

**NORTH RIDGEVILLE MUNICIPAL COUNCIL
MINUTES OF
SPECIAL MEETING APRIL 14, 2009**

CALL TO ORDER: 8:34 P.M.

President Bernadine Butkowski: I call to order the North Ridgeville City Council Special Meeting of Tuesday, April 14, 2009. Clerk, please call the roll.

ROLL CALL:

Present were Council Members Nancy Buescher, Dennis Boose, Bob Olesen, Kevin Corcoran, Ray McLaughlin and President Bernadine Butkowski.

Absent was Council Member Richard Jaenke.

Also, present were Mayor David Gillock, Safety-Service Director Denny Johnson, Law Director Andrew Crites, Deputy Auditor Teresa Machovina and Assistant Clerk of Council Paula Cope.

Absent was Engineer Larry Griffith.

President Butkowski: Clerk, please read the notice.

READING OF NOTICE:

Assistant Clerk of Council Cope:

Notice is hereby given, in accordance with Section 3.9(c) of the Charter of the city of North Ridgeville, that a Special Council meeting will be held on Tuesday, April 14, 2009 at 5:30 P.M. This meeting will be held in Council Chambers, North Ridgeville City Hall, 7307 Avon Belden Road, North Ridgeville, Ohio 44039.

The purpose of this meeting is to consider the Ohio Sports Park lease.

By order of Mayor G. David Gillock, North Ridgeville, Ohio, April 13, 2009.

COUNCIL COMMITTEE REPORTS:

FINANCE COMMITTEE REPORT #6265 dated April 9, 2009: Members of Council: We have considered the matter of T 34-2009, an ordinance authorizing the Mayor to enter into a lease agreement with Ohio Sports Park, Inc. and recommend that this request be approved with the addition of clarifying language in the lease agreement, Section 2, Tenant Changes, regarding approval within 10 days.

 moved by Olesen, seconded by Buescher to accept Finance Committee Report #6265

President Butkowski: Is there any discussion? Clerk, please call the roll.

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

Assistant Clerk of Council Cope: Finance Committee Report #6265 has been accepted by a vote of five yeases, zero nos and one abstention.

move by Butkowski and seconded by Corcoran to suspend Council By-Laws to permit legislation, T 34-2009, to be brought before Council for action at the same meeting as the Committee Report

President Butkowski: Is there any discussion? Clerk, please call the roll.

Yes, 6 No, 0

Assistant Clerk of Council Cope: By-Laws have been suspended by a vote of six to zero.

moved by Butkowski and seconded by Corcoran to amend the Lease Agreement attached to T 34-2009, beginning in the 18th line from the end of Section 2. Permitted Use, after the words "(and in no event delayed beyond ten (10) days)", insert a comma and the words: unless adherence to the provisions of the North Ridgeville Codified Ordinances and the Charter of the City of North Ridgeville as is mandated by this agreement provides for and/or procedurally requires a longer time period for review and approval by any municipal boards, commissions or City Council)

Council Member Corcoran: Just for clarification, you had read amendment and it says agreement.

President Butkowski: By this agreement provides, thank you. Do we have any discussion?
Clerk, please call the roll.

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

Assistant Clerk of Council Cope: The amendment has been approved by a vote of five yeses, zero nos and one abstention.

President Butkowski: Another motion to amend, on page five, under Section (f), three lines up from Section 5 on approvals. It says the actual wholesale rate. It's in Section 4 on the fifth page over. The whole sentence reads: Tenant shall pay the Landlord monthly via the city of North Ridgeville Department of Utilities for all water used by the Sports Park facility and provided by Landlord at a rate not to exceed the actual wholesale rate; I make a motion to change that retail rate as every other person and business in the City pays. So, we will change that to retail instead of wholesale rate. Do I have a second for that motion?

Council Member Buescher: I'll make a second just for discussion.

President Butkowski: Motion was made by Butkowski and seconded by Buescher. Do we have any discussion?

Council Member Corcoran: Was anyone aware of this before this second?

President Butkowski: Yes, someone told me about it.

Council Member Olesen: This sounds find but, Mayor is this something that everybody pays? The retailers? What does commercial business pay?

Mayor Gillock: Their rates are different from retail. They pay a commercial rate. I would have to have Jim Whitlock explain what the rates are. In this case, this is new to me too, in this case they are actually getting their water free from the lake next to the project. This is a contingency

in case they did have to obtain water from us. Our waterline, which is an eight inch line going back there, taps right off of Avon Lake ETL1 high pressure line. It doesn't affect any of the rest of the City. In this case, since it's our property, running the water, if we needed it to water these fields which we're also using, that's what we negotiated was the wholesale rate. I haven't heard any complaints or anything about it until now.

Council Member Corcoran: I have a couple of questions. We are specifically talking about the water that goes on the fields?

Mayor Gillock: Correct.

Council Member Corcoran: There's a separate waterline that comes in that they're paying retail rates that go to the facility for the bar, restaurant.

Mayor Gillock: Yes. The first line says, tenant presently has in place an agreement with a third party source to acquire water. That's the water for the fields.

Council Member Corcoran: I know we have second water meters in the City to give people discounted rates off of the retail rate if they're using it to water their grass. We wouldn't, necessarily, want to treat them any worse than a homeowner that has a second water meter.

Mayor Gillock: The homeowner would get what's called a deduct meter. They would get a deduction because they don't use sewers.

Council Member Corcoran: In this case, they wouldn't be using the sewer either because, it's going on the field. In my opinion, the retail rate wouldn't make sense.

President Butkowski: That was just the word that I came up with. I don't know exactly what it is and that's why we're having a discussion. It just didn't sound right. If that's what you classified other business' rates as wholesale, that's fine. This was brought up to me so I just wanted this discussion out here so that it was explained what this wholesale rate meant. Is this rate any less than what any other business would pay? That's my question because I don't want anybody getting, it's not fair to our other businesses to let one business get a better rate than somebody else.

Council Member Corcoran: Except that they're using it for a totally different purpose.

President Butkowski: Well, if that's what they're going to use this for, just watering the land, then they should pay whatever the citizens pay for watering their property, their grass or whatever they water.

Council Member Olesen: Which would be the deduct meter in many cases.

President Butkowski: That would be fine. I don't have a problem with it if that's what it is. I just wanted to know for sure what it's for.

Council Member Corcoran: I wish we had a little advance notice of this so that we could have properly addressed this issue.

President Butkowski: I had no advance notice. I just found this out when I got here this afternoon.

Council Member Corcoran: The other point I have is that we're deriving a benefit from these fields being watered. We're charging ourselves, in essence, for water we're using for our benefit.

Council Member Buescher: Madame President, can we go forward and have this discussion

after, although, once we agree to the contract we agree to it. This seems like this needs to be looked into a little bit.

Mayor Gillock: It's a little unusual but, the applicant is here and this is the only issue we're discussing tonight and I think Mrs. Buescher's comments are appropriate and make sense. If this is an issue, Mr. Vassil has proven to be an honorable man and I would take him at his word if he is willing to discuss this issue later. We can solve the water rate at a later time. Whether it's at a wholesale rate or a retail rate, minus the sewer charge, we can figure that out.

Council Member Olesen: Madame President, I have an idea. Instead of calling it retail or commercial, why don't we call it the prevailing rate and work out the details later as to what he will be paying because, the prevailing rate is what we give to everybody and I think that should cover the gambit. I would make a motion that we substitute the word prevailing for that.

President Butkowski: I will withdraw my motion.

Council Member Buescher: I'll withdraw my second.

President Butkowski: You can now make your motion.

Council Member Olesen: I make a motion that we eliminate the word retail and make it prevailing.

Council Member Buescher: Second.

Law Director Crites: That won't work but, essentially in essence, what your motion would actually be, if I understand your motion correctly Mr. Olesen, is that not to exceed the; then you would replace, actual wholesale rate which the landlord pays for the water being delivered, with, prevailing rate. Your motion is that it would read, and provided by the landlord at a rate not to exceed the prevailing rate.

Council Member Olesen: Correct.

President Butkowski: Who seconded it?

Council Member Buescher: I did.

President Butkowski: Motion was made by Olesen and seconded by Buescher to add prevailing rate.

Assistant Clerk of Council Cope: The motion on the floor as the Clerk understands it is to amend section four, third line from the end, by striking wholesale and inserting prevailing.

Mayor Gillock: That should also follow on the next line.

Council Member Olesen: I will add that to my motion.

Council Member Buescher: Mr. Mayor, do you have any problem with that?

Mayor Gillock: No, I don't have a problem with that because you approve it and he's going to have to sign it anyway. It's going to be his call at this point. If he doesn't agree with it, we'll be back again.

Council Member Corcoran: Right; why waste that time and why don't we just ask them now? What do you think of the changes that we're contemplating, since you're here?

Larry Vassil: I don't have any idea what the retail, wholesale rates are. We pump 120 gallons a minute for twelve hours from the lake . . . (inaudible)

Mayor Gillock: We'll have to set down with Jim Whitlock and tell him what those numbers are

before he signs the new contract. He'll have that option. He'll know what those numbers are.

Larry Vassil: (inaudible)

Law Director Crites: If I may Madame President, if the Council is desirous and if Ohio Sports Park representatives would agree as well, we would all be best served just leaving this issue until later. Right now, the Sports Park has an agreement, I understand, or you have an arrangement for the water that's suitable and hopefully that will never change. Why would it? Let's hope it never does for your case. What we can do here, if we so desired, is move to simply delete all of paragraph (f) which means, the water is what the water is because, I'm very concerned if we amend it the way we're amending it now, it will only get confusing and convoluted because there's going to be a distinction between the water coming off the City's line that serves the food facility as well as to what they're going to be using to serve the fields which the City's going to be using as well. Maybe, at this point in time, the best thing to do, all for the sake of getting this moving forward is, eliminate (f) from the lease. That will give us an opportunity to deal with it. If he has a problem or if Ohio Sports Park has a problem with the watering down the road, what to do then. Does everybody understand? Is everyone on board with that?

Safety-Service Director Johnson: Madame Chairman, I agree with Mr. Crites. Looking at it openly here; if they're going to be using the water from the lake and use the City as a backup, we're probably going to see a requirement by the EPA of a substantial cost for a backflow prevention system. You're probably looking at an emergency situation here and that's something the Mayor is authorized to deal with, should it come up in the future, this Mayor or a future Mayor, an emergency issue to deal with watering the fields keeping them operating. We deal with emergencies of that sort all the time. I would agree just deleting (f) would probably be the best idea.

moved by Butkowski and seconded by Olesen to delete Section 4 (f) from this contract

President Butkowski: Do we have any discussion? Clerk please call the roll.

Assistant Clerk of Council Cope: The motion is on deleting Section 4 (f).

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

Assistant Clerk of Council Cope. The amendment has passed by a vote of five yeses, zero nos and one abstention.

FIRST READINGS:

President Butkowski: Clerk, please do our first reading tonight.

Assistant Clerk of Council Cope:

T 34-2009 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A LEASE
4655-2009 AGREEMENT WITH OHIO SPORTS PARK, INC.

First Reading

moved by Corcoran and seconded McLaughlin to suspend second and third readings

