

## RECORD OF PROCEEDINGS

Minutes of

Meeting

national  
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National Graphics Corp., Cols., O. Form No. 1697

Held Council Chambers ..... 7:30 P.M. .... September 19 ..... 19 83 .....

Mayor Niehausmyer opened the meeting with the Pledge to the Flag. Clerk-Treasurer, Helen Coleman, called the Roll: John Wyse, Present; John Harbal, Present; Mike Despones, Present; Barry Morrison, Absent; Bill Peloquin, Present; Gladys Donley, Present. Five (5) members present, one (1) member absent.

Mike Despones moved that the minutes be read in full, seconded by John Wyse. Mike Despones, Yea; John Harbal, Yea; Gladys Donley, Yea; Bill Peloquin, Yea; John Wyse, Yea; Barry Morrison, Absent. Five (5) Yeas, no (0) Nays, one (1) Absent.

Councilman Despones then read the minutes of the previous meeting.

The minutes stand approved as read.

The attorney for the McClellan Management Corp. was present at Council to discuss the possibility of splitting a parcel of the land (8 acres), with 4 acres to be used for the nursing home and the other 4 acres to be used for other purposes. He then passed drawings around for all of the Council Members to see.

The Mayor announced that Trick or Treat would be set for Monday, October 31, from 6:30 P.M. until 8:00 P.M.

The water agreement with the county, was read in full by the attending Council Members and the Mayor.

#### Committee Reports:

Chief Truman reported a slight accident with the patrol car.

Sylvia Essman reported on the Zoning Committee. Harold Whepler, Zoning Administrator, had a few questions for Council pertaining to fences.

John Wyse and Bill Peloquin are going to price ceiling fans for the Council Chambers.

Mayor Niehausmyer recessed the meeting until Robert Pollex and Barry Morrison arrive. (8:30). Barry Morrison arrived at 8:40 P.M. and Bob Pollex at 9:00.

Council was again called into session at 9:10 P.M.

Ordinance No. 30-83 was presented for the third reading by Councilman Mike Despones. Mike Despones moved that Ordinance No. 30-83 be passed as an emergency measure, seconded by John Wyse.

Discussion on Ordinance No. 30-83 - According to Steven Stover of the Ethics Commission for the State of Ohio, Councilman John Harbal should abstain due to the fact that he is related to one of the employees. The Mayor read the decision of the Ethics Commission on a matter such as this and explained that Mr. Harbal may even be asked to leave the room during discussion of the Ordinance. Robert Pollex, Village Solicitor, passed out copies of this decision from Mr. Stover on this issue. If everything is equal, Mr. Harbal can vote. When there is a special case such as in this pay ordinance, he cannot vote. Although Mr. Pollex pointed out that the ordinance can be divided, with the sanction of Council.

Steven Cottrell, Legal Council for John Harbal, explained to Council that Mr. Harbal will not vote on Ordinance No. 30-83, if the Ordinance is let to stand as is.

Gladys Donley moved to amend the motion and split the Ordinance three ways - one Ordinance pertaining to the Income Tax Office, one Ordinance pertaining to the wages for the Village Administrator, and one Ordinance pertaining to raises for all other Village Employees. The motion was seconded by Bill Peloquin. Roll call vote: Barry Morrison, Nay; John Wyse, Nay; Bill Peloquin, Yea; Gladys Donley, Yea; John Harbal, Yea; Mike Despones, Nay. Three (3) Yeas, three (3) Nays, being a tie vote, the mayor was called upon to break the tie. Mayor Niehausmyer cast a nay vote making the vote three (3) Yeas,

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four (4) Nays, the motion failed.

The mayor asked for discussion on Councilman Despones original motion.

John Harbal moved to amend the original motion made by Mike Despones, to delete the Village Administrator's portion of the Ordinance and act on the balance of the Ordinance, seconded by Gladys Donley. Roll call vote: Mike Despones, Nay; Gladys Donley, Yea; Bill Peloquin, Yea; Barry Morrison, Nay; John Harbal, Yea; John Wyse, Nay. Three (3) Yeas, three (3) Nays, the vote ending in a tie vote, the mayor was once again called upon to cast the deciding vote. The mayor voted Nay on the motion making the vote, three (3) Yeas, four (4) Nays, the motion failed.

Gladys Donley moved to delete the Tax Office from the Ordinance and vote on the balance of the Ordinance, seconded by Bill Peloquin. Roll call vote: Barry Morrison, Nay; Mike Despones, Nay; John Wyse, Nay; Bill Peloquin, Yea; Gladys Donley, Nay; John Harbal, Yea. At this time, with the sanction of Council, Councilman Donley was allowed to change her vote to a Yea vote. This making the vote once again three (3) Yeas, three (3) Nays, making a tie vote. The mayor cast a Nay vote making the vote three (3) Yeas, four (4) Nays, the motion failed.

John Harbal left Council Chambers due to the fact that the original Ordinance will be discussed, as was the ruling of the Ethics Commission. Steven Cottrell, Mr. Harbal's attorney, refused to allow Mr. Harbal to return to Council during the vote on this issue.

Mike Despones moved that Ordinance No. 30-83 be passed, seconded by John Wyse. Discussion on Ordinance No. 30-83 - Mrs. Harbal questioned the passage of the original ordinance hiring the Village Administrator. Her questions were answered and she was given an explanation of that ordinance by the Village Solicitor, Bob Pollex.

Roll call vote on passage of Ordinance No. 30-83; Gladys Donley, Nay; John Wyse, Yea; Barry Morrison, Yea; Bill Peloquin, Nay; Mike Despones, Yea. Three (3) Yeas, two (2) Nays was the final vote. The Clerk-Treasurer call the motion passed. Steven Cottrell challenged this decision and Bob Pollex, the Village Solicitor, agreed with him that four (4) Yea votes were necessary for Ordinance No. 30-83 to pass. The motion was not passed.

Councilman Harbal returned to the Council Meeting.

Barry Morrison presented Ordinance No. 29-83 for the third reading. Barry Morrison moved that Ordinance No. 29-83 be passed, seconded by John Harbal. Roll call vote: John Wyse, Yea; John Harbal, Yea; Mike Despones, Yea; Bill Peloquin, Yea; Barry Morrison, Yea; Gladys Donley, Yea. Six (6) Yeas, no (0) Nays, the motion passed.

Ordinance No, 33-83, an ordinance pertaining to the closing of an alley was presented by Barry Morrison and read for the first reading.

Chief Truman presented a request for a pay increase for Patrolman Michael Smith as his probation period was up the 22nd. of August. Council explained that this increase was automatic and did not need Council's sanction to go into effect.

Gladys Donley moved to adjourn. The meeting was adjourned at 10:25 P.M.

*Joseph L. Niehausmeyer*  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk-Treasurer

I, \_\_\_\_\_, Clerk of the Council of the Village of Genoa, hereby certify this to be a true and accurate copy of the minutes of the regularly scheduled meeting of Sept. 19, 1983.