

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
REGULAR MEETING SEPTEMBER 2, 2003**

CALL TO ORDER: 8:00 P.M.

President of Council David Gillock: I would like to call this meeting of the North Ridgeville City Council to order. Please stand for the Invocation by Mr. Swindig and the Pledge of Allegiance.

INVOCATION: lead by Council Member Allen Swindig. Council Member Swindig asked for a moment of silence for former Council Member Louis Kordish who passed away.

PLEDGE OF ALLEGIANCE: by all.

CALLING OF THE ROLL - ROLL CALL:

Present were Council Members Nancy Buescher, Allen Swindig, Josanne Pagel, Bob Olesen, Bernadine Butkowski, Denny Johnson and President of Council David Gillock.

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

MINUTES - Corrections and Approval:

President Gillock: Unless there's objection, I would like a motion to approve the Public Hearing minutes of:

Public Hearing Minutes of July 21, 2003 re: T 83-2003

Public Hearing Minutes of July 21, 2003 re: T 71-2003

Public Hearing Minutes of July 21, 2003 re: T 72-2003

Public Hearing Minutes of July 21, 2003 re: T 73-2003

Public Hearing Minutes of July 21, 2003 re: T 74-2003

motion to approve by Pagel, 2nd by Olesen

President Gillock: Is there any discussion? If not, please call the roll.

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

Clerk of Council Norris: Minutes are approved by a vote of six to zero with one abstention.

President Gillock:

Regular Council Minutes of July 21, 2003

motion to approve by Pagel, 2nd by Johnson

President Gillock: Are there any additions or corrections? Mr. Olesen?

Council Member Olesen: In a couple of instances, we were referring to Engineer Beutler, on page three and on page 5, I think that should be corrected to Mr. Griffith.

President Gillock: Please correct all references of Mr. Beutler to Mr. Griffith. Are there any other corrections or additions? If not, please call the roll.

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING SEPTEMBER 2, 2003**

Page 2

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

Clerk of Council Norris: Minutes are approved by a vote of six, zero with one abstention.

President Gillock: Is there a motion to approve both of these?

Special Council Minutes of July 28, 2003 re: T 92-2003

Special Council Minutes of July 28, 2003 re: T 102-2003

motion to approve by Butkowski, 2nd Johnson

President Gillock: Are there any corrections or additions? If not, please call the roll.

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

Clerk of Council Norris: Minutes are approved by a vote of six, zero and one abstention.

President Gillock:

Special Council Minutes of July 29, 2003 re: T 92-2003

Special Council Minutes of July 30, 2003 re: T 92-2003

motion to approve by Butkowski, 2nd Johnson

President Gillock: Is there any discussion?

Council Member Olesen: On page eight, about ten lines down, one time, I think, is supposed to be overtime.

President Gillock: Which Special Council meeting are you referring to. The twenty-ninth or thirtieth.

Council Member Olesen: The twenty-ninth. Page eight, and ten lines down.

President Gillock: So noted. Please call the roll in regards to acceptance with the correction.

Yes, 7 No, 0

Clerk of Council Norris: Minutes are approved by a vote of seven to zero.

President Gillock:

Special Council Minutes of August 5, 2003 re: Executive Session for pending litigation

motion to approve by Butkowski, 2nd by Buescher

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 5 No, 0 Abstain, 2 (Johnson, Gillock)

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

President Gillock:

Special Council Minutes of August 5, 2003 re: T 103-2003

motion to approve by Butkowski, 2nd Buescher

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 5 No, 0 Abstain, 2 (Johnson, Gillock)

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

President Gillock: Please note:

Civil Service Commission Minutes of regular meetings June 24, 2003 and July 15, 2003;

Parks and Recreation Commission Minutes of regular meetings June 25, 2003 and July 23, 2003;
Board of Zoning & Building Appeals Minutes of regular meeting July 24, 2003 and special
meeting of August 13, 2003;
Planning Commission Minutes of regular meeting August 12, 2003.

COMMITTEE REPORTS:

QUESTIONS FOR THE FOLLOWING WRITTEN REPORTS:

President Gillock: We have no committee reports. We have no reports from the Mayor, Safety-
Service Director, Engineer or Law Director. Auditor's report.

AUDITOR'S REPORT:

Auditor's Written Financial Report for July 2003

motion by Swindig, 2nd by Butkowski to approve

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

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

OTHER REPORTS:

President Gillock: Please note:

Building Department Report for June 2003

Mayor's Court Operating Trust Fund, Bail Trust Fund Report for July

Water System Operation Report for July 2003

Fire Department Report for July 2003

Police Department Support Car Report for June and July 2003

Police Department Activity Report for July 2003

Service Department Activity Report for July 14, 2003 through August 24, 2003

Planning Commission Liaison Report: Regular Meeting of August 12, 2003

Applicant: FJD Properties LLC, 37000 Center Ridge Road

Owner: Same

Request: Concept plan for Center Ridge B-2 commercial area pursuant to 1266.02 (b),
recommendation for R-2 Conditional Use.

Location: Center Ridge commercial area, in B-2, west of All American Sports, Permanent
Parcel No. 07-00-040-000-007, 07-00-033-000-001, 07-00-033-000-002,
07-00-033-000-032, 07-00-039-000-019

PC Action: Recommend consideration of a concept plan for R-2 Conditional Use in a B-2
commercial area to the Board of Zoning and Building Appeals.

motion to approve by Olesen, 2nd by Swindig

President Gillock: Is there any discussion? Mrs. Buescher?

Council Member Buescher: Once Council approves Planning Commission's recommendation to the Board of Zoning and Building Appeals, it has no recourse on its decision other than through the courts if it isn't happy with the conditions that the Board of Zoning Appeals sets. Also, this is commercial land and we are trying to keep commercial land centrally located on Center Ridge Road and this is a tremendous amount of acreage which would go into triplexes and fourplexes and because every recommendation for growth in a City is gradual and controlled and we have so much approval of residences in that area already, I don't think that this is the time to go forward with changing B-2 to R-2 and the economy is bad. We're having problems with obtaining more City services for all this growth. We're having traffic problems. I think that this is something that should be approved down the road. I also object to Mr. Dettore saying that this would be like Avenbury. It took Avenbury about 18 months to make the decision on how they were going to put that together. It contains 43 percent open space and a lot of work to get that project together. This is basically fourplexes and triplexes, wall to wall. There wouldn't even be any open space required. Based on that and because it's in my ward, I will vote no.

Mayor Hill: Mr. President, I have a question of the Law Director regarding Mrs. Buescher's speech and her statement that she will vote no. At the Planning Commission meeting, it's in the minutes, Council Member Buescher asked what effect this will have on her brother's property along Center Ridge, he just wants to be sure he remains B-2. Her brother is Lorne Elbert, well known builder, developer, in the Elyria area and I understand he owns property close to if not adjacent to Mr. Dettore's property. I want to know if it's proper for Mrs. Buescher to be voting yes or no.

President Gillock: Mr. Zagrans?

Law Director Zagrans: Mayor Hill, I don't have enough facts about what interest Mr. Elbert would have, if any, on land that would be affected by this vote to make such a determination. Obviously, as every member of Council knows or should be aware, the Ethics ordinances, laws of Ohio require that no one participate in a legislative decision or vote in which an individual member of Council has a financial interest or family member who has a financial interest. I can't make a determination as I sit here.

Mayor Hill: Mr. President, I will just restate exactly what she said according to the minutes as what effect this will have on her brothers property along Center Ridge, he just wants to be sure he remains B-2.

President Gillock: I think that was a reasonable question and does not in any way indicate that her brother has a financial interest in the property.

Council Member Buescher: Mr. President, my brother asked that question and he attended the meeting to find that and I asked for him. He will have no financial gain if I vote yes or no because the property will remain B-2 unless he would come forward and ask for it to be changed to conditional R-2. There's absolutely no change whatsoever to his property. I feel totally confident to vote on this project. Thank you.

President Gillock: That's a decision that you will have to make. Mr. Johnson?

Council Member Johnson: I'd like the Law Director to explain exactly what he meant by family member. We have a lot of older families in this town and Mrs. Buescher belongs to one of those

families. There's a lot of interrelations and stuff. We wouldn't be able to do much here if that term was taken very loosely. I'd like to get an explanation of what you meant by family member. President Gillock: I'd like to take a stab at answering that and then I will refer to Mr. Zagrans. I think the Ohio Ethics law is fairly clear that when you're talking about conflicts of interest or interest in a public contract affecting either someone voting or a family member meaning immediate family, father, mother, brother, sisters and kids. I think it may extend to grandparents. I'm not sure.

Law Director Zagrans: And spouses.

President Gillock: Yes, obviously and spouses. I think it's fairly clear on that. Mr. Zagrans is there anything you'd like to add.

Law Director Zagrans: Mr. Johnson, the President of Council has accurately stated it.

President Gillock: The issue is also whether there is a financial gain to a family member and that's a determination she would have to make. Mayor Hill?

Mayor Hill: I think it says something about either directly or indirectly.

Council Member Buescher: Mr. President, there's absolutely no change in his property so, there would be no gain.

President Gillock: Is there any other discussion on the application? Mrs. Butkowski?

Council Member Butkowski: I too am opposed to this changing of this zoning. We need commercial property. We need commercial development. At this point have many, many areas or living spaces in a variety of things. The impact of this City with these new developments coming in is overwhelming the finances of our City and our schools and at this point I don't think we need any more. We don't need any more traffic on Center Ridge. We already have too much. We are trying to address that problem but, it's not going to happen overnight. It's not going to happen as fast as these buildings are going to be built. This does not have to happen. There are conditional things. We do not have to give conditional okay on changing the zoning. The property is fine the way it is. If it cannot be developed, let the buyer beware. We should not, in the best interest of the residents of this City, change this or pass this. We have to stop it now. There's no sense in giving this to another board to throw the responsibility on them. We are the elected officials here and we should stop this now so that we can stop some of the growth and slow it down here in the City so we can do a catch up on our finances.

Council Member Olesen: Mr. President, I'd just like to make one thing clear. When this project came to Planning Commission there was some doubt in the Planning Commission members as to why we have this. We cannot make a conditional zoning on Planning Commission. That is up to the Zoning Board. Our only recourse was to refer this to the Zoning Board and let them make a decision on what they want, if they want to grant this conditional use and what conditions they want to include in it. I appreciate the concern that other Council Members have of eliminating commercial property in favor of residential. I also appreciate the concerns that other people have in this City when I'm told that an average of twelve hundred construction workers are working in this City on a daily basis bringing in City income taxes. I think there's something to be said for the building industry here.

Mayor Hill: Mr. President, I have another question of the Law Director. Sorry to catch you off

guard. I'm not sure I'm understanding what the vote is on. Can Council stop anyone from going to the Zoning Board? Is that the intent of this vote? That's what it sure sounded like.

President Gillock: Mr. Zagrans?

Law Director Zagrans: Mayor Hill, I'm not sure what the intent of the vote is. I certainly can't speak to that but, I can answer your question. No, I don't believe it's within Council's power to stop an applicant from going to the Board of Zoning and Building Appeals if the applicant wishes to do so. But, I'm not sure what the intent of anything that anybody want's to do on this particular motion. That, I cannot speak to.

President Gillock: I think this situation is a little bit different. I brought the ordinance with me figuring this would come up. Section 1266.02 lists permitted and conditional uses in a B-2.

There's a paragraph that specifically states that conditional uses, there are conditional uses requiring Planning Commission authorization therefore, they cannot go to the Board of Zoning directly in this situation. It requires Planning Commission's authorization first. In fact, it states the following uses shall be deemed conditional uses and upon recommendation of the Planning Commission, a permit therefore may be issued by the Board of Zoning and Building Appeals. So, it does have to go through Planning and get their recommendation before it can go to Zoning. Planning has given their recommendation and authorization. Our duty is to vote on their actions and my opinion whether what they did was legal or not, that is found in the Charter that says before any Planning Commission actions are official, they have to be voted on by Council. I think they made their recommendation and whichever way we vote, we're not changing their recommendation, they made their recommendation and that's their job. They said this should go to the Zoning Board. Now, the Zoning Board is the one that can set conditional uses and there are some somebody would like to see but, I will also differ with Mrs. Buescher in that there's no recourse because, the application will still, if this is granted, he still has to come back and make application for preliminary plan. Mrs. Buescher spoke of triplexes and quads. We don't know yet what's going in there because we have not seen the preliminary plan. It has to come back. It'll have to go through Planning. If there are any zoning variances, he'd have to go back to Zoning. At that time that Planning approval would then have to come back through Council. So, in my estimation, yes it does have to be approved by Planning before it goes to Zoning. We have to vote to what they did was official. Anyone else? Mrs. Buescher?

Council Member Buescher: I disagree in that there is no recourse in that whatever conditions that the Board of Zoning Appeals sets, Council will be bound to pass whatever they recommend if the developer builds according to the conditional uses. My point is that ~~wants~~ **ONCE** it gets to that point, we've lost any control and I think that Council always has the right and responsibility to try to control growth if it feels that it will have a detrimental effect on the community. Particularly when it's a conditional use rather than a rezoning issue.

President Gillock: However, I do agree with Mayor Hill in that situation that if an applicant applies to build something in a B-3 that's allowed in a B-3, we can't tell him no and I think that's kind of between a rock and hard place we find ourselves. Mr. Johnson?

Council Member Johnson: Mr. President, I came here today prepared to vote no on this. Mr. Dettore compared his ideas for this to Savannah. I'm going to change my opinion because of that

and challenge him to build something like Savannah.

President Gillock: Anyone else? Mrs. Pagel?

Council Member Pagel: My only concern on this and it's just a personal concern, it doesn't weigh my vote either way, is why you would want residential right next to all those lights. Because I can see those lights from Chestnut Ridge and I can just hear the complaints now, the residents that move in there and say, I have these lights in my bedroom window all night long until midnight or something, so that would be my question on this plan.

President Gillock: Anyone else? Please call the roll.

Yes, 5 No, 2 (Buescher, Butkowski)

Clerk of Council Norris: Report is approved by a vote of five to two.

OLD BUSINESS:

NEW BUSINESS:

President Gillock: We have no old business, going right into new business, T 104. Mrs. Butkowski, did you want to withdraw this?

Council Member Butkowski: Yes, I would like to withdraw T 104 and we'll bring it back revised at the next meeting. Do we need a motion to withdraw this, Mr. Zagrans?

Law Director Zagrans: Yes, I think you do because it's on the agenda

motion by Butkowski, 2nd by Johnson to withdraw T 104-2003

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

T 105-2003 AN ORDINANCE AMENDING APPROPRIATION ORDINANCES NO. 3883-2003 AND NO. 3888-2003 FOR THE CITY OF NORTH RIDGEVILLE, OHIO FOR THE PERIOD COMMENCING JANUARY 1, 2003 AND ENDING DECEMBER 31, 2003.

T 106-2003 AN ORDINANCE AMENDING ORDINANCE 3651-2001 REGARDING NO INTEREST LOANS.

motion by Gillock, 2nd by Butkowski to suspend By-Laws to give this a first reading

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

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

T 107-2003 AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT ACCORDING TO LAW AND IN A MANNER PRESCRIBED BY LAW FOR THE PURPOSE OF RECONSTRUCTING A SANITARY SEWER PUMP STATION AT 7057 AVON BELDEN ROAD, INCLUDING STANDBY POWER GENERATOR AND

OTHER APPURTENANCES, NOT TO EXCEED \$210,000.00.

T 108-2003 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF NORTH RIDGEVILLE, OHIO, TO ENTER INTO VARIOUS AGREEMENTS WITH THE LORAIN COUNTY SOLID WASTE MANAGEMENT DISTRICT.

T 109-2003 AN ORDINANCE AMENDING CHAPTER 1286, SIGNS
President Gillock: REFERRED TO BUILDINGS AND LANDS COMMITTEE.

CORRESPONDENCE:

Clerk of Council Norris: There are four items of correspondence before Council this evening.

- 1) Received a memo from Assistant Law Director/Prosecutor Toni Morgan regarding an ordinance requiring the use of outside water meter readers.
- 2) Received the 2002 Annual Report of the Lorain County Community Development Department from Director Ronald F. Twining.
- 3) Received the City of North Ridgeville, Lorain County, Single Audit for the year ended December 31, 2002 from Auditor of State Betty Montgomery.
- 4) Received the City of North Ridgeville, Ohio, Comprehensive Annual Financial Report for the year ended December 31, 2002 prepared by the Office of the Auditor, Chris S. Costin, CPA, CGFM, Auditor and Donna L. Kiraly, Deputy Auditor.

LOBBY:

President Gillock: We now come to the lobby portion of our meeting. Anyone is invited to address Council on whatever issues they might. We ask that you give us your name and address and use the sign in sheets found in the back in case a response of some type might be necessary. You'll be limited to three minutes. You can return, if you so desire, after everyone else has had their first opportunity to speak. Is there anyone who wishes to address Council?

- 1) Joe Antush of 38500 Otten Road spoke about Barres Road being closed and barricaded from Otten Road to Case Road due to safety reasons as told by a City Engineer. Big trucks and more cars are using the road and tearing it up and the City can't afford to keep repairing the road. Noted that this road is gravel and the gravel and concrete trucks are now using Otten Road that was paved about four or five years ago and is beginning to crack. Asked how much it would cost to repave Otten Road as opposed to maintaining the gravel road. Stated that the Engineer did agree to put a No Truck sign on Otten Road but that hasn't stopped the trucks from using it. Stated that they can use the road going through the development and imagines the developer doesn't allow them to go through the development. Stated that he and his neighbors figure the real reason the road is closed is because the developer wants it closed because they're selling

houses whose backyards abut Barres Road and its use causes dust and noise. The people who have been buying these houses have been told that the closing is permanent and doesn't think a road can be legally closed, maybe temporarily while a water line or sewer line is being put across it. Stated that Barres Road is in better shape now then the 40 years he has lived here.

2) Frank Dettore of 36908 Center Ridge Road thanked Council for voting on his request for conditional use. Explained that one reason is to get a street to Center Ridge to try to eliminate traffic off of Route 20 going into Case Road. Stated that what we have is a problem with our image of our town with the constant bashing of the developer which hurts the present real estate. Spoke about the City's finances and suggested taking the Auditor's recommendation. As houses are built, the value of the town goes up and taxes go down and more taxes can be put on to take care of the services. Asked Council to be positive and do something big. Stated that North Ridgeville is the third largest City in Lorain County and if it weren't for him going along with Beckett and Forest City he could of had a monopoly like he's had for 40 years. Stated that he opened up the town so we could have industrial land and putting in roads. The commercial is completely dead. First come the people, then comes the commercial. He has to sell the City as a whole and the biggest problem is our image.

3) Lois Sullivan of 5880 Jaycox Road spoke about the City finances and cutting back. Stated that with the development, more people, more services are going to be needed. Stated that the City has people that are well trained and the City should try to hang onto them and not let them go. Stated that there are other means of cutting back such as the agenda could be copied on both sides. Stated that there might be other things the City can save on and keep the trained help that have proven to be very valuable.

4) Joe Antush of 38500 Otten Road spoke about deer, car accidents. Stated that there was a fatality in our City in June. Stated that Council could have done many things to address this problem. Stated that signs should be put up. Those from out of town need this warning.

President Gillock: Anyone else? If not, lobby session is over. We will take a recess until five till.

RECESS: from 8:42 P.M. until 8:55 P.M.

FIRST READINGS:

Clerk of Council Norris:

T 94-2003 AN ORDINANCE AMENDING CHAPTER 1046 REGARDING WATER METERS.
First Reading

T 96-2003 AN ORDINANCE ACCEPTING THE FINAL PLAT OF GARDNER ESTATES

SUBDIVISION FOR APPROVAL AND FOR RECORDING PURPOSES.
First Reading

T 97-2003 AN ORDINANCE ACCEPTING THE FINAL PLAT OF STONE CREEK
ESTATES SUBDIVISION, PHASE 2, FOR APPROVAL AND FOR
RECORDING PURPOSES.
First Reading

T 98-2003 AN ORDINANCE ACCEPTING THE FINAL PLAT OF BELTON PLACE AT
WATERBURY PCD FOR APPROVAL AND FOR RECORDING PURPOSES.
First Reading

T 99-2003 AN ORDINANCE ACCEPTING THE FINAL PLAT OF WINDSOR POINT
SUBDIVISION NO. 2 FOR APPROVAL AND FOR RECORDING PURPOSES.
First Reading

T 110-2003 AN ORDINANCE APPROVING APPROPRIATION FUNDS TO
EFFECTUATE THE EXTENSION OF MILDRED STREET.
First Reading

T 106-2003 AN ORDINANCE AMENDING ORDINANCE 3651-2001 REGARDING NO
3944-2003 INTEREST LOANS.
First Reading

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

President Gillock: Is there any discussion on the suspension? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: Motion to suspend second and third is approved by a vote of seven to zero.

motion by Butkowski, 2nd by Johnson to adopt

President Gillock: Is there any discussion? Mrs. Butkowski?

motion by Butkowski, 2nd by Johnson to add the emergency because we are losing
money every day

Yes, 7 No, 0

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

President Gillock: Is there any further discussion on the motion to adopt? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: T 106 is adopted with the emergency by a vote of seven to zero and becomes permanent ordinance 3944-2003.

Permanent Ordinance No. 3944-2003

SECOND READINGS:

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
REGULAR MEETING SEPTEMBER 2, 2003**

Page 11

THIRD READINGS:

T 90-2003 AN ORDINANCE ACCEPTING THE FINAL PLAT OF AVALON ESTATES
3945-2003 PHASE II FOR APPROVAL AND FOR RECORDING PURPOSES.

Third Reading

motion by Olesen, 2nd by Pagel to adopt

President Gillock: Is there any discussion? If not, please call the roll.

Yes, 7 No, 0

Clerk of Council Norris: T 90 is adopted by a vote of seven to zero becoming permanent ordinance 3945-2003.

UNFINISHED BUSINESS:

President Gillock: We have no unfinished business. Clerk, please read the committee meeting announcements.

COMMITTEE MEETING ANNOUNCEMENTS:

Clerk of Council Norris:

Next Council Work Session Monday, September 15, 2003 at 7:30 P.M.

Next Regular Council Meeting Monday, September 15, 2003 at 8:00 P.M.

President Gillock: Any other committee announcements Council would like to mention?

Council Member Olesen: I have a tentative meeting, Mr. Chairman, next Tuesday at 9:00 A.M. for Buildings and Lands.

President Gillock: To be confirmed.

ADJOURNMENT:

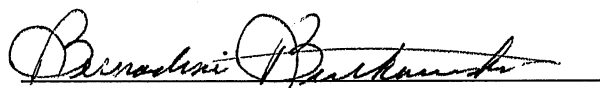
motion to adjourn by Swindig

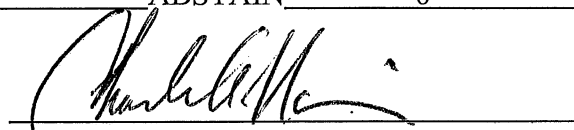
President Gillock: Meeting adjourned.

Meeting adjourned at 9:02 P.M.

MOTION _____ Olesen _____ 2ND _____ Pagel _____ DATE _____ September 15, 2003
(As corrected)

YES _____ 6 _____ NO _____ 0 _____ ABSTAIN _____ 0 _____


PRESIDENT OF COUNCIL PRO-TEM


CLERK OF COUNCIL