

The Council of the City of North Royalton met in the North Royalton City Hall caucus room, 13834 Ridge Road on **December 15, 2009, at 7:30 p.m.**

PRESENT: President of Council Vincent Gentile, Council Representatives John Nickell, Gary Petrusky, Don Willey, Paul Marnecheck, Larry Antoskiewicz, Dan Kasaris, Legislative Services Director Laura Haller, Mayor Robert A. Stefanik, Law Director Thomas A. Kelly, Finance Director Karen Fegan, Community Development Director Thomas Jordan, Building Commissioner Rito Alvarez, Wastewater Supt. Timothy Tigue, City Engineer Mark Schmitzer, Police Chief Paul Bican, Fire Chief Michael Fabish, Service Director Kris Kamps, Office on Aging Director Judith Willey, Recreation Director Ed Swim, Safety Director Bruce Campbell.

Agenda reviewed.

The Council of the City of North Royalton met in the North Royalton City Hall Council Chambers, 13834 Ridge Road on **December 15, 2009, in regular session.** The meeting was called to order at 8:00 p.m. by President of Council Vincent Gentile and opened with the Pledge of Allegiance.

PRESENT: Council: President of Council Vincent Gentile, Council Representatives John Nickell, Gary Petrusky, Don Willey, Paul Marnecheck, Larry Antoskiewicz, Dan Kasaris, Legislative Services Director Laura Haller.

Administration: Mayor Robert A. Stefanik, Law Director Thomas A. Kelly, Finance Director Karen Fegan, Community Development Director Thomas Jordan, Building Commissioner Rito Alvarez, Wastewater Supt. Timothy Tigue, City Engineer Mark Schmitzer, Police Chief Paul Bican, Fire Chief Michael Fabish, Service Director Kris Kamps, Office on Aging Director Judith Willey, Recreation Director Ed Swim, Safety Director Bruce Campbell.

CONSENT AGENDA

- a. Approval of minutes: December 1, 2009
- b. Receipt and acknowledgement without objection to Ohio Dept. of Liquor Control request for a C1 and C2 transfer permit for Lehigh Gas Ohio LLC, 14043 State Road.
- c. Receipt and acknowledgement without objection to Ohio Dept. of Liquor Control request for a new D5 permit for Jami 19 Inc., 8021 W. 130th Street.
- d. Release of sidewalk bonds for Nottingham Woods Phases I and II in the amounts of \$16,500 and \$7,448.00 as recommended and approved by the City Engineer.
- e. Legislation:

RESOLUTION 09-127

Introduced by: Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris, Mayor Stefanik. **A RESOLUTION ACKNOWLEDGING THE COMMUNITY SERVICE OF MICHAEL FARRELL.** Title read.

RESOLUTION 09-128

Introduced by: Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris, Mayor Stefanik. **A RESOLUTION ACKNOWLEDGING THE COMMUNITY SERVICE OF JOSEPH B. HARTMAN.** Title read.

RESOLUTION 09-129

Introduced by: Mayor Stefanik. **A RESOLUTION DESIGNATING MICHAEL PISCITELLO TO ACT AS AGENT AND LEAGUE DIRECTOR OF THE NORTH ROYALTON MEN'S SOFTBALL LEAGUES FOR THE 2010 SEASON, AND DECLARING AN EMERGENCY.** Title read.

- No one in the audience wished to have a legislative item removed from the Consent Agenda for discussion.
- No one on Council wished to have an item removed from the Consent Agenda for discussion.

Moved by Mr. Kasaris, seconded by Mr. Marnecheck to **suspend the rules requiring three readings and referral to committee for those legislative items on the Consent Agenda.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.** Moved by Mr. Kasaris, seconded by Mr. Petrusky to **approve the Consent Agenda as presented and read.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

COMMUNICATIONS: None.

MAYOR'S REPORT:

Mayor Stefanik said that there may be quite a bit of debate regarding the cell phone and texting issue on the agenda this evening. He said that it is his opinion that it is hard to legislate common sense at a local government level. While he agrees with certain parts of the legislation, he does not believe there should be a ban on using your cell phone. He feels that the families of North Royalton should be left to raise their families and teach their children how to drive responsibly. Mayor Stefanik said that we already have a law on the books called "full time and attention" that addresses not only cell phones, but eating fast food, putting on makeup, attending to children in the back seat, etc. while operating a motor vehicle. Mayor Stefanik said that we may hear some spirited debate this evening. He knows that each Council member is very passionate on how they feel on this issue, but they do respect one another's opinion.

DEPARTMENT HEAD REPORTS:

Director of Office on Aging Judith Willey reported that the holiday food box distribution will be held on December 19th from 9-11:00 a.m. Food will be distributed to 140 families. Also being distributed will be hundreds of toys and gifts that the residents of North Royalton have donated to the adopt a family program. Mrs. Willey thanked all the residents, schools, businesses and service organizations that have so generously donated to this program. Mrs. Willey said that all the service organization were also active in collecting money for the Salvation Army.

PRESIDENT OF COUNCIL'S REPORT:

Moved by Mr. Kasaris, seconded by Mr. Willey to **hold an Executive Session immediately following the regular order of business to discuss the purchase of property for public purposes and disputes involving the public body that are the subject of pending or imminent court action.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

Mr. Gentile announced that the time for Council Meetings has changed to 6:45 p.m. for Caucus and 7:00 for the Regular Meeting. This will be effective with the first meeting in January.

Mr. Gentile said that there will be some debate this evening on Ordinance 09-121. This is simply a difference of opinion and we will each vote and move on. The city is in good working order.

COMMITTEE REPORTS:

All Committees, Boards, and Commissions announced the dates and times of their next regularly scheduled meetings. All meetings are held at City Hall, 13834 Ridge Road, unless otherwise noted. A complete meeting schedule is available from the Council Office. **Any changes to the regular schedule of Council or committee meetings are noted below.**

Streets Committee: Mr. Nickell reported that the snow plows are ready for the winter season and the second shift is now on duty.

PUBLIC DISCUSSION

Don Harris, 15578 Martin Drive, addressed Council in support of Ordinance 09-121, citing personal experiences of unsafe driving he has witnessed due to cell phone use. He said that he has never heard of a study that has said it is safe to drive and talk on a cell phone. He said that everyone has experienced a situation where the use of a cell phone proposed a danger to them. He hoped that the vote to approve this legislation would be unanimous, but he felt that the people who would vote against this really do not care about the welfare of the citizens of this city or those who come here to work or pass through.

Max Schlessel, 3695 Mercury Drive, addressed Council in support of Ordinance 09-121. Mr. Schlessel thanked Mr. Kasaris for coming to the High School and explaining this legislation. He

felt that this legislation is long overdue. Mr. Schlessel said that he was surprised to learn that entire countries such as Israel and Japan have already outlawed cell phone use while driving. He urges Council not to proceed with proposed amendments to this legislation which will eliminate the ban on all hand held use. He feels that it is not just your eyes but what is in your head that is important while driving.

Linda Fikar, 5127 Pinckney Drive, addressed Council in support of Ordinance 09-121. Ms. Fikar said that on her way to the meeting, she buckled her seatbelt. This reminded her that when she was growing up, seat belts were not mandatory. Today they are and look at the lives they save. She said that our children copy what we do and if we think talking on a cell phone is acceptable, then so will our children no matter what we say to them. She said that a driver's reaction time is reduced by 18% when using a cell phone, the amount of brain activity associated with driving is reduced by 37% and visual field attention is also reduced. This doubles the risk of rear end collisions and missing read lights. She said that she was rear ended by someone using a cell phone. 40 nations worldwide have either prohibited or greatly restricted the use of cell phones while driving. Many businesses are doing the same by providing hands-free devices to those employees who have to talk on the phone while driving. 10% of the drivers age 16-24 are on the phone while driving. Each year 21% of fatal car crashes involve teenagers and were a result of cell phone usage. These results are expected to increase as much as 4% each year. Research shows that teens are more engaged in conversation while on a cell phone than adults and are more likely to get into an accident or near accident. 8 out of 10 drivers support some kind of cell phone restrictions; using voice activated dialing or speed dialing showed fewer incidents. Talking to a passenger in the car is not the same as talking on a phone. The passenger can see the traffic situation and can either adapt the conversation or warn the driver of imminent danger. She felt that it is important to put this law in place.

LEGISLATION

THIRD READING CONSIDERATION

ORDINANCE 09-121

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON, PART 4 TRAFFIC CODE, CHAPTER 434 OVI/RECKLESS OPERATION/SPEED, BY CREATING A NEW SECTION 434.026 TEXTING OR TYPING ON MOBILE COMMUNICATION DEVICES DRIVING PROHIBITED, HAND HELD WIRELESS TELEPHONE, MINORS PROHIBITED, AND DECLARING AN EMERGENCY. Title read.

Mrs. Haller read the following amendments to Ordinance 09-121 as proposed by Mr. Antoskiewicz. (~~Yellow strike out text~~ represents text to be deleted; **blue highlighted text** represents new text).

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NORTH ROYALTON, PART 4 TRAFFIC CODE, CHAPTER 434 OVI/RECKLESS OPERATION/SPEED, BY CREATING A NEW SECTION 434.026 TEXTING OR TYPING ON MOBILE COMMUNICATION DEVICES DRIVING PROHIBITED, **HAND HELD WIRELESS TELEPHONE, MINORS PROHIBITED**, AND DECLARING AN EMERGENCY

~~WHEREAS: In 2009 the National Safety Council has called for a ban on the use of cell phones by drivers of motor vehicles; and~~

~~WHEREAS: Jurisdiction-wide ban on driving while talking on a hand held cell phone is in place in 7 states (California, Connecticut, New Jersey, New York, Oregon, Utah, and Washington) and the District of Columbia; and~~

~~WHEREAS: A recent study by Consumer Reports dated September 29, 2009 reported that the American Automobile Association consisting of 11 automakers are developing hands-free and voice recognition systems that will allow drivers to send and receive phone calls without looking away from the road and without using a hand held cell phone; and~~

~~WHEREAS: A University of Utah study concluded that distracted driving caused by drivers using hand held cell phones reduce a drivers reaction time as much as having a blood alcohol concentration at the legal limit of .08 the legal limit in the State of Ohio and the national legal limit; and~~

~~WHEREAS: The Director of Transportation when discussing cell phone use by drivers and other distractive driving causes has stated that "cell phone use occurs more frequently and for longer durations than other, riskier behaviors. Thus, the #1 source of driver inattention is cell phones. (Virginia Tech 100-car study for NHTSA)"; and~~

~~WHEREAS: According to the Insurance Institute for Highway Safety drivers that use hand held devices are four times as likely to get into crashes serious enough to injure themselves; and~~

~~WHEREAS: According to the National Safety Council on any given day in 2008, more than 800,000 vehicles were driven by someone using a hand held cell phone and that research shows that the most common users are the youngest and least experienced drivers: men and women under 20 years of age; and~~

~~WHEREAS: Dave McCurdy, President & CEO Alliance for Automobile Manufacturers has stated that "Clearly, using a hand held device to call while driving is a safety risk that makes it incompatible with maintaining the focus necessary to safely drive a vehicle."; and~~

WHEREAS: In 2008, 5,870 people lost their lives and an estimated 515,000 people were injured in police-reported crashes in which at least one form of driver distraction was reported on the crash report; and

WHEREAS: **Texting** ~~Hand held cell phone use~~ by drivers of motor vehicles is the leading cause of distractive driving accidents; and

WHEREAS: It is the desire of this Council to enact legislation which coupled with a teen-education program will reduce the chance of automobile accidents on the public streets within North Royalton; and

WHEREAS: Using a cell phone or other mobile communication device to text message while operating a motor vehicle on the streets and highways of this city poses a serious risk of injury to nearby motorists and pedestrians; and

WHEREAS: A number of states have already acted to prohibit such dangerous activity while operating a motor vehicle, and the Ohio General Assembly presently has such a bill pending before it; and

WHEREAS: It is therefore the desire of this Council to amend the Codified Ordinances of the City of North Royalton, Part 4 Traffic Code, Chapter 434 OVI/Reckless Operation/Speed, by creating a new Section 434.026 Texting or Typing on Mobile Communication Devices Driving Prohibited. ~~Hand Held Wireless Telephone, Minors Prohibited.~~

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTH ROYALTON, COUNTY OF CUYAHOGA AND STATE OF OHIO, THAT:

Section 1. Part 4 Traffic Code, Chapter 434 OVI/Reckless Operation/Speed of the Codified Ordinances of the City of North Royalton is hereby amended by creating a new Section 434.026 Texting or Typing on Mobile Communication Devices Driving Prohibited, ~~Hand Held Wireless Telephone, Minors Prohibited,~~ which shall read as follows:

434.026 TEXTING OR TYPING ON MOBILE COMMUNICATION DEVICES DRIVING PROHIBITED, ~~HAND HELD WIRELESS TELEPHONE, MINORS PROHIBITED:~~

- (a) As used in this section, "mobile communication device" includes any of the following:
 - (1) A wireless telephone;
 - (2) A text-messaging device;
 - (3) A personal digital assistant;
 - (4) A computer used for personal communications between persons;
 - (5) Any other substantially similar wireless device that is designed or used to communicate text or data.

(6) As used in this section "text message or text messaging" means the act of touching the key(s)/virtual keys(s) or mouse or mouse pad of the mobile communication device for the purpose of sending a message electronically or responding to a message received.

~~(7) Use or using means the act of talking on a cell phone, answering a cell phone or causing numbers to be entered into a cell phone so that a number may be entered and called.~~

(b) No person shall text message on a mobile communication device while operating a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic.

~~(c) No person shall use a mobile communication device for audio style communication while operating a motor vehicle, trackless trolley, or streetcar on any street, highway, or property open to the public for vehicular traffic, except and unless the mobile communication device is specifically designed for hands-free operation and employed in that manner.~~

~~(d) No person under eighteen (18) years of age shall use any mobile communication device while operating a motor vehicle.~~

~~(e)~~ **(c)** Penalty.

(1) Whoever violates (b), ~~(c) or (d)~~ above is guilty of a minor misdemeanor;

(2) Whoever violates (b), ~~(c) or (d)~~ above having once previously been convicted of this same offense within two years is guilty of a fourth degree misdemeanor;

(3) Whoever violates this section after having previously been convicted of this same offense two or more times is guilty of a third degree misdemeanor;

(4) If the offender was involved in a motor vehicle accident and another person was injured and text messaging or use of a mobile communication device by the offender was the proximate cause of the accident, the offense is a misdemeanor of the third degree.

~~(f)~~ **(d)** This section does not apply to a person using a mobile communication device for an emergency purpose, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

~~(g)~~ **(e)** This section does not apply to an emergency service professional using a mobile communication device while operating an authorized emergency vehicle, in the course and scope of his or her duties.

~~(h)~~ **(f)** This section does not apply to a person who removes his vehicle, trackless trolley, or streetcar from the street, highway or property open to the public for vehicular traffic, and places said vehicle, trackless trolley, or streetcar in a parked or stationary mode.

~~(i)~~ **(g)** Effective Date.

(1) Section (b) shall take effect ten (10) days from the effective date of this Ordinance.

~~(2) Section (c) and (d) shall take effect January 1, 2010.~~

Section 6. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of the city, and for the further reason that it is immediately necessary to amend the Codified Ordinances of the City of North Royalton, Part 4 Traffic Code, Chapter 434 OVI/Reckless Operation/Speed, by creating a new Section 434.026 Texting or Typing on Mobile Communication Devices Driving Prohibited, ~~Hand Held Wireless Telephone, Minors Prohibited.~~

Moved by Mr. Antoskiewicz, seconded by Mr. Willey to **amend Ordinance 09-121 as read.**

Mr. Antoskiewicz stated that Council is given the task of enacting laws to ensure the health safety and welfare of our residents. This duty requires reflective thought processes and inquiring into whether or not the need exists to enact another law restricting our residents. To that end, he has carefully considered all the issues concerning the pending legislation and after extensive discussion with his residents, he said he has strong reservations with the current proposed Ordinance for the following reasons:

First, he feels that this duplicates an already existing ordinance, 432.38 which requires drivers to maintain full time and attention. This existing ordinance enables the police to address the safety concerns of cellular usage as well as other distractions while driving and as such the urgency to pass this specific prohibitive conduct legislation is not warranted at this time. Additionally there is currently legislation pending before the state house regarding cellular phone use, and as such he strongly recommends that we temporarily delay passing an ordinance until the state has concluded its legislative investigation and hearings on the matter.

Second, Mr. Antoskiewicz said that he and numerous residents concur with the Sun Post that banning of all cell phone usage except hands free use as a primary offense is going too far. Further, specifically prohibiting minor cell phone usage is better left to parental and state wide restrictions after informative hearings and public education. Therefore, Mr. Antoskiewicz said that he is recommending that the pending legislation be amended to prohibit only texting while driving and that the city continue to monitor the pending state house hearings for any further statewide action, while we continue to enforce our current law which requires drivers of all ages to maintain full time and attention while driving as recommended by our Police Chief.

Roll Call: Yeas: **Three** (Willey, Marnecheck, Antoskiewicz). Nays: **Four** (Gentile, Nickell, Petrusky, Kasaris). **Motion defeated.**

Moved by Mr. Kasaris, seconded by Mr. Petrusky **to adopt Ordinance 09-121.**

Mr. Willey said that he favors a law against texting. He thinks this is very dangerous and distracting. He feels that part of being a responsible driver is to be attentive to the road and he doesn't know that cell phones distract people to that extent. You see many times people coming out of fast food restaurants with a coffee in one hand and a burger in the other, putting on makeup, using GPS Systems, etc. They are not giving full time and attention. He feels that when the state issues a drivers license to a 16 year old person, the state is saying that they are responsible to give full time and attention to driving. He feels that the learning experience of how and when to drive is the responsibility of the parents; it's not the responsibility of the school or the police department, although they can be of assistance. Mr. Willey said that there are many people who use cell phones for business while traveling and during emergencies. He had residents contact him who were in favor of outlawing texting but not in favor of banning hand held cell phones. Mr. Willey said that he was present at a homeowners association meeting recently attended by 42 people and 70% were in favor of banning texting, but not in favor of a cell phone ban. He said that he is voting against 09-121 for these stated reasons.

Mr. Kasaris said that for close to 90 days we have debated the issue of cell phone use by drivers. He believes that now is the time to pass this particular piece of legislation. We have discussed several ways to deal with the issue and we have different views. Different viewpoints are good, it's a function of a healthy government to have different views on different subjects. We have had good public discussion on these issues in a professional manner. Every elected official in this city wants to see safe roads; we just differ as to how we would like to see that. Recently a local newspaper endorsed almost every aspect of this particular piece of legislation except the primary enforcement portion of this law. Statistics and studies have shown that secondary laws are nowhere near as effective as primary laws. When states shift from secondary enforcement of seatbelt laws to primary enforcement of seatbelt laws, severe injuries and deaths drop substantially. Mr. Kasaris said that this is an issue that the state has been debating since 2001. He said that maybe Patrick Merrill of Berea would be alive today if Angela Williams didn't answer a cell phone call while driving an RTA bus on Public Square this past summer. Maybe he would be alive today if the City of Cleveland or the State of Ohio had acted. Maybe hundreds, if not thousands, of people who have been injured or killed since 2001 would not have suffered these fates had the state taken action. The state has done this with seatbelts, they have done this with drunk driving, but they fail to do this with cell phones. This is forcing municipalities and counties throughout Ohio to act. For centuries, we have had a law prohibiting assault, but when domestic violence was recognized as a problem, the Domestic Violence statute was created and separated from the assault statute even though they were both first degree misdemeanors. The same has occurred with identify theft and credit card misuse being separated from forgery and theft. We have a problem and we have identified the problem. The best way to deal with the problem is to separate it from the general legislation so that we can properly educate the people as to why and how to correct the problem. Mr. Kasaris said 30 years ago it was no big deal to drive drunk. 20 years ago no one wanted to wear a seatbelt. 15 years ago it was common for a mother to hold her child on her lap in the front seat of the car. We now have laws that outlaw all this. As times change, we have to change.

Mr. Kasaris said that when Carl Benz invented the modern automobile and Ransom Olds and Henry Ford began to mass produce cars, the idea was to keep both hands on the wheel except for a brief moment when you had to shift gears. It's time to get back to maintaining full control of the car by having both hands on the wheel. We need to begin an education campaign to make our streets safer. We need to deal with this before tragedy occurs, not after. We do not need an Alex Waite situation here in North Royalton.

Mr. Petrusky read two letters into the record from two residents who could not attend tonight:

Joanne Zawistowski, Scottsdale Drive: Yes, I support no texting while driving and hands free a must.

Jack Peak, Persimmon Lane: I appreciate your pursuit of an ordinance that will prohibit other than hands-free use of cell phones by drivers on North Royalton's roads. Having had responsibility managing liability claims for YRC Worldwide, one of the largest trucking companies in North America, I am well aware of the distractive dangers that accompany cell phone use while driving. Although my wife, Joanne, and I would like to see a statewide measure enacted, we fully support your efforts close to home and are pleased that you are encouraging North Royalton to lead the way.

Mr. Petrusky stated that he is very much in favor of this legislation and will be voting yes.

Mr. Nickell stated that he too supports this legislation. Mr. Nickell said that hands free headsets can be purchased for as little as \$20. While it does not mean you will not be totally distracted, it does mean that your hands will be on the wheel more and your eyes will be forward more. He said that he found a device for \$59.00 that will allow him to use his phone via voice recognition and will dial the phone automatically. Mr. Nickell said that he has found that his driving habits have changed since having this device.

Mr. Marnecheck said he feels that this issue comes down to personal responsibility. He thinks that the role of Council is of course to make sure we keep our residents safe by making sure the roads are in good order, the water pipes are in good order, etc. But on this, he feels we already have a law in place with full time and attention that if someone is driving recklessly while using a cell phone there is already something in place where they are in violation of the law. He is in favor of an information campaign and offered to assist in such an endeavor.

Mr. Petrusky said that this ordinance was not meant just for the younger generation. This was a blanket policy for everyone, from 16 years old to 106 years old. He said there have been a lot of comments regarding the kids; we are not discriminating against the kids. He wanted everyone to understand that we are not going after the youth of the community.

Mr. Willey said that the ordinance mandates that drivers under the age of 18 will not be able to operate electronic devices while driving, so to him there is a target in this legislation toward this age group. He stated that he checked with the Law Director and was told that this is not considered to be discrimination.

Mr. Gentile stated that he believes everyone on Council has a good heart and has the best intentions for the safety of our residents. We have a difference of opinion on how we reach these intentions. He believes that this legislation is warranted. If the state had already acted, we would not be discussing this tonight. Mr. Gentile said that it is not even illegal in Ohio for a school bus driver to use their cell phone or text while they are driving children. Schools may have policies but those are not enforceable by the local authorities. The state does not even keep data on accidents that are caused by cell phone use. They are going into an election year, every seat in the house and half the senate is up for reelection. They won't even raise the cost of a fishing license next year. If they do act on this, he would applaud them. If we have to amend our legislation because the state took action, he would be the first to introduce an amendment. He does not foresee this happening and feels we need to do something. He said that "cell phone" wasn't even in our vocabulary 20 years ago and now everyone has one. We live in an instant communication revolution and we are doing it behind the wheel. We are not paying attention and we are putting our lives and the lives of others in jeopardy by not paying attention. This brings light to the matter and he hopes that this is the final act that brings the state to take action soon.

Roll call: Yeas: **Four**. (Gentile, Nickell, Petrusky, Kasaris). Nays: **Three**. (Willey, Marnecheck, Antoskiewicz). **Motion carried.** *(Due to the fact that this legislation did not receive a 2/3 (5) affirmative vote, the emergency clause in this legislation has failed and the legislation will take effect 30 days from the date of approval by the Mayor).*

SECOND READING CONSIDERATION**ORDINANCE 09-125**

AN ORDINANCE MAKING TEMPORARY APPROPRIATIONS FOR THE FIRST QUARTER OF THE YEAR 2010 FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF NORTH ROYALTON, AND DECLARING AN EMERGENCY. Title read.

Moved by Mr. Kasaris, seconded by Mr. Willey to **suspend the rules requiring three readings and referral to committee.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.** Moved by Mr. Willey, seconded by Mr. Petrusky to **adopt Ordinance 09-125.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

ORDINANCE 09-126

AN ORDINANCE ACCEPTING THE DEDICATION OF 635 FEET OF BENTLEY DRIVE, 581 FEET OF RICHLAND DRIVE AND 129 FEET OF YORKSHIRE WAY IN THE VILLAS OF WORTHINGTON SUBDIVISION PHASE 2A FROM PRIDE ONE YORK ROYALTON LLC, AND DECLARING AN EMERGENCY. Title read.

Placed on **third reading.**

FIRST READING CONSIDERATION**ORDINANCE 09-130**

Introduced by: Mayor Stefanik. **AN ORDINANCE AMENDING THE ORIGINAL APPROPRIATION ORDINANCE 09-17 FOR THE FISCAL YEAR ENDING DECEMBER 31, 2009 AS AMENDED BY 09-52, 09-65, AND 09-99 BY TRANSFERRING APPROPRIATIONS AND MAKING ADDITIONAL APPROPRIATIONS, AND DECLARING AN EMERGENCY.** Title read.

Moved by Mr. Kasaris, seconded by Mr. Petrusky to **suspend the rules requiring three readings and referral to committee.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.** Moved by Mr. Kasaris, seconded by Mr. Petrusky to **amend Ordinance 09-130 by replacing the original Exhibit A with the final version of Exhibit A.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.** Moved by Mr. Kasaris, seconded by Mr. Petrusky to **adopt Ordinance 09-130 as amended.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

ORDINANCE 09-131

Introduced by: Mayor Stefanik. **AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE (1) AN ASSET TRANSFER AGREEMENT, (2) AN AMENDMENT TO THE WATER SERVICES AGREEMENT, AND (3) A JOINT ECONOMIC DEVELOPMENT ZONE AGREEMENT WITH THE CITY OF CLEVELAND AS REVISED, AND DECLARING AN EMERGENCY.** Title read.

Moved by Mr. Kasaris, seconded by Mr. Antoskiewicz to **suspend the rules requiring three readings and referral to committee.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.** Moved by Mr. Willey, seconded by Mr. Kasaris to **adopt Ordinance 09-131.**

Mr. Kasaris wished to thank and commend the Mayor, Mr. Jordan, Mr. Gentile and Mr. Kelly for their roles in negotiating these three agreements. These agreements are good for the city. He said all of his questions on these agreements were answered at the Utilities Committee meeting by Mr. Jordan and the Water Department Commissioner. This will benefit the residents and in the long run will help with the economic development of our community and relieve our residents of the strain of having to pay for expensive water projects.

Mr. Marnecheck said that this is not perfect, but it is a good agreement. It will take a lot of the guess work out of how this maintenance will be done in the coming years. This will take it out of our hands and put it hopefully in the hands of a secure entity that will be able to handle this for our residents.

Mr. Willey said that one of the biggest costs in the country today is the infrastructure. He said that some of our water lines are close to 100 years old. He said that this offers our city a solution and will take us off the hook for replacement costs.

Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

MISCELLANEOUS

For the benefit of those in the audience, Mr. Willey provided an overview of the Council Committee and Council Meeting process.

EXECUTIVE SESSION

Moved by Mr. Kasaris, seconded by Mr. Willey to **recess into an Executive Session to discuss disputes involving the public body that are the subject of pending or imminent court action; [ORC 121.22 (G)(3)] and consider the purchase of property for public purposes [ORC 121.22(G)(3)].**

Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

Council meeting recessed at 8:44 p.m.

EXECUTIVE SESSION

Executive Session called to order at 8:48 p.m.

PRESENT: President of Council Vincent Gentile, Council Representatives John Nickell, Gary Petrusky, Don Willey, Paul Marnecheck, Larry Antoskiewicz, Dan Kasaris, Legislative Services Director Laura Haller, Mayor Robert A. Stefanik, Law Director Thomas A. Kelly, Finance Director Karen Fegan, City Engineer Mark Schmitzer, Recreation Director Ed Swim, Assistant Prosecutor Donna Vozar, Community Development Director Thomas Jordan.

- Matters of disputes involving the public body that are the subject of pending or imminent court action [ORC 121.22 (G)(3)] and the purchase of property for public purposes were discussed. [ORC 121.22(G)(3)].

Moved by Mr. Gentile, seconded by Mr. Petrusky **to adjourn the Executive Session.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

Executive Session adjourned at 9:45 p.m.

Moved by Mr. Petrusky, seconded by Mr. Marnecheck to **reconvene the December 15, 2009 City Council Meeting.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

Council meeting reconvened at 9:46 p.m.

There was no further business pending before Council.

ADJOURNMENT

Moved by Mr. Willey, seconded by Mr. Petrusky **to adjourn the December 15, 2009, City Council Meeting.** Roll Call: Yeas: **Seven** (Gentile, Nickell, Petrusky, Willey, Marnecheck, Antoskiewicz, Kasaris). Nays: **None. Motion carried.**

Meeting adjourned at 9:46 p.m.

APPROVED /s/ Vincent A. Gentile DATE APPROVED: January 5, 2010
PRESIDENT OF COUNCIL

ATTEST: /s/ Laura J. Haller
DIRECTOR OF LEGISLATIVE SERVICES