Council Member Swindig: To prepare amended appropriations so we can have it on the board for the next meeting. If we turn the floor over to the Auditor to let him explain.

Auditor Costin: Correct. That's simply a verbal committee report in lieu of a formal action by the Finance Committee so that we can entertain an amended appropriation ordinance for the next meeting that will incorporate some of the changes we've had from January through this time including the bond expenditures that were.

President Brown: Voted on tonight.

Auditor Costin: Correct.

President Brown: Thank you.

Clerk of Council White: Is that sufficient?

Council Member Gillock: Yes.

Clerk of Council White: Vote?

Yes, 6 No, 0

Clerk of Council White: Motion carries six, zero. Now committee meetings.

COMMITTEE MEETING ANNOUNCEMENTS

Council Clerk White:

The next Regular Council meeting scheduled is Tuesday, September 17, 2001 at 7:30 P.M.

There will be a Public Hearing Monday, October 15, 2001 at 7:00 P.M. on Meadow Lakes PCD Phase II final plan.

There will be a Public Hearing Monday, October 15, 2001 at 7:15 P.M. on Meadow Lakes PCD Phase III final plan.

That's all the information that I have.

President Brown: Mrs. Butkowski, do you have a meeting for Finance?

Council Member Butkowski: I'm not Chairman of the Finance Committee, Mr. Swindig is.

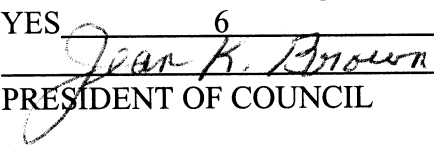
Council Member Swindig: I am and I have to get a hold of Mr. Overby.

ADJOURNMENT

motion to adjourn by Swindig 2nd by Borocz

President Brown: Meeting adjourned.

Meeting adjourned at 9:12 P.M.

MOTION	Swindig	2ND	Butkowski	VOTE	September 4, 2001
YES	6	NO	0	ABSTAIN	1 Overby
					
PRESIDENT OF COUNCIL			CLERK OF COUNCIL		