

**NORTH RIDGEVILLE CITY COUNCIL
MINUTES OF REGULAR MEETING DECEMBER 1, 2014**

CALL TO ORDER: 7:30 P.M.

President Corcoran: Calling to order the Monday, December 1, 2014 regular Council meeting.

INVOCATION:

Led by President Corcoran.

PLEDGE OF ALLEGIANCE:

Led by President Corcoran.

ROLL CALL:

Present were Council members Terrence Keenan, Dennis Boose, Robert Olesen, Roseanne Johnson, Dr. Ronald Arndt, Bernadine Butkowski and President Kevin Corcoran.

Also present was Mayor David Gillock, Safety-Service Director Jeffrey Armbruster, Law Director Andrew Crites, Assistant City Engineer Cathy Becker, Auditor Chris Costin and Clerk of Council George E. Smith.

MINUTES - Corrections (if any) and approval:

President Corcoran: You have before you the Council meeting minutes of November 17, 2014. Are there any corrections or objections to approving those minutes? Seeing none, those minutes are approved.

President Corcoran: Please note the Building and Lands Committee meeting minutes of November 24, 2014, the Civil Service Commission meeting minutes of November 18, 2014, the Planning Commission meeting minutes of November 13, 2014 and the Utilities Committee meeting minutes of November 17, 2014.

LOBBY:

President Corcoran: That brings us to the lobby session of the meeting. This is your opportunity to address Council and bring your concerns to us. Unfortunately, this is not an interactive session and we do not have questions and answers. It is just an opportunity for you to tell us what your problems are and we will have the appropriate people get back to you. If you are going to speak, please step up to the podium and state your name and address for the record. You will have three minutes to speak on the topic of your choice. Is there anyone that would like to address Council this evening?

Terry Green, 6893 Root Road: stated there is an issue with 6873 Root Road. The City has cited the property owner and Paul Blanchette is doing everything he could do to make the owner code compliant. Mr. Green stated construction is happening along with fence erection without approval.

President Corcoran: Thank you. Chris Teater.

Chris Teater, 37000 Center Ridge Road: stated Council will be asked to approve a Planning Commission case regarding Race Road. Mr. Teater noted the concerns stated regarding buffering. He further stated there are requirements of buffering to include spacing of trees and stated he will exceed the requirements.

President Corcoran: Thank you.

Sandra Yesenko, 6861 Root Road: stated 6873 Root Road residence is a huge problem. Ms. Yesenko stated there is garbage in the yard and construction is occurring on the property that is not code compliant.

President Corcoran: On the issue of the Root Road house; I believe the matter is pending in court right now. It is being addressed. Correct?

Safety-Service Director Armbruster: That is correct.

President Corcoran: Thank you. Is there anybody else that would like to address Council this evening? Seeing none, we'll move on to the Administrator's reports. Mr. Mayor.

ADMINISTRATORS REPORTS:

A. Mayor: Thank you Mr. President. First I would just respond a little bit to Mr. Green and the other lady in regard to that property – that is in court. These are lengthy procedures. If someone allegedly violates an Ordinance, we have to send a Building Inspector out and he tries to get them to correct it. If they don't, we file a complaint with the court. It goes into the courts and you have to have a hearing. You have to have a judgment by the courts and then give them so many days to clean it up. So you have to give them that period of time and then the inspector goes back out and if they find it has not been complied with, then you have to go back to court again. The court has to take procedures to enforce it. Each one of these is a separate violation. The last count I had, there was thirty-four. I think there is thirty-four separate items in the court system being worked through the system. We send Mr. Blanchette out there almost continually as you know. I sent him out there last week for the front yard where they are driving through the front yard. It is not parking cars there to sell – they are just driving through the front yard. It is a pigsty. This is in the process. It is one of the worst cases we have in the City. Very seldom do we go to court. We have a number of issues in court with this property. We can't do more than what the court tells us to do. We can't just say well, I don't like this so I'm going to go out and do something about it. We have to follow the court system which is what is happening.

Other than that, I only have some appointments. The first of the year is coming up on our various Boards. We usually have some seats coming open. We have three of them that need to be approved by Council. All three members are currently serving and have been on there for a while. They were contacted and they are all very much interested in staying on the Boards and have done a good job. I am recommending that we reappoint them.

Moved by Mayor Gillock and seconded by Johnson to reappoint Jim Hurst to the Planning Commission.

President Corcoran: Are there any comments or questions? All those in favor say yes. Those opposed say no.

Yes – 7 No – 0

Moved by Mayor Gillock and seconded by Olesen to reappoint Linda Masterson to the Board of Zoning and Building Appeals.

President Corcoran: Are there any comments or questions? All those in favor say yes. Those opposed say no.

Yes – 7 No – 0

Moved by Mayor Gillock and seconded by Boose to nominate Chris Turay for a full-term on the Parks and Recreation Commission.

Mayor Gillock: Chris had been appointed interim to finish a term, I believe. This will be his first full-term.

President Corcoran: Are there any comments or questions? All those in favor say yes. Those opposed say no.

Yes – 7 No – 0

President Corcoran: Congratulations to all three.

Mayor Gillock: Finally, I would announce, I don't believe this needs Council's approval – Vince Loparo has been on the Fair Housing Board for several years. His term was up actually – we overlooked it. It was up in July. I am going to reappoint Vince to that Board. He has done a good job and he is interested in it. According to the Ordinance, it is just an appointment. I am just telling you this for your knowledge. Thank you and that completes my report.

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

B. Safety-Service Director: The Root Road situation is probably the worst I've seen since I lived in North Ridgeville. The woman, unfortunately, has due process to go through. Quite honestly, Paul Blanchette; his many hours that he puts in and we and you all coming to these City Council meetings is deplorable that she just won't stop. We are working it through the system. It takes a long time, unfortunately. As this works through, if she wasn't there, then nothing would happen at that point. She does have her rights and the process. Hopefully, this will move through the system as quickly as possible. That is not quick enough for anyone in this room especially for you all. I do apologize, but we live in this country and they do have their rights so we just try to move it forward as fast as we can.

Moving on to our waterline ETL1 - remember we talked last year that ETL1 is that sixty inch water pipe that we get most of our water at and they replaced huge sections of it. In our annual meeting that we just had, all the partners in ETL1 and ETL2, Avon Lake told us that they are not going to replace anymore pipe at this point because they had not had any further breaks. That has been postponed until 2016, probably. There is no intent to move and change out any of these pipes unless there is some breaks in this coming year. That is good news to us from the rates side. ETL2, they are raising the MOR, the maintenance fund on that to seven cents. We seldom buy water out of that pipe and if we do, it is in case of an emergency. We do reserve our rights to that. That rate has gone up seven cents per thousand gallons and brings it up to \$1.51 which is the same price as ETL1. They did raise the maintenance fund on that. It doesn't really have a significant impact on us unless we were to buy water from them. That concludes my report. Thank you.

President Corcoran: Thank you Mr. Armbruster. Ms. Engineer.

C. Engineer: Thank you Mr. President. A new eight inch water main is being installed on Bainbridge Road between Root Road and Avon Belden Road by Charles Akers Construction. This new waterline will reinforce the City's water distribution grid and improve flow through the grid. Work is scheduled to be complete by the end of December. Pavement and lawn restoration will be completed in the spring.

In a separate project, the existing eight inch water main on Root Road between Center Ridge Road and Bainbridge Road will be replaced. Work is scheduled to begin January 5th and be completed in the spring of 2015. This work is being performed by Fabrizi Trucking and Paving Company. That concludes my report.

President Corcoran: Thank you Ms. Becker. Mr. Auditor.

D. Auditor: Yes, no report scheduled for this evening Mr. President.

President Corcoran: Thank you Mr. Costin.

E. Other Reports:

President Corcoran: We have the August 2014 Building Department report, the October 2014 Mayor's Court reports and the October 2014 Police Department report.

President Corcoran: There are Council Committee reports. Mr. Clerk?

COUNCIL COMMITTEE REPORT(S):

Clerk of Council Smith:

UTILITIES COMMITTEE report dated November 17, 2014 which recommends City Council adopt T 104 as submitted.

Moved by Boose and seconded by Butkowski to approve the November 17, 2014 Utilities Committee report.

President Corcoran: Are there any comments or questions? All those in favor say yes. Those opposed say no.

Yes – 7 No – 0

President Corcoran: That report is approved. Number two.

Clerk of Council Smith:

BUILDING AND LANDS COMMITTEE report dated November 24, 2014 which recommends City Council adopt T 114, T 115 & T 116 as submitted.

Moved by Olesen and seconded by Arndt to accept the November 24, 2014 Building and Lands Committee report.

President Corcoran: Are there any comments or questions? All those in favor say yes. Those opposed say no.

Yes – 7 No – 0

President Corcoran: That report is accepted.

CORRESPONDENCE: None.

OLD BUSINESS: None.

President Corcoran: Moving on to new business.

NEW BUSINESS:

Planning Commission recommendation(s) from the November 13, 2014 meeting:

Clerk of Council Smith:

APPLICANT: DATSO, Ltd., Worcester’s Inc., 34200 Lorain Road

OWNER: DATSO, Ltd, 8455 Root Road

REQUEST: Approval to construct a 4,588 square foot addition onto existing structure

LOCATION: 34200 Lorain Road in a B-3 District; Permanent Parcel No. 07-00-014
104-020

PC ACTION: **Approved by a vote of five to zero.**

Moved by Olesen and seconded by Arndt to accept the Planning Commission recommendation.

President Corcoran: Are there any comments or questions?

Councilwoman Butkowski: Mr. Chairman? I just wanted to say it is nice to see that one of our oldest businesses in the City is expanding and bringing new clients to this City and improving their business.

President Corcoran: Thank you. Anybody else? All those in favor say yes. Those opposed say no.

Yes – 7

No – 0

President Corcoran: That Planning Commission recommendation has been approved. Number two.

Clerk of Council Smith:

APPLICANT: Chris Taylor, Pikeview Materials, LLC, 7719 Race Road

OWNER: Race Road, LLC, 37000 Center Ridge Road

REQUEST: Approval to operate existing temporary structure as a permanent facility and to install additional asphalt pavement in an I-2 District.

LOCATION: 7719 Race Road in an I-2 District; Permanent Parcel No. 07-00-034-000-134

PC ACTION: **Approved by a vote of four yes and one no.**

Moved by Olesen and seconded by Keenan to accept the Planning Commission recommendation.

President Corcoran: Are there any comments or questions?

Councilwoman Butkowski: Mr. Chairman, can we take a roll call please?

President Corcoran: Sure. Mr. Clerk can you take a roll call on this vote?

Clerk of Council Smith: The motion passed with one no vote.

Yes – 6

No – 1 (Butkowski)

President Corcoran: Thank you. Moving on to T 122.

Ordinance and Resolution Submittals

Clerk of Council Smith:

T 122-2014 AN ORDINANCE REPEALING ORDINANCE NO. 5156-2014, WHICH INCREASED THE CREDIT FOR TAXES PAID TO ANOTHER MUNICIPALITY.

(Introduced by Mayor Gillock)

President Corcoran: T 123.

Clerk of Council Smith:

T 123-2014 A RESOLUTION DECLARING THE NECESSITY/INTENT TO APPROPRIATE INTERESTS IN LAND FROM MARLENE BROWN AND MADISON WILLIAMS (PARCEL 50-T) FOR THE PURPOSE OF WIDENING AND EXPANDING LEAR NAGLE ROAD IN THE CITY OF NORTH RIDGEVILLE, OHIO.

(Introduced by Mayor Gillock)

Mayor Gillock: The Law Director has advised me that he would like an executive session at this time to discuss negotiations and litigation.

President Corcoran: Mayor, I asked our Law Director about T 123. I believe because this is an eminent domain procedure that we need to move forward with this.

Law Director Crites: I would beg that we suspend the By-laws to give this a first reading. This needs to be passed tonight with the emergency. Otherwise, the entire project will be held off. It would most definitely serve the health, welfare and safety of the residents to get this rolling tonight. This is just step one of a several step process of appropriation.

Moved by Mayor Gillock and seconded by Arndt to suspend the By-laws to give T 123 a first reading.

President Corcoran: Are there any comments or questions?

Councilman Keenan: Mr. President, I am wondering if there are any helpful explanations from the Law Director or the Mayor that would just help us understand the eminent domain in this case.

Law Director Crites: Yes, as specifically applies to this one – this is a; I don't want to minimize the interest because a person's sanctity of their property. Their interest therein is well settled obviously. It is 1500 square feet needed for a temporary construction easement along the road. It is 1500 square feet that ODOT would need and ODOT's contractors would need to move their equipment on while building the road. It is of which the evaluation through the calculated process came up to \$250 but that offer is \$300 because that is ODOT's minimum. So that is what we are talking about here. Not to minimize it. The problem is that the property acquisition company that does this service for us ran into a twofold problem – largely it is settled to the fact that the current occupants don't have clear title because it was a piece of property that was jointly titled. One of the named owners passed away two years ago and an estate had never been probated. Therefore, there is no clear title to the land. We might have to do the take just to get it; otherwise you wait forever because there is no one to be able to sign off until you get Letters of Administration through Probate Court. Also, the residents have some resistance to the project and have been reluctant to sign based on that reason as well. As I said, this is a multistep process of appropriation that involved Council first passing a Resolution. We have to serve tomorrow a copy of the Resolution upon the landowner. Then at Council's next publically

noticed meeting, we have to pass an Ordinance allowing you to validate an appropriation action. I am very hopeful that through my efforts and the help of our right-of-way acquisition company that we can come to terms with the folks and an action would not need to be filed.

Councilman Keenan: Mr. Law Director, how can you come to terms and avoid an action if they don't have clear title of the property?

Law Director Crites: Plain and simple, beg them to probate the estate.

Councilman Keenan: So they are not even going through that process?

Law Director Crites: Yes, that is the problem. It is not a complicated one, but it takes usually; you have to hire a lawyer so it is tough and it costs money.

Councilman Keenan: I do understand and I am not pretending to be an appraiser, but I am pretending to be someone that has worked a lot with them. I did my own calculation of this and I came up with \$200 - \$300 if I was high. I believe that the price that I heard that was offered was very fair within the bounds of the negotiation that would occur. I will be voting in favor of this to move along.

Councilman Boose: There are other alternatives – from what I understand, this is a temporary easement so that the contractor can place vehicles and equipment there on a temporary basis. Understanding the problem with the title that is not clear and the hesitancy of the other owners of that property; aren't there other places we can put that equipment?

Law Director Crites: That would be an ODOT question. Usually, when you ask ODOT a question...dear ODOT, would you veer away from your original plans? The answer is always unequivocally no. It is worth a conversation, but frankly this, I don't think so.

President Corcoran: It is not parking vehicles in that spot – there moving up and down and may need to work off the side of the road.

Law Director Crites: So it would be changing the structure of the wide way to benefit...because what they have now, the profile is just gravel going into the road. There will actually be a six inch curb there. One of the expressed concerns of the property owner was the widening of this road will make it unsafe for the kids in the front yard. The property acquisition folks were out there I think on site like seven or eight times saying no, it will be safer now because there is going to be a six inch curb there as opposed to random flat nothingness. I would be pulling at straws to say that there is going to be some way that the actual engineers could say that the construction process would differ so that they would not need the temporary easement. I don't think that is within the realm of consideration. Everything is negotiable of course; usually that is just the fee. There is really not much to negotiate here. You are not talking about the fee interest in real estate; this is just a temporary easement. It is a weird one.

Councilman Boose: So this does not have anything to do ... is the same property also having property taken permanently?

Law Director Crites: No.

Councilman Boose: Just temporarily... at the end of the day, their yard is going to be the same distance as they have now?

Law Director Crites: Except a pretty new curb.

Councilman Boose: But temporarily they won't?

President Corcoran: (inaudible)

Law Director Crites: Right.

President Corcoran: I don't know if there is a sidewalk there.

Law Director Crites: I don't know either.

President Corcoran: There could be a sidewalk there where there isn't now. I am not sure though. Their property will change a little bit, but it is more about construction on the side of the road, but in order to put a curb in, they have to be on both sides.

Mayor Gillock: Mr. President?

Councilman Boose: I just think we have to be very careful with eminent domain. I have been involved in the past and it is not pretty. I think residents have a right to best understand what all the alternatives are. This legislation is the first information in the time I have come across this with this particular project.

Law Director Crites: I would be happy to share it with you – if you saw the narrative and the lengths to which the property acquisition company goes to try to communicate with them if it would make you feel better about the process. This is definitely not a strong hand coming in and kicking down the door saying hey, we are taking it and if you don't like it... it is a long, long process. What this one really boils down to is the title problem. It seems to be, and I think that is what pushed the property acquisition company, who made the decision to submit the appropriation and gave it to me. That was not our decision. That was them saying this needs to be appropriated because it will stop this project dead in its tracks. There is no one there that can sign off on what they need to sign off on. So when you appropriate it, that problem is eliminated. The court says boom, this interest goes to the appropriating public agency.

Councilman Boose: Mr. President? The Law Director also said, and correct me if I am wrong, that not only is there a problem with the title but also the people that are there have an issue with it?

President Corcoran: Yes, he did say that. Mr. Mayor.

Mayor Gillock: This particular situation there is a sidewalk being put in. The sidewalk is being put in the right-of-way. The right-of-way does not change. They don't lose or gain any property. Because there is a new sidewalk going in, the elevation is going to be different. It is going to have to be graded. That is really all we are talking about. They need to go on their property to basically grade it to meet the lineup of the sidewalk.

Law Director Crites: Mr. President? But to finish Councilman Boose's point or at least to respond to it – it is important for us all to understand although it sounds cold hearted, it is a simple fact of the law; it goes back to when the case decisions were about horses pulling buggies that at issue in an appropriation case is not whether or not public agencies decided action is a good idea, it is the value of what is being appropriated. Once it has been determined that a taking will serve the public purpose, that is the widening of the road, that is not an issue in Probate Court. If we end up in court on this, they can't say, we think we should get more money and it is a bad idea to widen Lear Road. The court would say that is not what we are here to talk about. The only issue is what is the value of the interest land that you want to convey to the public entity.

Councilman Boose: Mr. President? Was there a value that they proposed that we had not heard of?

Law Director Crites: The offer was \$300 and the gentleman's counteroffer, according to the notes I reviewed, it for \$500 if he could build a fence completely going down the road because he didn't want what he deemed to be increased traffic to affect his front yard. Of course the property acquisition people were probably going too deep and the traffic will actually be better and more manageable because there will be a turning lane and a curb there and it will be safer. The counter was \$500 but he wanted to build a fence that would not be permitted under zoning code.

Councilman Boose: This has to be passed this evening?

Law Director Crites? Yes.

Councilman Boose: I wish we had more time to talk about it and understand it better.

Law Director Crites: You will. You can always vote no on the Ordinance. That is the way it works. On appropriation, I have to have Council pass this Resolution. I have to serve the Resolution upon the property owner in a manner acceptable for civil process, meaning certified mail. I have to have proof of that. Once I have proof of that, there will be an Ordinance in front

of Council at our next meeting, unless we call a special meeting, which there is not that level of exigency and that won't happen. In two weeks you will have an Ordinance in front of you to authorize me to file the appropriation and more of a report of what has happened. Hopefully it will be resolved by then.

Councilman Olesen: What percentage of the total property does this take?

Law Director Crites: The best way to answer that question is to take a look at the attachment to the Resolution. On the Exhibit "B," the red section there on what is your right as you are looking at the page is where the temporary easement will be. The taking is only temporary. That is permission for the state to occupy that area for construction activity until the road widening project is complete.

Councilwoman Butkowski: Mr. Chairman? It seems like even if you offered them the money that they asked for, you still have a problem with the deed. So no matter what, that is only fifty percent of the problem.

Law Director Crites: That is correct. In all fairness to the property acquisition company, that was the basis of their decision to ask me to appropriate. It was either we wait a year for them to go through probate and this whole project and whatever state matched funds could be at risk and go up in smoke or we just push forward which is what we have been asked to do.

Councilman Boose: The legislation this evening is not to do anything other than authorize you to provide us with additional legislation that will move this forward.

Law Director Crites: Under the Ohio Revised Code this is just step one. There will be more legislation required or I wouldn't be able to file the appropriation.

Councilman Boose: Thank you.

President Corcoran: Anybody else? All those in favor say yes. Those opposed say no.
Yes – 7 No – 0

President Corcoran: T 123 will be added to first readings. Mr. Mayor, you started to talk about an executive session...

Moved by Mayor Gillock and seconded by Johnson to adjourn into executive session to discuss litigation and negotiations.

Councilwoman Johnson: Is that to dispense with recess and go into executive session?

Mayor Gillock: Yes.

President Corcoran: On dispensing with the recess and going into executive session at the same time, are there any comments or question? All those in favor say yes. Those opposed say no.

Yes – 7 No – 0

President Corcoran: Alright, we are going into executive session and we will be back.

RECESS:

(Adjourned into executive session at 8:06 P.M.)

(Reconvened into City Council meeting at 8:37 P.M.)

President Corcoran: We are back on. We have first readings – T 123.

FIRST READINGS:

Clerk of Council Smith:

T 123-2014 A RESOLUTION DECLARING THE NECESSITY/INTENT TO APPROPRIATE INTERESTS IN LAND FROM MARLENE BROWN AND MADISON WILLIAMS (PARCEL 50-T) FOR THE PURPOSE OF WIDENING AND EXPANDING LEAR NAGLE ROAD IN THE CITY OF NORTH RIDGEVILLE, OHIO.

(Introduced by Mayor Gillock)

Moved by Olesen and seconded by Butkowski to dispense with the second and third readings for T 123.

President Corcoran: Are there any comments or questions? All those in favor say yes. Those opposed say no.

Yes – 7 No – 0

Moved by Olesen and seconded by Butkowski to adopt T 123.

Moved by Olesen and seconded by Butkowski to add the emergency clause to T 123 in order to move the project forward in a timely manner.

President Corcoran: On the emergency clause, all those in favor say yes. Those opposed say no.

Yes – 7 No – 0

President Corcoran: On the adoption of T 123 with the emergency clause, are there any comments or questions? Clerk, please call the roll.

Clerk of Council Smith: The motion passed unanimously and becomes **Resolution number 1321-2014.**

Yes – 7 No – 0

President Corcoran: That was the end of first readings. Moving on to second readings. We have T 117 Amended.

SECOND READINGS:

Clerk of Council Smith:

T 117-2014 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN
Amended AGREEMENT WITH AFSCME OHIO COUNCIL 8 TO AMEND THE
COLLECTIVE BARGAINING AGREEMENT AS IT RELATES TO WAGE
INCREASES AWARDED TO LICENSED BUILDING INSPECTORS.

(Introduced by Mayor Gillock; Amended on the floor on 11/03/2014; First reading 11/17/2014)

President Corcoran: That is the end of second readings. There are no third readings.

THIRD READINGS: None.

MEETING ANNOUNCEMENTS:

President Corcoran: Our next regular Council meeting will be on **Monday, December 15, 2014 at 7:30 P.M.** in Council Chambers.

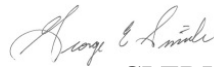
ADJOURNMENT:

President Corcoran: Seeing no other business to bring before the City this evening, the meeting is adjourned. The meeting was adjourned at 8:40 P.M.

Approval of minutes:



PRESIDENT OF COUNCIL



CLERK OF COUNCIL