

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

CALL TO ORDER:

1. The meeting was called to order at 7:00 p.m. by President of Council Jon Snyder.
2. The opening prayer was delivered by Judy Jones, Zion United Church of Christ.
3. All present recited the Pledge of Allegiance.

ROLL CALL:

4. The following members of council responded to roll call: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder. Also present were: Mayor Rice, Director of Administration Miller, Director of Law Pusateri, City Engineer Benekos, Director of Finance Herr and Clerk of Council Kalpac.

Mr. Snyder: Prior to getting started, it is indeed my pleasure this evening that we have a guest. If I could have the Honorable Mayor Tom Rice and Chief of Police Grimes come forward here to accept a donation. Mayor would you kindly come out there please? Thank you. Mr. John Curtis with the Benevolent & Protective Order of the Elks here in North Canton has a check to present to the City on behalf of the Elks for I believe for \$500. Which will go towards the Identification Program that we have here in the City. Mayor and Mr. Curtis.

Mr. Curtis: Yes, I'm John Curtis, the Exalted Ruler of the North Canton Elks Lodge. And we'd like to give you this check as he says for \$500 to the North Canton safety services. It's a check to help them with the Kids ID Program. And it's something that the Elks do yearly and it's on behalf of the North Canton Lodge #2029 and also the Ohio Elks Association. And just a quick story, contribution such as this is made possible by the National Foundation of the Elks. Which is a perpetual trust into which over a million Elks every year pledge money into and we live off the, off the interest of the money. This is just one of the several we give throughout the State. Thank you.

Chief Grimes: This is going to help us make some kid's IDs. We're going to go around the City and do that so each parent will have one in case, in the event of a tragedy where somebody comes up missing, they'll have at least a picture of their child in their wallet. It'll have a fingerprint on the back. And also the Elks is big in our DARE Program and probably later this year they always give a watch to every student that goes through the DARE Program. It's a big thing for the kids. It's great for us. And they'll probably reach 6,000 watches by the end of this year. So it's really been a great organization to help us. Thank you.

Mr. Snyder: Thank you Mr. Curtis and Chief Grimes, Mayor Rice thank you very much for that. Ok, may I have a motion to consider the minutes of the Council Meeting of January 24, 2005 and the financial statement as presented January, 2005?

5. Consideration

Minutes of Council Meeting: 01/24/05
Financial Statement: January, 2005

Mr. Sarbach moved and Mr. Lane seconded to approve the council meeting minutes and financial statement as presented. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

6. Committee Reports

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held February 7, 2005.

Ordinance, Rules & Claims Committee: Refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held February 7, 2005.

Personnel & Safety Committee: Refer to the minutes on file in the Council Office of the Personnel & Safety Committee meeting held February 7, 2005.

Street & Alley Committee: Refer to the minutes on file in the Council Office of the Street & Alley Committee meeting held February 7, 2005.

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held February 7, 2005.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

Monday, February 14

7:00 p.m.

20 05

Mr. Sarbach moved and Mr. Peters seconded to approve the committee report minutes as presented. All members present voting:

Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.

No: 0

7. Recognition of Visitors

Mr. Snyder: Is there anyone in the audience wishing to speak to the Council this evening? If so, step forward, state your name and address for the record.

Mr. Osborne: My name's Chuck Osborne, 307 Fairview Street SE, North Canton, Ohio. In November 2004, the City of North Canton abandoned an 8 inch waterline loop that ran between Wynstone Circle and Wynstone Circle cul-de-sac to allow for the construction of a home. This is noted in a letter dated January 27, 2005 from Mr. Michael Miller, the Director of Administration for the City of North Canton to me. The incorrect location of the 8 inch waterline, had it not been changed, would have put the line just one or two feet away from the foundation of the home that was to be built. The small size of this lot did not allow for relocating the placement of the new home on the building lot. The City abandoned the 8 inch waterline loop and put a 2 inch waterline loop in the centerline of the utility easement at the expense of North Canton taxpayers. The 2 inch waterline loop was routed where the original 8 inch waterline loop should have been installed and where plats approved by the City purported it to be located. I contend that in spite of the fact that the City of North Canton assumed ownership of the utilities when the plat for this development was approved in 1998, that the City of North Canton should not be financially responsible for rectifying this problem. In this instance, the City should have either required the developer to correct his error by relocating the 8 inch waterline loop at his expense or refused a building permit for the construction of a home on this lot. With no home on the lot, the 8 inch waterline loop presented no problems for the City. If the developer had wanted to save the sale of this building lot, the developer should have been financially responsible for relocating the 8 inch waterline loop. Had the developer located the 8 inch waterline loop more precisely in the centerline of the utility easement, there would have been no problem whatsoever. And given that the building lots are small in this development, the developer should have realized that the location of utilities in this development was critical if high density development was a high priority. I have spoken to North Canton city officials and their reply is that they wanted to minimize potential risks to the City and the new homeowner in the event that there would be problems with this waterline. I can certainly concur with their foresight in that regard. But, public monies should not have been used to benefit the developer. I requested and received from the City a list of time and materials that were expended by the City to relocate this loop between Wynstone Circle and Wynstone Circle cul-de-sac. I have asked for an accurate costing of items on this list to determine a total cost to the City of North Canton taxpayers, but city officials have declined to provide these, stating that "No complete accounting exists." A similar example of waste, but on a much grander scale is the next example. In 1993, the streets of Rose Lane and Fair Oaks Avenue, south of Glenwood Avenue, received new storm drainage, new curb and gutter and new asphalt service, surface at a bid price of nearly \$260,000. A change order on this project pushed the final cost to complete this project to more than \$300,000. In 2004, taxpayers were asked to pay for the rebuilding of Rose Lane and Fair Oaks Avenue. This time the cost exceeded \$334,000. One would expect that infrastructure such as a street would have a longer life span than just a few years but this was not the case here. A subsurface report completed by an engineering firm consulted in 2002 determined that the contractor in 1993 used unsuitable base materials which led to the failure of the street. The report also states that the failure of these two streets was observed soon after the 1993 reconstruction. The deterioration of Rose Lane and Fair Oaks Avenue was allowed to continue for several years until the City had no choice but to reconstruct each of these streets. Who is looking out for the taxpayers of this City? The few thousand dollars that were expended to correct the waterline loop for a developer on Wynstone Circle pale in comparison to the hundreds of thousands of dollars that were expended to correct the problems left by a contractor on Rose Lane and Fair Oaks Avenue. Different dollar amounts in these two situations but the same mindset exists and it is very disturbing. Why is there no outrage that declining City revenues are being used to correct mistakes such as these? Contractors and developers are not being held accountable for their mistakes. Why is there no mechanism in place to protect North Canton and its residents from situations such as the two I have just described? I am sure that there are other expenditures that leave the taxpayer holding the bag. And all the while, vendors invoice the city for these mistakes while at the same time sending in campaign contributions to elected officials. Is this Council providing checks and balances as it should be? Or does it turn a blind eye to what it knows is going on with these kind of expenditures. Mayor Tom Rice, where are you when it comes to these types of expenditures? It is vendors such as these that continue to provide you with campaign contributions while you give away public funds. The City of North Canton is in its third year of outspending its revenues. Expenditures such as these are not fair and North Canton taxpayers are taking it on the chin. I'd also like to add regarding the Wynstone situation, I

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

Monday, February 14

7:00 p.m.

20 05

was in Engineering just the other day to look at additional documents. And Mr. Miller, this is getting to be a repetitive process here. On each of the two letters you provided me on the Wynstone situation, you have factual errors. The home that was to be built was on Lot 6441, not 6440 as you state in your first letter.

Mr. Miller: I corrected them in my second.

Mr. Osborne: On your second letter to me, when I asked for the costs, you say this was installed within a 20 foot easement. I beg to differ. The engineering drawings show it to be a 25 foot easement. I'd also like to add that this 25 foot easement literally extends from the foundation of one house to the foundation of the other. And it just baffles me as a layman, because I'm not an engineer Mr. Benekos, but if the City had to go in there and repair this waterline without the extravagant electronic devices we have now a days. Where on this 25 foot easement would you go to locate the pipeline? If it's not put on the centerline on the easement, you're going to have to dig the full width of the 25 easement, 25 foot easement trying to find where this waterline was placed. So I find that a little baffling and that's all I have to say. Thank you.

Mr. Snyder: May I comment? One, couple things here seem to bother me with the comments that were just made. Number one, my memory serves me right that the City accepted that plot around 1998?

Mr. Miller: It was planned out in 1998. It was, had a punch list in the year 2000 if I recall correctly. So following that in 2001, we would have accepted and the bond would have been released at that point in time. So 2001, roughly is when the bond would have been released and that was our protection at that point in time. Then it became the City's.

Mr. Snyder: It was, the line, I know it was located within the 25 foot easement.

Mr. Miller: That's correct.

Mr. Snyder: And one other thing for the sake of, I noticed the, sir, fictitiously mentioned that the developer, it's very important that the record state that I believe that property did change hands from the developer to the existing owner some ninety days prior to the discovery of the fact that the waterline, in fact, was not in the centerline of the easement. Is that true?

Mr. Miller: The property changed hands according to the Stark County Auditor's Office, at least in their records, on June 24th of 2004. We moved the waterline in September. September 9th and 10th, it wasn't November, of 2004. So there was an expiration of time there. It was owned at that point by the private owner and you know, bottom line, it was our's. Our easement at that point and our waterline. And that's why we moved it. The 1 was a typo. The 6441 versus 6440. The 20 foot easement that was proofed by the Engineering Department. I'll find out tomorrow why it was listed as 20 and not 25.

Mr. Snyder: Well that would be hard to say that, you'd be hard pressed to say that the moving of that line had any effect on the sale of the property. Since it was done at least sixty days prior to the discovery of it, correct?

Mr. Miller: That's correct. Because at the point that we became aware of it, we had basically two choices. Move the waterline or not. And that would have resulted in a couple choices for the homeowner. Continue to build or not. So those are the only choices we really, because I did consult with the Law Director and he concurred with the opinion that we already had and that is there's no way that we can go back on the developer. It was our's. Basically it was like buying a car at that point. The warranty's gone. It's all ours so we can't go back on the, on the developer or go back on the seller at that point in time.

Mr. Snyder: And one other final question, relative to Fair Oaks. That material, that underline material met our particular bid specifications when it was put in, correct? I mean they put it in there to the specifications that we gave the contractor. As it turned out, it was not, it did not hold up due to I don't know if it was soil conditions or conditions of the atmosphere, but the actual, they met the bid specification when it was put in, correct?

Mr. Benekos: Yea, at that time I don't, I wasn't here so...

Mr. Snyder: No, but I'm saying.

Mr. Benekos: ...I'm not certain but what they, I think what they encountered was poor soil conditions. And they put in slag. I think that might have been a change order back then. Slag, if it's not cured, will give off gas and create problems. Which it did. Slag is approved substance by the State and ODOT specs. Apparently, it was not cured properly. So we got in the ground and created the problems which resulted later.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

Monday, February 14

7:00 p.m.

20 05

Mr. Snyder: But what I'm saying though, is you, we cannot say that we were sleeping at the switch when we allowed this contractor who met the engineering, the engineer at that time in his professional opinion, put the specifications and allowed that assuming that that was the proper....

Mr. Benekos: Correct. It's an approved material.

Mr. Snyder: Right. It was something that we had no way of. It's like controlling the flood of a particular area. We have no idea but I mean there was due diligence done there. I wasn't just all the sudden we decided to close our eye and allow him to throw in some gravel.

Mr. Benekos: Right.

Mayor Rice: It is my, certainly my understanding, Jon, I think you're, you're on the point. None of us were here in 1993 or whenever that was done. But our understanding was it was a pretty common practice throughout the City. That that was used as a, as a base. I'm guessing there's roads that it was used and we're perfectly fine but in this particular case, due to whatever conditions, it didn't hold up and it caused the buckling of road as you're well aware of being in your ward so. I don't know that first hand but from what I've heard, just hear say over the years, that was an accepted practice in the City back long ago as was. What were they using? Weren't they using that to pack from what I understand they were using the same material I think to pack around waterlines or waterlines or sewer lines. I think those, backfill, wasn't it waterlines?

Mr. Benekos: It was acceptable aggregate backfill.

Mayor Rice: Yea, which turned out to cause problems too. But that's one of those things that, not just the City of North Canton, but I believe many other cities at the time were using that material. And over time it became obvious it was causing some problems in some areas. Not in every project but in some projects. And I don't think it's permitted anymore to use to backfill waterlines I don't believe anymore either. You have to use fresh fill the people use to do that. In, you know, years ago.

Mr. Snyder: But again, this all, this exacerbated itself well after the period of warranty had passed of the contractor.

Mr. Miller: On the first one in 1993, I have no idea and I don't think Jim does either. It's something, the cards have been dealt to us. We got to deal with the hand that's in front of us not, you know, we can't go back and fix something that's happened ten, twelve years ago. As far as the most recent one, again the warranty was off of that one. The City had it's opportunity '98 and '99 up in the middle of 2000 to correct it and then had a warranty period for a year after that to correct it and didn't. So at the point that the homeowner dug a foundation, exposed a part of the waterline, an 8 inch waterline with no turnoffs on either end so if it was broke it would not only flood what's his foundation but basically drain all the water out of that neighborhood. We were left with a choice. And we felt that the best choice to make at that point in time was to relocate it into the middle of that to do it as quickly and as effectively as we could with that 2 inch line to continue circulation. And it ended up being very fortuitous because we got our waterline back. It actually came out of there, fell into the foundation and portion so they ended giving us a good portion of that waterline back. We now have it so it's, again, dealing with the cards that are in front of you. You can't go back and undo what's already been done. All you can do is deal with what's there before you right now.

Mr. Sarbach: Mike, was general fund tax dollars used on that or water revenue?

Mr. Miller: Water revenue. It was the Water Department that did that.

Mr. Sarbach: Ok, so it came out of the water revenue funds...

Mr. Miller: Yes.

Mr. Sarbach: ...and not the...thank you.

Mr. Snyder: But I think it's important that we reiterate because I'll be quite honest with you, it's a matter of public record. I received contributions from my campaign from those developers and I know that that particular thing had no effect on the sale of that property. That property changed hands long before we discovered. Now whether, you know, we assumed it was in the centerline of the easement but that was one of those things. Any question to Council on that?

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

Monday, February 14

7:00 p.m.

20 05

Mr. Osborne: You're totally misunderstanding where I'm going at. Some of the facts you state are correct. But there needs to be a mechanism to correct these kind of shortcomings. Are you telling me the City has to assume all errors and omissions of a developer? That's beyond me. And as far as that lot, the City should have refused that building permit. The building lot owner would have gone to the developer, the developer would have gone after the sub-contractor who put in the waterline and it would have all worked out at no expense to the public. As far as Fair Oaks, I would like to see the actual change order. We're talking slag and cured slag. And there's a difference. And I have not seen anything that specifically said that slag could be used. There's a laundry list of different fill materials that could be selected at different price rates and again the City did not get what it's asked for and the taxpayer ends up footing the bill. And Mayor, I believe you started back on Council sometime shortly in '93 or...

Mayor Rice: No, I don't think so Chuck. You better check your facts again.

Mr. Osborne: It was very early in the '90's...

Mayor Rice: No, it wasn't. It was very late in the '90's. Try '99. But you're close.

Mr. Osborne: I'll get back with you on that one.

Mayor Rice: You don't think when I, I know when I served?

Mr. Osborne: Again, there needs to be a legal mechanism to protect the City from errors committed by it's contractors and developers who let the City assume their problem. And that's what has happened here and it's cost the taxpayers dearly. Thank you.

Mr. Snyder: Anyone else wishing to speak to the Council this evening? Ok. One little housekeeping thing I would like to read into the record before we start. As you know, we have the Airport Waterline Loop that we passed, for your information and for the public's information, that has now been assigned a name Brookline/Lauby Road Waterline Loop. So if someone asks you what we're doing up there you can very nicely refer as the Brookline/Lauby Road Water Loop instead of the Airport Waterline Loop. That is the official name now. And they ask that that be read into the record so be it. Thank you for that.

OLD BUSINESS:

8. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, third reading of Ordinance No. 01-05** All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Ordinance No. 01-05 – Third Reading

An ordinance amending Ordinance No. 154-03, as amended, Collective Bargaining Agreement between the City of North Canton and The Ohio Patrolmen's Benevolent Association (OPBA) (Chief Dispatcher Unit) by the addition of ARTICLE XXXIX, DRUG TESTING.

Mr. Snyder: Chairman Lindower?

Mr. Lindower: Yes, this again is the third reading on Ordinance 154-03 to include Article XXXIX of the drug testing into the Ohio Police Benevolent Association, Chief Dispatcher's Unit to be included into their Collective Bargaining Agreement and I would move that pass the third reading.

Mr. Lindower moved and Mr. Sarbach seconded to **adopt the third reading of Ordinance No. 01-05**. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

9. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, third reading of Ordinance No. 02-05**. All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 02-05 – Third Reading

An ordinance amending Ordinance No. 153-03, as amended, Collective Bargaining Agreement between the City of North Canton and the Ohio Patrolmen's Benevolent Association (OPBA) (Patrolmen) by the addition of ARTICLE XXXIX, DRUG TESTING.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Snyder: Chairman Lindower?

Mr. Lindower: Another amendment to Ordinance 153-03 to include drug testing into the OPBA Patrolmen's Bargaining Unit. I would move that we pass the third reading on this ordinance.

Mr. Lindower moved and Mr. Sarbach seconded to **adopt the third reading of Ordinance No. 02-05**. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

10. Mr. Foltz moved and Mr. Lindower seconded to **read by title only, third reading of Ordinance No. 03-05**. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 03-05 – Third Reading

An ordinance amending Ordinance No. 152-03, as amended, Collective Bargaining Agreement between the City of North Canton and the Ohio Patrolmen's Benevolent Association (OPBA) (Dispatcher Unit) by the addition of ARTICLE XXXIX, DRUG TESTING.

Mr. Snyder: Chairman Lindower?

Mr. Lindower: Ordinance 152-03 to be amended to include the Article XXXIX of the drug testing process into the OPBA Dispatcher's Unit. I would move that we pass the third reading on this ordinance.

Mr. Lindower moved and Mr. Sarbach seconded to **adopt the third reading of Ordinance No. 03-05**. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

11. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, third reading of Ordinance No. 04-05**. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

Ordinance No. 04-05 – Third Reading

An ordinance amending Ordinance No. 151-03, exempt personnel ordinance of the City of North Canton by the addition of a DRUG TESTING POLICY.

Mr. Snyder: Chairman Lindower?

Mr. Lindower: 151-03 includes exempt personnel. The addition of the Drug Testing Policy into that ordinance. I move that we pass the third reading on that ordinance, 4-05.

Mr. Lindower moved Mr. Sarbach seconded to **adopt the third reading of Ordinance No. 04-05**. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

12. Mrs. Kiesling moved and Mr. Lane seconded to **read by title only, third reading of Ordinance No. 05-05**. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Ordinance No. 05-05 – Third Reading

An ordinance amending Ordinance No. 45-99, as amended, part-time, non-exempt classifications and part-time exempt classifications ordinance of the City of North Canton by the addition of a DRUG TESTING POLICY.

Mr. Snyder: Chairman Lindower?

Mr. Lindower: Ordinance 45-99 is the ordinance which includes part-time, non-exempt classification and part-time exempt classifications to include into their Collective Bargaining Agreement, I'm sorry not Collective Bargaining but the Drug Testing Policy. I would move that we pass the third reading on this ordinance.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Lindower moved and Mr. Sarbach seconded to **adopt the third reading** of Ordinance No. 05-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

13. Mr. Peters moved and Mr. Sarbach seconded to **read by title only, third reading** of Ordinance No. 07-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 07-05 – Third Reading

An ordinance amending Chapter 1507, specifically Section 1507.04, of the Codified Ordinances of the City of North Canton and repealing any and all legislation inconsistent herewith.

Mr. Snyder: Chairman Peters?

Mr. Peters: Yes, this is the open burning legislation. This basically takes it from a three month...

Mr. Sarbach: Window.

Mr. Peters: Yea, window to a calendar year. With that I move that we adopt the second reading or third reading, I'm sorry, of 7-05.

Mr. Peters moved and Mr. Sarbach seconded to **adopt the third reading** of Ordinance No. 07-05. All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

14. Mr. Snyder: May I have a motion to amend Ordinance 16-05 changing the first line reading the ordinance authorizing the Director of Administration, through the Board of Control.

Mr. Sarbach: So moved.

Mr. Peters: Second.

Mrs. Kalpac: Snyder?

Mr. Snyder: Yes.

Mrs. Kalpac: Foltz?

Mr. Foltz: Yes.

Mayor Rice: Jon.

Mr. Snyder: Sir?

Mayor Rice: You don't need Board of Control in front at all.

Mr. Miller: It should just be the Administrator.

Mr. Snyder: Oh, just need Director of...

Mayor Rice: Board of Control is down at the bottom.

Mr. Snyder: Ok.

Mayor Rice: Which is where it needs to be.

Mr. Snyder: So it just needed in the...

Mayor Rice: So you can just take that out.

Mr. Snyder: ...Director of Administration leave the rest of those, thank you Mayor. I apologize. Is the motion still stand at that.

Mr. Sarbach: I'll still move that, yes.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Snyder: Motion amended, motion second. Is there a second?

Mrs. Kiesling: Second.

Mr. Sarbach moved and Mrs. Kiesling seconded to **amend** Ordinance No. 16-05 to read "authorizing the Director of Administration, through the Board of Control". All members present voting:

Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.

No: 0

Mr. Foltz moved and Mrs. Kiesling seconded to **read by title only, third reading, as amended** of Ordinance No. 16-05. All members present voting:

Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.

No: 0

Ordinance No. 16-05 – Third Reading

An ordinance authorizing the Director of Administration of the City of North Canton to advertise and receive bids according to specifications now on file in the office of the Director of Administration and the Mayor, through the Board of Control, to enter into a contract for the purchase of gasoline and diesel fuel for use by all city departments, for a one (1) and/or two (2) year periods commencing June 1, 2005.

Mr. Snyder: Again, they want to be a little more proactive. Get out there and get the bids and seeing if it's to our benefit to have a one or two year bid. And as it's getting a little more timely so they would not have to do it on an emergency basis. Appreciate that so if there's no questions, may I have a motion to adopt the third reading of Ordinance 16-05 as amended and re-amended.

Mr. Foltz moved and Mr. Lindower seconded to **adopt the third reading, as amended** of Ordinance No. 16-05. All members present voting:

Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.

No: 0

Mr. Snyder: They'll run out of gas before we get this thing ready.

15. Mr. Snyder: May I have a motion to amend Ordinance 17-05 again to read the ordinance authorizing the Director of Administration.

Mr. Pusateri: We also need to add, after the word Mayor, it should be, "the Mayor to be authorized, through the Board of Control."

Mr. Snyder: Ok. Is there a motion to amend that?

Mr. Pusateri: We'll get this language down.

Mr. Foltz moved and Mr. Peters seconded to **amend** Ordinance No. 17-05 to read "authorizing the Director of Administration, through the Board of Control" and "the Mayor to be authorized, through the Board of Control". All members present voting:

Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.

No: 0

Mr. Foltz moved and Mr. Peters seconded to **read by title only, third reading, as amended** of Ordinance No. 17-05. All members present voting:

Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.

No: 0

Ordinance No. 17-05 – Third Reading

An ordinance authorizing the Director of Administration of the City of North Canton to advertise and receive bids according to specifications now on file in the office of the Director Administration and for the Mayor to be authorized, through the Board of Control, to enter into a contract for the purchase of fire hydrants for use by the City of North Canton.

Mr. Snyder: Again, this is language in an ordinance that allows them to keep an inventory so many fire hydrants. As they either wear out or removed through car accidents or vandalism or however they're taken out. Any questions? If not, may I have a motion to adopt the third reading of Ordinance 17-05 as amended?

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 2005

Mr. Lane moved and Mr. Peters seconded to **adopt the third reading, as amended** of Ordinance No. 17-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

16. Mr. Peters moved and Mr. Lane seconded to **read by title only, second reading** of Ordinance No. 28-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 28-05 – Second Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into an agreement by and between the City of North Canton ("City") and the Stark County Park District ("Park") for the construction, maintenance and operation of the Hoover Connector Trail Phase 2 and its appurtenances in the City of North Canton on lands owned or leased by the City and/or the Park.

Mr. Snyder: Chairman Foltz?

Mr. Foltz: Yea, as it reads. Our share of the Hoover Trail Phase 2 is going to be \$69,500 so I recommend that we pass this ordinance tonight. Well, second reading anyway.

Mr. Foltz moved and Mr. Peters seconded to **adopt the second reading** of Ordinance No. 28-05. All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

17. Mr. Peters moved and Mr. Lane seconded to **read by title only, second reading** of Ordinance No. 34-05. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Ordinance No. 34-05 – Second Reading

An ordinance authorizing the supplemental appropriation of funds of the City of North Canton, Ohio, to be appropriated from the unappropriated balance of the No. 203 Income Tax Fund to the Transfers-Capital Projects account in the aggregate amount of \$187,200.00, and authorizing the transfer of same funds from the Income Tax Fund to the Capital Improvement Fund for the current expenses during the fiscal year ending December 31, 2005.

Mr. Snyder: That, as you'll see, the next piece of legislation will allow us to expend the \$187,200. This allows us to transfer it from the rainy day fund as we so endear it to capital improvement to income tax to capital improvement. Any questions on that? If not, may I have a motion to adopt the second reading of Ordinance 34-05?

Mr. Sarbach moved and Mr. Peters seconded to **adopt the second reading** of Ordinance No. 34-05. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

18. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, second reading** of Ordinance No. 35-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Ordinance No. 35-05 – Second Reading

An ordinance authorizing the supplemental appropriation of funds of the City of North Canton, Ohio, to be appropriated from the unappropriated balance of the No. 330 Capital Improvement Fund to the Contract Payments account in the aggregate amount of \$187,200.00 for the current expenses during the fiscal year ending December 31, 2005.

Mr. Snyder: Again, this allows us to makeinaudible...I believe that was for the money we got from the State. The bill we got...

Mrs. Herr: The bill that we got from the...

Mr. Snyder: From the Applegrove which...

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 2005

Mrs. Herr: ...widening project.

Mr. Snyder: ...we thought they forgot about us. And somehow the Department of Transportation found us and the bill for \$187,200 is due. And this will allow her to cut the check in a few weeks. Any questions? If not, may I have a motion to adopt the second reading of Ordinance 35-05?

Mrs. Kiesling moved and Mr. Peters seconded to **adopt the second reading of Ordinance No. 35-05**. All members present voting:

Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.

No: 0

NEW BUSINESS:

19. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, first reading of Ordinance No. 38-05**. All members present voting:

Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.

No: Foltz

Ordinance No. 38-05 – First Reading

An ordinance accepting the record plat of Monticello No. 7, known as and being part of Out Lot 188 as situated in the Northwest Quarter of Section 21, Plain Township, Stark County, Ohio, and located within the corporate limits of the City of North Canton.

Mr. Snyder: Chairman Lane?

Mr. Lane: It's pretty self explanatory. We talked about this at length last week and this is to accept the record plat that the Planning Commission approved. I move we accept.

Mr. Lane moved and Mrs. Kiesling seconded to **adopt the first reading of Ordinance No. 38-05**. All members present voting:

Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.

No: Foltz

20. Mr. Lane moved and Mr. Foltz seconded to **read by title only, first reading of Ordinance No. 39-05**. All members present voting:

Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.

No: 0

Ordinance No. 39-05 – First Reading

An ordinance authorizing the Director of Administration of the City of North Canton to advertise and receive bids according to specifications now on file in the office of the Director of Administration; and for the Mayor to be authorized, through the Board of Control, to enter into a contract for the 9th Street, Orchard Avenue and Overland Avenue Project, and declaring the same to be an emergency.

Mr. Snyder: Chairman Lane?

Mr. Lane: Well, the time has come. Is Mr. Fano awake? Just wanted to make sure.

Mr. Sarbach: Did everybody get a sucker?

Mr. Foltz: Bring a what Greg?

Mr. Sarbach: I think there's only one sucker that is....

Mr. Pusateri: Over here too.

Mr. Sarbach: Oh, we got one over there?

Mr. Lane: Oh, you got one too?

Mrs. Kiesling: It's just for the girls.

Mr. Lane: Alright, it's our valentine's present Dick, so we can reciprocate it. This is for advertising and receiving bids for the contract for the 9th Street, Orchard Avenue and Overland Avenue Project and I whole heartedly would hope that we would all concur on this one. I move we approve.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Snyder: Now is there a, a mandate that they be inspected on an annual basis?

Mr. Sarbach: That's my understanding. Yes.

Mr. Snyder: And also this application is required by homeowners that have irrigation systems.

Mr. Sarbach: That's correct.

Mr. Snyder: But no other homeowner.

Mr. Sarbach: If the homeowner does not have anything that the Water Superintendent deems to be of a hazard they have to submit to an inspection if somebody feels they have an operation going at a residential location that they deem that could be, could endanger the system, then they could be made or could be required to install a backflow prevention device. And the built in irrigation systems are ones that do require that. If a homeowner has something else going on that could endanger it then they could be required to have it too. But that's at the discretion of the local officials.

Mr. Snyder: And one final question.

Mr. Sarbach: And all commercials, like you said, all commercial property are required to have them.

Mr. Snyder: Now what is, what authority will do this inspection? As far as we'll do that from our own plumbing people?

Mr. Miller: No, the inspection is done through the Water Plant. They're required to hire their own plumber or own person to inspect it and certify it to us.

Mr. Snyder: The end user?

Mr. Miller: The end user, yes.

Mr. Sarbach: The commercial or the residential user it is tracked through the Water Department. The Water Department has a system in place that they are developing as we speak and expanding as we speak, that locates the need for these locates or documents when they are installed and tracks the inspection of these items. That part of it is done by the Water Department staff. But the actual inspection, the end user selects the person who has been trained and certified to inspect that. That would not be a City employee. We're not in the inspection business. We're in the water treatment and delivery business. So they would have their choice to hire a private contractor or a certified individual to do these tests and complete the proper paperwork that gets back to the Water Department per EPA and Ohio Revised Code specifications.

Mr. Foltz: Is that a yearly re-inspection?

Mr. Sarbach: Yes it is.

Mr. Foltz: Ok. We're more or less mandated by EPA here?

Mr. Sarbach: Say again?

Mr. Foltz: We're mandated by EPA right?

Mr. Sarbach: Unfortunately, we are. Like I say, I have some questions...

Mr. Foltz: That's the answer for some people that are going to be upset.

Mr. Sarbach: I have reservations with the, with the letter of the law but I have no qualms with the spirit of it and so I have no desire to get us in to a legal matter with the EPA or the Attorney General for Ohio for violating the Ohio Revised Code.

Mr. Snyder: Have we've written the spec to what type of an apparatus we want...

Mr. Miller: It's set out in the Ohio, or in the rules promulgated by EPA as far as the spec and that type of thing. One other thing I wanted to point out, Councilman Sarbach covered basically everything except there's one other thing. You don't have to have a waterline break or anything to happen to your system to actually get a backflow into the system from a private system. If you've got, let's say, 50 PSI or 60 PSI in your line and a pump kicks on or something else kicks on at a business or even a resident's private well or something, it can back feed into your system because there's more pressure in it then there is in your system.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Lane moved and Mr. Sarbach seconded to **adopt the first reading** of Ordinance No. 39-05. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mr. Snyder: As time is of the essence to get this done in a timely and less costly manner, I would ask that we suspend the rules of council for Ordinance 39-05.

Mr. Foltz moved and Mr. Sarbach seconded to **suspend the rules** for Ordinance No. 39-05. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Sarbach moved and Mr. Lane seconded to **adopt under suspension of the rules** Ordinance No. 39-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

21. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 40-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Ordinance No. 40-05 – First Reading

An ordinance authorizing the Superintendent of the Water Treatment Plant to cause the installation of an approved backflow prevention device, if necessary for the safety of the public water system, and to give notice to the property owner to install such an approved device, and repealing any and all legislation passed previously and inconsistent with this ordinance.

Mr. Snyder: Chairman Sarbach?

Mr. Sarbach: Yea, this legislation will bring us into compliance with an EPA letter that we received December 10th of 2004. One of the items was that the North Canton water system continues to conduct backflow prevention program without a formal city ordinance. This is the formal city ordinance that they require that we have. This also brings us in compliance with the Ohio Revised Code Section 6109 and Section 3745 for the public water system protection along with an EPA requirement that the backflow prevention systems be implemented and maintained. I'd ask the Mayor if the Administration is a hundred percent on board with this, I presume?

Mr. Miller: Yes.

Mr. Sarbach: And even though I'm not personally in agreement with the letter of the law, I do agree with the spirit of the law and I recommend that we adopt the first reading of Ordinance No. 40-05.

Mr. Snyder: Prior to the vote, Chairman Sarbach would you, may clear me up a little bit. You told me prior to the meeting that will require all commercial users of our water system to have a backflow device?

Mr. Sarbach: That's correct.

Mr. Snyder: I mean anybody? Is it...

Mr. Sarbach: Any commercial property according to our Superintendent of the Water Plant to be in compliance with the EPA that all commercial properties have to have an approved backflow device. This is to prevent any type of contaminants, feces, chemicals of any kind to enter the potable water system of this City. If there is a waterline break in area pressure drop would allow that to flow back into the system, this would prevent that. And these devices are more state of the art than previous devices that they had thirty years ago and they are testable and they can be proven to work. And we have a track record of these devices being there and being operational. Devices do fail on occasion but the testing system will locate those items that fail and it will protect the water system in the City. I was originally under the impression that we'd have to have a water main or a water plant failure of all the generators and all the electrical system and all the high service pumps but in reality if a break would occur there could be a localized, low pressure area that would allow contaminants to flow in these backflow preventers will prevent that and this ordinance just mimics the state Ohio Revised Code and the EPA requirements that they be installed.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

And that's been shown to happen, in fact, one of the ones that happened in Ohio, I believe it was, they figured 75% of the water in the public system came from wells because people kept their wells instead of getting rid of them. And wells kept coming on and well water pressure was higher than the system pressure and back fed. So they had bacteria and no chlorine in their public well or water system. Those are the kind of things that we want to make sure we avoid.

Mr. Snyder: Now we'll require people that have water wells, private wells on their property to have they're also on our water system to also have a backflow device.

Mr. Miller: We'll require one of two things. Right now, the basic requirement is that you separate the two. You can use your well water, if you will, hook it directly to a system that has no counter connection to the City system for like watering the grass and that type of thing. Potentially, and that's something that'll have to have our permit and inspection folks look at as well as having Rich Steinhebel take a look at it. And that is putting a backflow preventer on the system so that if they want to mix their well water with our water that's fine but it can't get back into our system. Ultimately, we're trying to protect our own water system. And we'll take a look at that and see if that's a way we can go our whether we want to stick with what we've been doing up to this point.

Mr. Sarbach: This is nothing new in the State of Ohio. This is going on in several communities. Some are more cutting edge than others and we have been doing it but we need to have this ordinance in effect to give our local people the authority to do what the State says we need to do. The rules are not set forth in the ordinance but it just gives us local teeth to enforce the State and EPA requirements.

Mr. Snyder: We do appreciate your report on that and going and getting that for us. Madam Clerk you can call the roll.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 40-05**. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

22. Mr. Lane moved and Mr. Peters seconded to **read by title only, first reading of Ordinance No. 41-05**. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Ordinance No. 41-05 – First Reading

An ordinance authorizing the Director of Administration of the City of North Canton to advertise and receive bids according to specifications now on file in the office of the Director of Administration; and for the Mayor to be authorized, through the Board of Control, to enter into a contract for the replacement of the air conditioning unit at North Canton City Hall, and declaring the same to be an emergency.

Mr. Snyder: For the air conditioning, \$100,000? We had budgeted in the '05 budget \$100,000 for the air conditioning system. We're going ask this be passed on an emergency for two reasons. One if we go out to bid now to do it, we'll have it done when the season arrives hopefully late April or May. Secondly, the existing system is not up to puff and snuff. They will not carry it through the season and the productivity of the worker does diminish when they're uncomfortable so in essence we'll be saving...

Mr. Miller: It's beyond uncomfortable...inaudible.

Mr. Snyder: Yea, I'm sure it is. Because it gets uncomfortable in the winter time so really an emergency does exist and I wanted to articulate that into the record. But if there's no questions on that, may I have a motion to adopt the first reading of Ordinance 41-05?

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 41-05**. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Mr. Lane moved and Mr. Sarbach seconded to **suspend the rules** for Ordinance No. 41-05. All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 41-05. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

23. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, first reading of** Ordinance No. 42-05. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 42-05 – First Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into an agreement for the purchase of one (1) 7400 4x2 International Dump Truck and Gledhill Body Package, for use by the Street Department, through participation in the Ohio Department of Transportation contracts for the purchase of machinery, materials, supplies or other articles which the Department has entered into pursuant to Ohio Revised Code Section 5513.01 (B), and declaring the same to be an emergency.

Mr. Snyder: This should round out our fleet of vehicles going into the Street Department. Replacing one of the large dump trucks that will be equipped with snow control equipment. I believe we budgeted \$85,000 for the purchase of that. And it will be done through the State bid if all possible. Again, to say it is in the appropriation '05. Being no questions, may I have a motion to adopt the first reading of Ordinance 42-05?

Mrs. Kiesling moved and Mr. Peters seconded to **adopt the first reading of** Ordinance No. 42-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Mr. Snyder: Director of Law, any report?

Mr. Foltz: Do you want an emergency?

Mr. Pusateri: Do you want to pass that on emergency?

Mr. Snyder: Oh, I'm sorry. I better pass that on emergency. I was thinking about riding in that.

Mr. Pusateri: Everybody jumped on you...inaudible.

Mr. Snyder: They all wanted me, they all were waiting for me to describe what a Gledhill body was. You'll have to go to the local spa to find that out.

Mr. Peters moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 42-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

Mr. Snyder: Must have had a brain melt down it's so hot in here. Director of Law, any report?

Mr. Sarbach: We have to pass it under the suspended rules.

Mr. Lane: We got one more vote Jon.

Mrs. Kalpac: We have to...

Mrs. Kiesling: Shouldn't we...one more vote.

Mr. Foltz: We got one more to do. We suspended it now we got to vote under emergency.

Mr. Snyder: We just passed it.

Mr. Sarbach: Mr. Chairman I move we adopt Ordinance 45-02 under the rules as suspended.

Mr. Snyder: It is hot in here. Sorry about that.

Mr. Pusateri: We'll forgive you.

Mr. Snyder: I've been doing this too long.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

Monday, February 14

7:00 p.m.

20 05

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 42-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

REPORTS:

Mr. Snyder: Now, Mr. Law Director do you have any report?

Mr. Pusateri: I do not have any report. Thank you sir.

Mr. Snyder: Do you want me to go over Roberts Rules ...inaudible.

Mr. Pusateri: No.

Mr. Snyder: Director of Finance?

Mrs. Herr: No report tonight.

Mr. Snyder: Director of Administration?

Mr. Miller: No report.

Mr. Snyder: Mr. Mayor?

Mayor Rice: Just a quick note to, as many of you I think are aware, we had a really nice program on Saturday morning dedicating a plaque to Jacob Gaskins and identifying our property now at the Fairways as a historical site of the underground railroad. And I want to particularly thank Councilman Lane who mc'd that program as a member of that of our North Canton Heritage Society and also to Mike Miller for really getting this thing off the ground and getting it done. I encourage everybody to go up to see the plaque. If you haven't seen it, it's very nice, beautiful plaque there out front of the Fairways Building and appreciate everybody's help in putting that together. It was a very nice program and nice feather in the hat for the City of North Canton. So, that's all.

Mr. Snyder: Thank you Mr. Mayor. Mr. Engineer?

Mr. Benekos: Just one item regarding the Oster well fields. If you recall, or maybe not, in the work plan that I provided to you. It indicated in there that we may need some additional funding for that to do some studies. And that is the case. Julie has indicated that she does have funds available that we can transfer to handle this. Initially, the cost for the studies are going to be in the \$25,000 range plus some additional possibly wells that may need to be drilled. And that would be an additional cost. I figured the total cost on the upward end at this time would be \$40,000. So just to make you aware of that. If you have any concerns or questions at this time or in the future.

Mr. Snyder: Now that does include the "For Sale" signs also?

Mr. Benekos: Yes.

Mr. Sarbach: I have a question. If in fact, it turns out that we do develop that well field, would it not be prudent to look now at putting piping under the interstate as they're rebuilding the bridges. And have things dug up or is that not feasible to put 50 feet or 100 feet of pipe down when their rebuilding those bridges and just cap them for a later date?

Mr. Miller: Location that we're looking at for a potential pipeline, if it comes to that, is going to be in a spot, there really isn't a bridge. Basically parallel with or adjacent to where the Nimishillen Creek goes under, or the Zimber Ditch goes under the interstate. So we'll probably have to go under that location in order to get over to that side of the property. If it occurs that we want to develop that well field.

Mr. Sarbach: To your knowledge, is that area under any present or future reconstruction? Where the widening of the interstate is?

Mr. Miller: The widening is already taken place so that's done as far as doing anything with the culvert underneath. I don't think they're doing anything with that.

Mr. Sarbach: Thank you.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

REPORTS – COUNCIL:

Mr. Snyder: Madam Clerk?

Mrs. Kalpac: No report.

Mr. Snyder: Member Foltz?

Mr. Foltz: No report.

Mr. Snyder: Member Lindower?

Mr. Lindower: No report.

Mr. Snyder: Member Lane?

Mr. Lane: Echoing the Mayor's comments from Saturday. It's a wonderful ceremony, quite moving and I do, indeed, encourage everybody to go by there and see that plaque and also a thank you to the Hoover students and the private contributors that helped raise the money for that and again to Mike for his efforts over the last twenty years of researching the Gaskins family and I know that his efforts are not going to end now. Could have lots of little plaques as we make our way through his many files. So again thank you for coming, those of you who did and it was quite a moving, I know Dottie was there, quite a moving ceremony. Some excellent speakers, thank you.

Mr. Snyder: Thank you. Member Kiesling?

Mrs. Kiesling: No report.

Mr. Snyder: Member Peters?

Mr. Peters: No report.

Mr. Snyder: Member Sarbach?

Mr. Sarbach: No report.

Mr. Snyder: Mr. Engineer what's that backhoe doing down there on South Main? Fixing the bridge or?

Mrs. Kiesling: They're digging up trees.

Mr. Benekos: That's the County's backhoe?

Mrs. Kiesling: Yea.

Mr. Benekos: Yea, they're clearing the right of way.

Mr. Snyder: Oh, for their bridge they're widening there?

Mr. Benekos: Correct, for our project down there. They're assisting us in that. There's an issue with the Indiana bats. You have to take any trees down by April 15th or you can't take trees down after that. So you're encouraged to clear any right of way prior to that time and the County Engineer has manpower available at this time so he's doing that.

Mr. Snyder: Did you say Indiana bats?

Mr. Benekos: Yes. An endangered species.

Mr. Miller: Endangered species.

Mr. Foltz: What about the Ohio bats?

Mrs. Kiesling: Yea, really.

Mr. Miller: They nest under loose bark.

Mr. Snyder: They nest where?

Mr. Miller: Under loose bark of trees.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Snyder: There were a few seen on South Main were there?

Mr. Miller: Not yet.

Mr. Benekos: They're everywhere but they're endangered.

Mr. Snyder: You know some people have swallows, we have Indiana bats.

FINAL CALL FOR NEW BUSINESS:

Mr. Snyder: Is there any last call for business from the audience?

Mrs. Kiesling: Are you going to move the meeting? Isn't next week President's Day?

Mr. Snyder: Yes, we'll move to Tuesday.

Mrs. Kiesling: Ok.

Mr. Osborne: I'd just like to follow up what the Mayor said earlier. He said he came to Council in 1999. I knew in my mind that you've been around for a good many years Mr. Mayor. You're implication that that was your first arrival in 1999 and you did have a career on Council here in town back in the '80's. But you seem to...

Mayor Rice: I think you're statement, Chuck, that I was back here in 19, your words I believe we can have after the transcript but I believe you said, "Mr. Mayor I think you were back on Council in '93." And my statement was, "no, I was not back on Council" Mr. Osborne. Yes, I served in '83. I was first elected in '83 and served until '88.

Mr. Osborne: Correct.

Mayor Rice: I'm glad you agree Chuck that you know my life story.

Mr. Osborne: We'll see....

Mayor Rice: I know when I served, where I served. I don't know what your point is. I was here, my point was....

Mr. Foltz: Point is he wants to waste our time.

Mayor Rice: ...I wasn't here in '93. Mr. Benekos was not here in '93. We had a different Engineer. We had a different Administration. We had a different Director of Administration. We had a different Law Director. We had a different Finance Director. And many of the members of Council sitting here today were not on there. So your problems and complaints about a construction problem, quite honestly, that took place in 1993 you might think it's an interesting story but I question it's significance to this Council and this Administration today. That's my point. I wasn't on City Council in '93. I did not arrive back from my second tenure in the City of North Canton until November, term starting December 1st of 1999. Not even close to '93.

Mr. Osborne: Well we'll read the transcript when it comes out. You indicated that you were newly on Council in '99.

Mayor Rice: No, I didn't.

Mr. Sarbach: No he didn't.

Mr. Lindower: What is his difference?

Mr. Osborne: And obviously you've, nobody here has gotten my point.

Mayor Rice: I think everybody here knows my tenure on Council in the '80's and at the County in the '90's and back here again in the, what's the relevance of that? Who cares?

Mr. Osborne: This Council and this Administration should care and they should re-write the laws to allow for the correction of errors that are created and gone and placed at the expense of the homeowner and the residents.

Mayor Rice: Well that's fine and dandy but I don't see how the City of North, how you can blame this Council or this Administration for a faulty construction project that was constructed in 1993 and we had to go back and correct in 2000 and what? Four? Wasn't that just done last year Jon?

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, February 14 7:00 p.m. 20 05

Mr. Snyder: Uh huh.

Mayor Rice: So eleven years later and you're going to come up here and criticize this Administration, this Council for a bad road project that was done eleven years before we had to deal with it.

Mr. Osborne: Mr. Mayor this is spin. I'm asking you to correct the laws.

Mayor Rice: No, it's not spin. That's the point.

Mr. Osborne: So this will not happen again. Thank you sir.

Mr. Snyder: Thank you. Anyone else wishing to speak? Any last call to Council? If not, if you know as we are closed on the holiday we would like to, may I have a motion to move the meeting to Tuesday, 7:00 p.m. the 22nd, I believe.

Mr. Peters moved and Mr. Foltz seconded to move the Council of the Whole meeting to February 22, 2005. All members present voting:

Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.

No: 0

ADJOURN:

Mr. Foltz moved and Mr. Peters seconded to adjourn the council meeting. All members present voting:

Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.

No: 0

The meeting adjourned at 8:09 p.m.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL

02/17/05-ALG