

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, July 11, 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.
3. All present recited the Pledge of Allegiance.

ROLL CALL:

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

Mr. Sarbach moved and Mr. Peters seconded to excuse the absence of Member Foltz.

All members present voting:

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

No: 0

5. Consideration

Minutes of Council Meeting: June 27, 2005

Minutes of Special Council Meeting: July 5, 2005

Mr. Lane moved and Mrs. Kiesling seconded to approve the minutes of the council meeting and minutes of the special council meeting as presented. All members present voting:

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

No: 0

6. Committee Reports

Community & Economic Development Committee: Refer to the minutes on file in the Council Office of the Community & Economic Committee meeting held July 5, 2005.

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held July 5, 2005.

Ordinance, Rules & Claims Committee: Refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held July 5, 2005.

Street & Alley Committee: Refer to the minutes on file in the Council Office of the Street & Alley Committee meeting held July 5, 2005.

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held July 5, 2005.

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

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

No: 0

7. Recognition of Visitors

Mr. Snyder: At this time, is there anyone in the audience wishing to speak to the Council this evening? Please step forward, state your name and address for the record. Sam?

Mr. Brenton: Don't take this down. Last name is Sam Brenton from down on Westfield. Of course you guys know that South Main Street is going to be closed, I don't know how long. But I live on that street, it's like a horseshoe. You only have one way in, one way out. So with two traffic lanes blocked up, people got to get to work. How are they going to get in and out? So I suggest the barricade they got at Surrey Hill, take a couple logs out, let the cars go through and around and make it more convenient for everybody. I don't know why they put that fence up there for, to keep the rich people in there and the poor people out or what. Or like the guy up on the hill there said, I'm the wrong kind of people. So he, he can have his life too. But anyhow that's a suggestion. Take it or leave it. Now you guys can chew it over.

Mr. Snyder: Thank you sir. That's a point well taken. Mrs. Palmer?

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Mrs. Palmer: I'm Rita Palmer. I live at 307 Fairview Street, SE. You're getting copies of my comments because I found out that they won't be easy for you to understand unless you have your own copy. And may I apologize, I'm not a lawyer. I wish I were. I could have done a better job. I did the best I could. I would like to address the fact that Ordinance No. 66-05 which allows for the transfer of funds from the Income Tax Fund to the General Fund was not acted upon last Tuesday at your council meeting. Because the Board of Elections has certified the correct number of signatures on the referendum petition, this ordinance should be either rescinded or put on the ballot. Law Director Paul Pusateri has given his opinion that the ordinance is administrative and not referendable. I was advised by the Board of Elections that according to your own charter, Section 5.07-2, "The electors of the municipality shall have the power to approve or reject at the polls any ordinance or other measure enacted by council in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect". The Ohio Revised Code would back this up when it states in Section 701.05 that "Municipal corporations operating under a charter which provides for or authorizes a method of procedure in the passage...of legislation...may pass...such legislation...under the general law or in accordance with the procedure provided for or authorized by its charter." Your charter does not say that there are any exceptions to the kinds of ordinances that are referendable. I was told that the Ohio laws reference in the charter statement gives Council the right to declare items to be administrative. Since I've not been able to learn from the Law Director exactly which section in the Ohio Revised Code would give this authority, I searched the Ohio Revised Code on my own to find, if possible, the statement that gives Council this exact authority. Section 731.41 states that Sections 731.28 to 41, which deal with referenda, "inclusive, of the Ohio Revised Code do not apply to any municipal corporation which adopts its own charter containing an initiative and referendum provision for its own ordinances and other legislative measures." This would seem to indicate that the North Canton Charter is the first line of authority in a referendum matter but the Charter also says that the referendum process should agree with the Ohio Revised Code and Constitution. The Charter and the Ohio Revised Code seem to both have authority in referendum matters. So I researched further in the Ohio Code and discovered that Section 504.14 on "Initiative and Referendum Petitions" indeed allows, under home rule governments, for resolutions without any stated exceptions to be "submitted to these electors for their approval or rejection by referendum...." I further noted that section 731.34 allows for the repeal of ordinances under referendum when it states, "If, after a verified referendum petition has been filed against any ordinance or measure, the legislative authority of the municipal corporation repeals such ordinance...the board of elections shall not submit such ordinance or measure to a vote of the electors." No mention is made of non-action by Council as an option on a referendum petition. Further, Section 731.29 states that after the Board of Elections verifies referendum signatures on petitions and returns the petitions to the auditor or clerk, "the board of elections shall submit the ordinance or measure to the electors of the municipal corporation, for their approval or rejection, at the next general election... ." There is no third option of inaction or tabling offered to the Council. They either rescind the measure or put the ordinance on the ballot by sending it to the Board of Elections. I further researched to determine what administrative powers the Council, a legislative body, is given by Ohio law. Section 731.05 "Powers of Legislative Authority" states, "The powers of the legislative authority of a city shall be legislative only, it shall perform no administrative duties...All contracts requiring the authority of the legislative authority for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate. After the authority to make such contracts has been given and the necessary appropriation made, the legislative authority shall take no further action thereon." This would seem to state that Ordinance No. 66-05 is legislative and not administrative because the Council has no right to perform administrative duties nor after the fact, go back and declare said ordinance to be administrative. I could find no section in the Ohio Revised Code that would allow for a denial of the referendum process to a citizen. Therefore, and lastly, on a simple level, if Council does not rescind or put Ordinance No. 66-05 on the ballot, you are denying me, along with 800 others, my right as a citizen to referendum any ordinance. This right is guaranteed to me by your Charter and by the Ohio Revised Code backed by the Ohio Constitution. You cannot make an ordinance, allow a citizen to collect 800 signatures on a referendum petition against that ordinance, let it be certified by the Board of Elections, and then say "Oops, we're sorry, but that ordinance moving one-fourth of the City's annual income from the Income Tax Fund to the General Fund is in your singular or collective opinion not referendable." That action, or in this case lack of action, flies in the face of every citizen of North Canton whose dollars you are so carelessly watching over. Please consider amending your agenda for tonight or for a future meeting to allow you to discuss this issue and then choose one of your two legal opinions. Thank you.

Mr. Snyder: Thank you. Anyone else wishing to speak to us this evening? Then we will bring this, I'm sure this under the, somewhere on here is like one of the last items on this agenda, Number 20, so we will at that point. What number is that?

Mrs. Kiesling: Excuse me, ...inaudible...the agenda.

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Mr. Snyder: It's right along in there somewhere...inaudible. Number 26. So when we get to 26, at that point we can discuss this at that point. Will that be alright with Council at that point?

Mrs. Kiesling: That...inaudible.

Mr. Snyder: When we come to that, Number 26 on the agenda. Which is the companion ordinance to this one you're speaking of. We will discuss it at that point. Anyone else wishing to speak? If not, may I have a motion or I believe Mrs. Kiesling, you have a

Mrs. Kiesling: Yes, I would like to set a public hearing for a potential zone change on 500 Applegrove Street, NW and part of Out Lot 200 currently is zoned R-2F requesting to be zoned GB-A for August 22nd at 6:30 in the evening.

Mr. Lane: 22?

Mrs. Kiesling: Our first meeting back in five weeks. That's it.

Mr. Snyder: At that point, may I have a motion to read by title only, the third reading of Ordinance No. 91-05?

OLD BUSINESS:

8. Mr. Lane moved and Mr. Peters seconded to **read by title only, third reading of Ordinance No. 91-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 91-05 – Third Reading

An ordinance changing the name of Alley No. 39, a fourteen (14') foot wide alley located approximately 180 feet east of South Main Street and parallel therewith and beginning at Glenwood Street S.E. and running in a general north-south direction for approximately 1940 feet to Bitzer Street S.E. and there terminating.

Mr. Snyder: Chairman Lane?

Mr. Lane: I feel bad we don't have a band for this. This has been around for awhile. This is hopefully the last time we'll see it. But rather than discuss it ...inaudible...tonight, nothing has changed since the last time we read it. So I would move we adopt.

Mr. Lane moved and Mr. Peters seconded to **adopt the third reading of Ordinance No. 91-05.** All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

9. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, third reading of Ordinance No. 122-05.** All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 122-05 – Third Reading

Ordinance No. 122-05 accepting a twenty (20) foot perpetual water main easement, being part of Out Lot 286, Parcel 5800912 in the City of North Canton, presently owned by McKinley Development Leasing Company, Ltd, (Grantor); and being part of the Southeast Quarter of Section 9, Township 11, Range 8 of former Plain Township, to turn over an existing waterline and all appurtenances for the City of North Canton to own and maintain.

Mr. Snyder: Chairman Sarbach?

Mr. Sarbach: This is a easement at Washington Square for the water main. We've discussed this quite thoroughly and it just turns that responsibility for maintaining that over to the City. And I move that we adopt, third reading of Ordinance 122-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the third reading of Ordinance No. 122-05.** All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

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10. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, third reading of Ordinance No. 125-05.** All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Ordinance No. 125-05 – Third Reading

An ordinance amending Ordinance No. 54-05, specifically Section 1, establishing rental rates and policies for rental of the North Canton Dogwood Park Shelter located at 241 Seventh Street NE, and repealing any and all legislation passed previously and inconsistent with this ordinance.

Mr. Snyder: As we have talked about in the past, we found a little ambiguity in the actual rental contract as to what hours are available at what price. And this spells it out and empowers the Director of Administration to enforce the hours and the rental rates as it was initially the wishes of the Council and the Park and Rec. Any questions? If not, may I have a motion to adopt the third reading of 125-05?

Mr. Sarbach moved and Mr. Peters seconded to **adopt the third reading of Ordinance No. 125-05.** All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

11. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, third reading of Ordinance No. 134-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 134-05 – Third Reading

An ordinance accepting the record plat of The Sanctuary No. 1 located within the corporate limits of the City of North Canton.

Mr. Snyder: Chairman Lane?

Mr. Lane: It's just what it says. It's third reading on this. It accepts the record plat and anybody have any questions or concerns? If not, yes sir?

Mr. Snyder: I think, Chairman Lane, it would probably be good if we let the audience know that this in no power, this does not give them power to move forward into that Sanctuary. I still think they have not met the requirements of flood reduction. Have they yet?

Mr. Benekos: The flood plain requirements?

Mr. Snyder: Right.

Mr. Benekos: No. We are still reviewing that...

Mr. Snyder: Right.

Mr. Benekos: ...and in meetings with them so that they do comply with the ordinance.

Mr. Snyder: At this particular legislative action does not give them any power other than accepting the original plot that was presented to the Planning Commission some weeks back.

Mr. Lane: There, there are some, there is some equipment up there right now, right? Is that what we talked about last week?

Mr. Miller: There's equipment up there that's staging and getting ready. It's basically setting up a lay down area. There's a meeting that Jim has scheduled Wednesday, I believe, at 1:30. Where they believe, at that point in time the final things will in place as far as the flood plain is concerned. And be able to have that finalized so it is anticipated that's what they're getting equipment ready for that later on this week they will have everything in place so they can begin construction and laying out the roads, etc., putting utilities in.

Mr. Lane: Ok.

Mr. Miller: Is that correct?

Mr. Benekos: Correct.

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Mr. Lane: Any other concerns? I would move we adopt.

Mr. Lane moved and Mrs. Kiesling seconded to **adopt the third reading** of Ordinance No. 134-05. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

12. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 135-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 135-05 – Third Reading

An ordinance accepting the record plat of The Sanctuary No. 2 located within the corporate limits of the City of North Canton.

Mr. Snyder: Chairman Lane?

Mr. Lane: This is similar to Number 11 but it's Plat No. 2. Same concerns and the same answers. Anybody have any other concerns or questions on it. If not, I would move we adopt.

Mr. Lane moved and Mr. Sarbach seconded to **adopt the third reading** of Ordinance No. 135-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

13. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, second reading** of Ordinance No. 141-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Ordinance No. 141-05 – Second Reading

An ordinance adopting new work rules along with penalties by establishing City Wide Work Rules and Penalties and repealing any and all legislation inconsistent herewith.

Mr. Snyder: Chairman Lindower?

Mr. Lindower: Yes, here again, we discussed this before. It's the upgrading of the City Wide Work Rules and Penalties. Mr. Miller has done quite a bit of research on this and spoken to the Collective Bargaining individuals in all the departments. I've had an occasion to speak with a couple people that I felt there may be a conflict with some of the in place rules and so forth. And apparently those have all been resolved with the City. I'd like to move that we pass second reading of Ordinance 141-05.

Mr. Lindower moved and Mr. Peters seconded to **adopt the second reading** of Ordinance No. 141-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

NEW BUSINESS:

14. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Resolution No. 147-05. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Resolution No. 147-05 – First Reading

Resolution No. 147-05 stating what municipal services will be provided to 0.765 acres of land, more or less, known as and being part of the Northeast Quarter of Section 16, Township 11 (Plain Township), Range 8, Stark County, Ohio, proposed to be annexed to the City of North Canton, in the event said territory is annexed to the City of North Canton and declaring the same to be an emergency.

Mr. Snyder: Chairman Kiesling?

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Mrs. Kiesling: Yes, this is exactly as it states. This is the BP/East Maple Street Annexation and we're just stating what municipal services we'll provide to it, which is everything we provide to all our other residents. We need this on an emergency, we can move it down to the Commissioner's. I motion we accept.

Mrs. Kiesling moved and Mr. Lane seconded to **adopt the first reading of** Resolution No. 147-05. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules for** Resolution No. 147-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Resolution No. 147-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

15. Mrs. Kiesling moved and Mr. Sarbach seconded to **read by title only, first reading of** Ordinance No. 148-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Ordinance No. 148-05 – First Reading

An ordinance consenting to the proposed annexation of certain territory known as the B.P./East Maple Street Annexation containing 0.765 acres of land, more or less, in Plain Township to the City of North Canton and declaring the same to be an emergency.

Mr. Snyder: Chairman Kiesling?

Mrs. Kiesling: Yes, this is the same annexation. We're just consenting to the proposed annexation and sending it down to the Commissioner's. I motion we accept.

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt the first reading of** Ordinance No. 148-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules for** Ordinance No. 148-05. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt under suspension of the rules** Ordinance No. 148-05. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

16. Mrs. Kiesling moved and Mr. Sarbach seconded to **read by title only, first reading of** Ordinance No. 149-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 149-05 – First Reading

An ordinance to comply with Ohio Revised Code 709.023(C) regarding compatible and/or incompatible zoning uses, for the proposed annexation of the property known and the B.P./East Maple Annexation and declaring the same to be an emergency.

Mr. Snyder: Chairwoman Kiesling?

Mrs. Kiesling: This is the third piece of legislation for the B.P. Annexation. Something new in the Ohio Revised Code this year stating we will keep our zoning as close to Plain Township's as possible. If not we will create buffers. Any questions, concerns? I motion we accept.

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Mrs. Kiesling moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 149-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mrs. Kiesling moved and Mr. Sarbach seconded to **suspend the rules** for Ordinance No. 149-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Mrs. Kiesling moved and Mr. Lane seconded to **adopt under suspension of the rules** Ordinance No. 149-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

17. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, first reading** of Resolution No. 150-05. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Resolution No. 150-05 – First Reading

Resolution No. 150-05 stating what municipal services will be provided to 5.271 acres of land, more or less, known as and being part of the Southeast Quarter of Section 16, the Southwest Quarter of Section 16 and the Northeast Quarter of Section 21, Township 11 (Plain Township), Range 8, Stark County, Ohio, proposed to be annexed to the City of North Canton, in the event said territory is annexed to the City of North Canton and declaring the same to be an emergency.

Mr. Snyder: Chairwoman Kiesling?

Mrs. Kiesling: Yes, this is a different annexation. It's the Trinity, what kind of church is it? Brethren?

Mr. Sarbach: Brethren.

Mrs. Kiesling: Yes, Church on 55th Street. We are annexing into the City of North Canton just stating we'll give the same services. I motion we accept.

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt the first reading** of Resolution No. 150-05. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mrs. Kiesling moved and Mr. Sarbach seconded to **suspend the rules** for Resolution No. 150-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules** Resolution No. 150-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

18. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 151-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Ordinance No. 151-05 – First Reading

An ordinance consenting to the proposed annexation of certain territory known as Trinity Brethren Church-55th Street Annexation containing 5.271 acres of land, more or less, in Plain Township to the City of North Canton and declaring the same to be an emergency.

Mr. Snyder: Chairwoman Kiesling?

Mrs. Kiesling: Yes, this is the companion piece for the Trinity Annexation stating that we are consenting to the annexation. I motion we accept.

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Mrs. Kiesling moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 151-05.** All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

Mrs. Kiesling moved and Mr. Sarbach seconded to **suspend the rules for Ordinance No. 151-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules Ordinance No. 151-05.** All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

19. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, first reading of Ordinance No. 152-05.** All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 152-05 – First Reading

An ordinance to comply with Ohio Revised Code 709.023(C) regarding compatible and/or incompatible zoning uses, for the proposed annexation of the property known as the Trinity Brethren Church-55th Street Annexation and declaring the same to be an emergency.

Mr. Snyder: Chairwoman Kiesling?

Mrs. Kiesling: Yes, this is the third piece of legislation for the Trinity Brethren Annexation stating we will have compatible zoning or buffer it. I motion we accept.

Mrs. Kiesling moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 152-05.** All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **suspend the rules for Ordinance No. 152-05.** All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Mr. Peters moved and Mrs. Kiesling seconded to **adopt under suspension of the rules Ordinance No. 152-05.** All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

20. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, first reading of Resolution No. 153-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Resolution No. 153-05 – First Reading

A resolution adopting the Budget of the City of North Canton, Ohio, for the year 2006 and declaring the same to be an emergency.

Mr. Snyder: We had that public hearing this evening. You all know the Mayor's budget, what the amount. It'll be sent down. It's due at the Budget Commission, I think, the 29th. So we need to pass this on an emergency. Any questions? May I have a motion to adopt the first reading of Resolution 153-05?

Mr. Lane moved and Mr. Peters seconded to **adopt the first reading of Resolution No. 153-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **suspend the rules for Resolution No. 153-05.** All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

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Mr. Peters moved and Mr. Lane seconded to **adopt under suspension of the rules** Resolution No. 153-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Snyder: May I have a motion to read by title only, first reading of Ordinance No. 154-05?

Mr. Sarbach: That was a yes wasn't it?

Mr. Snyder: Oh, I beg your pardon. That was.

Mr. Sarbach: Ok.

Mr. Snyder: I'm going to put a little red and a green light here and I'll just flash it. That was a yes Madam Clerk. Thank you. May I have a motion to read first reading of Resolution 155-05. I apologize.

Mr. Pusateri: 154.

Mrs. Kiesling: 54.

Mr. Snyder: Oh, 154-05. I'm blowing the next one off.

21. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, first reading of** Ordinance No. 154-05. All member present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 154-05 – First Reading

Ordinance No. 154-05 authorizing the North Canton Police Department to apply for, accept, and utilize State of Ohio funding for the D.A.R.E. Program for the period from August 1, 2005 through June 30, 2006 and declaring the same to be an emergency.

Mr. Snyder: Again, we're very fortunate in this community Administration does continue the D.A.R.E. program. It's well funded. I believe this grant provides at least half, if not all of the patrolman's salary. It's something the people in the community like. And we do thank the Administration for that. I would entertain a motion to adopt the first reading of Ordinance No. 154-05.

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt the first reading of** Ordinance No. 154-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules for** Ordinance No. 154-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 154-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

22. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading of** Ordinance No. 155-05. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 155-05 – First Reading

An ordinance amending Ordinance No. 145-04, Income Tax Ordinance of the City of North Canton, specifically Paragraph F, under Section 4, Article III-1, RETURN AND PAYMENT OF TAX, by deleting "or interest" from the phrase "penalty or interest" and repealing all legislation inconsistent herewith.

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Mr. Snyder: As you know, we did just revamp our Income Tax Ordinance a few months back. Inadvertently we did not see that or we would have purged that statement. We want to charge interest only for people asking for an extension of time to file and leave the penalty portion out but leave the word interest in. Any questions to that? May I have a motion to adopt the first reading of Ordinance No. 155-05?

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 155-05.** All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mr. Snyder: May I have a motion to suspend the rules of Council for Ordinance No. 155-05?

Mr. Pusateri: No, we're not, that's no emergency.

Mr. Snyder: Oh, that says non emergency, excuse me. Inaudible...that'll give somebody another day without a penalty. Ok, moving on to ordinance, may I have a motion to read by title only, first reading of Ordinance 156-05?

23. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading of Ordinance No. 156-05.** All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 156-05 – First Reading

Ordinance No. 156-05 authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into an agreement for the purchase of the premises known as being part of Out Lot No. 247 (Permanent Parcel No. 5800136) for the proposed Marquardt Sanitary Sewer and for the future park purposes, in the City of North Canton, Stark County, Ohio, at a cost not to exceed \$162,500.00 and declaring the same to be an emergency.

Mr. Snyder: This particular parcel is needed to put the sanitary sewer in the Sanctuary area. We do need it as easements are not attainable. This is a valuable piece of land to add to our park because it will be the future expansion of the Connector Trail there. It is ten acres which is inside the City limits of North Canton and it will be added to our parks. And this particular property will be paid from funds of, from the Sanitary Sewer Fund. So we'll actually get a little bang for our buck. Any questions on that? If not, may I have a motion to adopt the first reading of Ordinance 156-05?

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 156-05.** All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules for Ordinance No. 156-05.** All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Mr. Peters moved and Mr. Sarbach seconded to **adopt under suspension of the rules Ordinance No. 156-05.** All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

24. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading of Ordinance No. 157-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 157-05 – First Reading

An ordinance providing for the issuance and sale of \$163,000 notes, in anticipation of the issuance of bonds, for the purpose of improving and expanding the City's sewerage system by acquiring real estate and interests in real estate in connection therewith and declaring an emergency.

Mr. Snyder: Again, as we just said. This is the piece that provides the mechanism to pay for that. We anticipate revenue coming from the increase in our sanitary sewer hookups and the actual sanitary usage. Those are to be built in those homes in the future and rather than burden the City using present cash flows. We will sell notes which will be issued as bonds and

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we will run in correlation as the money comes in we'll retire the debt. Inaudible...that one, oh yes. This particular piece of legislation does contain a statement of the Director of Finance of the City of North Canton, Mrs. Julie Herr stating that we in fact are in a position to retire these notes should we have to by using the net worth of the City. Is that correct Mrs. Herr?

Mrs. Herr: Yea, basically it's just stating what the estimated life of the project is and that...

Mr. Snyder: Twenty years isn't it?

Mrs. Herr: ...if we will look at issuing bonds in the future.

Mr. Snyder: Ok. May I have a motion to adopt the first reading of Ordinance No. 157-05?

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 157-05.** All members present voting:

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

No: 0

Mrs. Kiesling moved and Mr. Lane seconded to **suspend the rules** for Ordinance No. 157-05. All members present voting:

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

No: 0

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt under suspension of the rules Ordinance No. 157-05.** All members present voting:

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

No: 0

25. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading of**

Ordinance No. 158-05. All members present voting:

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

No: 0

Ordinance No. 158-05 – First 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. 652 Sewer Revenue Fund to the Facilities-Sewer Line account in the aggregate amount of \$162,500.00 for the current expenses during the fiscal year ending December 31, 2005 and declaring the same to be an emergency.

Mr. Snyder: This, again, is the transfer of the money from the fund into the account that will pay for the line.

Mr. Pusateri: Mr. President, I just recognized an inconsistency with the title and the body of the ordinance that we need amended. It should be 162,500 in the body.

Mr. Snyder: Oh of the ordinance?

Mr. Pusateri: Yes.

Mr. Snyder: So we will amend it, the ordinance that we have in our packet to read 162,500.

Mr. Pusateri: That's correct.

Mr. Snyder: Is everyone aware of that, you have a copy of the actual ordinance as it will be presented to the Mayor. And the one presented to the Mayor will read 162,500, Mr. Mayor.

Mr. Pusateri: It appears to be a clerical error in omitting that 5.

Mr. Snyder: Omitting the 500. So we are requesting that the transfer of funds be 162,500 and your ordinance does read 162 even. Thank you. Where, what point are we at?

Mr. Pusateri: I'm sorry. I didn't mean to...

Mr. Snyder: No, you didn't. We, I was just going to read that, correct?

Mr. Pusateri: Yea, that's correct.

Mr. Snyder: No, we read that.

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Mr. Pusateri: We read it.

Mr. Snyder: Now we're going to adopt it.

Mr. Pusateri: Yea, that's correct, as amended.

Mr. Snyder: As amended.

Mr. Pusateri: Amend it first, move to amend it.

Mr. Snyder: May I move, may I have a motion to move the amendment that contains a copy of your ordinance to read 162,500.

Mr. Lane moved and Mr. Peters seconded to **amend** Ordinance No. 158-05 as stated above.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading, as amended,** of Ordinance No. 158-05. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules, as amended,** for Ordinance No. 158-05. All members present voting:

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

No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules, as amended,** Ordinance No. 158-05. All members present voting:

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

No: 0

26. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, first reading of** Ordinance No. 159-05. All members present voting:

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

No: 0

Ordinance No. 159-05 – First Reading

An ordinance certifying the sufficiency and the validity of the referendum petition on Ordinance No. 67-05 and declaring the same to be an emergency.

Mr. Snyder: Is there any discussion on this or the other ordinance at this time?

Mr. Sarbach: Does the Law Director have any comment on this?

Mr. Pusateri: Excuse me?

Mr. Sarbach: Do you have any additional comment on this ordinance?

Mr. Pusateri: I have nothing in addition to what I stated last week. If you have specific questions, I certainly will answer those.

Mr. Sarbach: Nope.

Mr. Lane: Any comments on what we heard earlier this evening without going point by point...

Mr. Pusateri: It doesn't change my opinion...

Mr. Lane: ...but is there anything that just stands out?

Mr. Pusateri: No, it doesn't change my opinion. I did talk to Mrs. Palmer last week and stated to her had I known, I did not know, back up, that there were being two petitions circulated until they were actually turned in. Had I known that one was being circulated, I would have told her and her husband and anybody else that circulated that it was going to be an administrative petition. I'm not sure that would change the circulation of that petition but I certainly would have told them that. So I, I mean I didn't, I certainly understand the work that goes in on getting signatures on petitions. I've done it before, it's not easy. I recognize that. But just as a practical sense, I was talking to Mrs. Kiesling today, let's say both of them are subject to referendum and both of them are on the ballot. Let's say the one that transfers funds from the Tax Fund to the General Fund wins, the referendum wins, alright? That means the ordinance

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doesn't go into effect and the other one, reverse it, oh no, yea, I mean reverse it, I'm sorry. If it loses and they won where the money is going to be allowed to transfer from accounts to the escrow fund, that money is still going to come from somewhere. I mean that ordinance still has an effect where it says that 1.5 million dollars will be transferred to an escrow account even though that other one was defeated. Do you understand? That money's coming from somewhere. So it just, it just goes to show an example as to why that's administrative. I mean at that point, Council would then just shift funds in one account to another account to pay the 1.5 million dollars to go into escrow fund.

Mr. Lindower: Where is that clarified that that's administrative though? Is that clarified or is that just an opinion?

Mr. Pusateri: It clarifies the fact that it just simply, in an act that Council does that, I mean just transferring funds. From one fund to one account to the other account, that could be done in December to make sure there's a 1.5 million dollars available for the CIC. Or it doesn't have to be a transfer of funds. The fund could just come out of the General Fund, I guess without there being a transfer. If I'm assuming there's enough in the General Fund in the first place. I don't know. I mean, yea...

Mrs. Herr: You'd have to transfer the money.

Mr. Pusateri: Yea, ok, well from somewhere.

Mr. Snyder: Let me ask a privileged question, obviously just say hypothetically, what, this 66-05 is a mute ordinance without the other one. I mean, it serves of no purpose, correct? If the one goes to the ballot which it would have to because it does have the sufficient signatures. It does meet the standard to reach the ballot and we rescind the 66-05 and 67-05 prevails at the ballot, we just put back another 7401 or whatever it is 7405 or whatever the number would be and that would be the end of it.

Mr. Pusateri: So, I mean, I'm trying to understand. So in other words...

Mr. Snyder: I mean am I saying that right? I mean, it really, 66-05 is a housekeeping ordinance.

Mr. Pusateri: Yea.

Mr. Snyder: So whether it sits or whether it's rescinded makes no bearing on 67-05.

Mr. Pusateri: There's no mandatory date for funds to be transferred from the Income Fund to the General Fund according to that Ordinance 66-05.

Mr. Snyder: Yea, we're not going to...inaudible.

Mr. Pusateri: And there's no reason for Julie Herr to make that transfer at this point being that that one ordinance is subject to referendum so. There's no mandatory date of transfer. It's sitting there.

Mrs. Kiesling: What about the fact where she states, you know, we either put it on or we repeal it. You know, those are our options. There's not an option that it just hangs out in the air.

Mr. Pusateri: Put it on?

Mrs. Kiesling: Put it on the ballot.

Mr. Sarbach: Put it on the ballot.

Mr. Pusateri: Oh, no. That's not, that's not true. Because technically, I mean for instance, let's say the ordinance, this ordinance that we're discussing had some bearing today, it would have to take in effect by now.

Mrs. Kiesling: That's true and the CEDA we didn't do any of that with.

Mr. Pusateri: Yea.

Mrs. Kiesling: We just let it go forward.

Mr. Pusateri: It just takes effect.

Mrs. Kiesling: And we didn't rescind or put it on the ballot.

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Mr. Pusateri: The thing that seems strange about this ordinance is that it doesn't do anything at this point. Because, let's say this ordinance had the North Canton doing something affirmatively, ok, when Council has nothing, what Council is saying it's in effect. We are now going to move on it. Just like the one you gave the example of. Yea, exactly.

Mrs. Kiesling: We moved on it. We didn't repeal it or put it on the ballot.

Mr. Pusateri: So that's not true that those are the only options.

Mrs. Kiesling: Because that went to Court and that was upheld that we could do what we did.

Mr. Pusateri: That's correct. That's right.

Mr. Peters: That was on, that was the CEDA for the Sanctuary?

Mrs. Kiesling: Uh huh.

Mr. Peters: But that was the second part of it right?

Mrs. Kiesling: It was an administrative act of the signed contract.

Mr. Peters: Yea, because they didn't initially referendum the initial CEDA.

Mrs. Kiesling: Correct.

Mr. Pusateri: That's correct.

Mr. Peters: Ok. But this is a little bit different though.

Mrs. Kiesling: But they got enough signatures and we didn't repeal it and we didn't put it on the ballot. Mrs. Palmer is saying we can't, we have to do one or the other.

Mr. Pusateri: Inaudible.

Mrs. Kiesling: And with the CEDA we didn't. We let it go into effect and the law said that was fine.

Mr. Peters: Well that truly was administrative though, the CEDA because that was, I mean, the CEDA spelled out the process and they just referendum one of the points in the process.

Mr. Pusateri: Sure, I'm sorry.

Mr. Peters: I mean, I just, my personal opinion, I think that we have two choices on this. Either repeal it or put it on the ballot. I would prefer repealing it because I think putting it on the ballot would confuse things.

Mr. Pusateri: Well, I would, I'll tell Council again. There aren't two choices and there are three. You can repeal it, put it on the ballot or just do nothing. Now it's in effect. But unlike the other ordinance that Mrs. Kiesling is mentioning, there's no, it's not doing anything because there's no reason to transfer funds. There's no deadline or date or any mechanism in the ordinance saying the funds have to be transferred on a certain date. The ordinance is in effect but in all reality has no purpose yet because we're still waiting to find out what the voters are going to say about the CIC. About funding the CIC I should say.

Mr. Peters: Right.

Mr. Pusateri: Like I said, Council, Council could repeal the ordinance if they'd like and then after the election in November if the voters decide to agree with the funding of the CIC, then you'd be in a position where you'd have to pass a new ordinance to transfer funds then. I mean, you can do that. I mean...

Mrs. Kiesling: Which would take two weeks in essence. I mean it really wouldn't take that long.

Mr. Pusateri: That's certainly an option.

Mr. Snyder: We don't even need an ordinance to transfer the funds. Can the Finance Committee and the Mayor authorize the transfer of funds?

Mrs. Herr: No, this is...

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Mr. Snyder: Not supplemental.

Mrs. Herr: ...no. That's interfund not intrafund.

Mr. Snyder: Ok.

Mr. Pusateri: Yea, we'd need an ordinance. And just, yea, so that is an option.

Mrs. Kiesling: With this point, we'd not authorize to repeal the legislation tonight. We'd have to do it in our August meeting.

Mr. Pusateri: Yea, that's correct.

Mr. Lane: But wouldn't that meeting be after the ballot is, needs to be certified?

Mrs. Kiesling: Correct.

Mr. Pusateri: Yea, unless, yea, all you would do is you would pass a new ordinance saying Ordinance 66-05 is hereby repealed...inaudible. That's another option, absolutely. But once again, it just puts you in an awkward position where you have to then transfer funds if the voters elect to...

Mrs. Kiesling: It's not awkward.

Mr. Pusateri: Ok, ...

Mrs. Kiesling: I mean, honestly, it's not awkward. It takes two weeks.

Mr. Peters: I think we're in more of an awkward position if we don't take action on it. One way or another, I mean, her argument as she states as far as the Charter, speaking to it, that's, I think we owe that at least to the process to...

Mr. Pusateri: Well, let me explain the Charter because I'm sorry I didn't, I assumed certain things here. The Charter says, well let me find it, it was somewhere in here she quoted here somewhere. Hold on a second.

Mrs. Palmer (*Speaking from Audience*): It's Page 17 if you're looking...

Mr. Pusateri: Well, ok, yea mine's a little different, I think, isn't it? I don't have the little one. Yea, ok, this is the, this from our Charter. It's Section 5.07(2), "The electors of the municipality shall have the power to approve or reject at the polls any ordinance or other measure" now if you stop there, she's absolutely correct, alright? But if you go on and read the ordinance, the next clause modifies the first clause "enacted by Council in accordance with the provisions of the Constitution and laws of Ohio now and hereafter in effect." What this is saying is that, that the North Canton chose by Charter to follow Ohio law and the law of the Constitution when it comes to referendum. Now the later statutes that she mentions in her letter, she's correct. North Canton could have chose differently. I think, I think Massillon is a city in Stark County that is a charter city who chose to have a different referendum process. North Canton could have done that and the statutes allow for that in the later statutes that she mentioned in this letter. However, North Canton did not do that. North Canton said, ok we've got the power by home rule and the Constitution that we chose to follow whatever the state has in referendum. And the State and Ohio Constitution recognized that administrative acts are not subject to referendum. And it makes sense. Otherwise, the City could come to a halt. There are a lot of ordinances and resolutions that Council considers and passes that are administrative. If Council had to wait each time to November for those to take into effect, it would bring the City to a halt. So the law has recognized that administrative acts are not subject to referendum. Do you see that Jeff? Does that explain?

Mr. Peters: Yea, absolutely...

Mr. Pusateri: So she, I understand when she reads that but she's, it's not a whole a hundred percent correct.

Mr. Peters: I understand that. What I'm trying to get a hold of is the process. Maybe in the future when there's a referendum petition taken out that goes to Julie maybe at that point she could bring it or send something to Council where we could review that before it even goes out to petition. The only reason I say that is, this, you know, they collected the 800 signatures and how long did the Board of Elections, how much time did they put into that to certify it? I mean, we used up valuable time, you know, just to turn around at the very end and say it's administrative. You know, where maybe we should put something where we could declare

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that administrative or legislative in the beginning so we don't put the Board of Elections and everybody put all this work into it. You understand what I'm saying?

Mr. Pusateri: Sure, let me just comment to that in a couple ways. One is that Mrs. Herr does not know what petitions are being circulated truly until they are filed with the signatures.

Mr. Peters: Oh, that's right. They file with you.

Mr. Pusateri: With the signatures then the law says that she shall give those to the Board of Elections and the Board of Elections shall count the numbers.

Mr. Peters: That's right.

Mr. Pusateri: They have no choice. The Board of Elections may not like it but they have no choice. And it makes sense because if now we're in a position where we're challenged on this petition for referendum, we need to know if the signatures are accurate. Because and that's why the Board of Election has to count them regardless. They have to be counted just in case it is subject to litigation. Does that make sense?

Mr. Peters: The beginning of the process, they pull it from the Clerk.

Mr. Pusateri: They pull the existing ordinance. They have a certified copy. That's put into the petition. The petition is circulated, the signatures are brought back to Mrs. Herr who then turns them over to the Board of Election to certify the number of signatures. Then it's sent back to North Canton to then decide if it's going to certify the validity and sufficiency of the ordinance for referendum. And that's where we're at today. And it sits in the lap of Council. But I would advise that you do not want to get in the habit of making administrative acts referendable. This one is clearer than any one you ever had to me. And that's my judgment call on that but I don't, it's very clear to me this is administrative.

Mr. Peters: I agree with that but the fact that we've done the process and...

Mrs. Kiesling: But we couldn't have changed it, like you said. We don't know what they're circulating. We only know what...inaudible.

Mr. Peters: Inaudible.

Mr. Pusateri: Inaudible.

Mr. Sarbach: Inaudible...to cover the Clerk. Can't they get that off the website?

Mr. Snyder: No, they have to get that certified.

Mr. Pusateri: No, they've got to get a certified copy of the ordinance. Yea and if people want to speak to me before they circulate petitions, I certainly will talk to them Mr. Peters. I'm not saying that I wouldn't talk to them. Of course I would, you know. But I cannot give them legal advice either. I would just tell them what my thoughts were on the petition. It's not my position or job to give them legal advice about circulating petitions. You know, I certainly could give them guidance and, but I'm not acting as their attorney. I'm acting as the City's attorney.

Mr. Peters: Right, right.

Mr. Pusateri: And if the City has passed an ordinance, my assumption is they want that to go forward.

Mrs. Kiesling: Right.

Mr. Peters: I'm just trying to think of, is there any way we could put a mechanism up front in the very beginning of the process?

Mrs. Kiesling: No, because like he said, even if they did come to Paul and ask his opinion, he can't give a legal opinion. He could only give his own opinion.

Mr. Peters: Right.

Mr. Pusateri: That's exactly right.

Mrs. Kiesling: And then in the end, it's up to them.

Mr. Pusateri: To get the final legal opinion from another source, yea.

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Mr. Lane: And they can challenge your and our opinion on that matter too.

Mr. Pusateri: Oh sure. They could file a writ of mandamus challenging the opinion that it's administrative.

Mr. Snyder: You know, that brings a point. Now what happens at this point if we leave it? As you say we have three options. Say we elect option three which is to leave it the way it is as administrative. And then it, which it gives it the right to go to the Court of Common Pleas and file administrative, or a writ of mandamus.

Mr. Pusateri: They can file writ of mandamus, Common Pleas, Appellate Court or Supreme Court.

Mr. Snyder: And what happens if that is not, if we don't get, if we don't hear, get some relief on it prior to the filing deadline, we're in the '06 general election.

Mr. Pusateri: Well we had this with one of the other referendums we, I can't remember which one it was but...

Mr. Snyder: They give you an expedited...inaudible.

Mr. Pusateri: Yea, the August 23rd date is the Board of Elections date but the real date is much closer to the election date and I can't remember what that date is. It was another referendum that we pushed up against that date. And the Courts are well aware of those dates. They'll typically give rulings before those dates so it can get on the ballot if it's decided to be legislative not administrative.

Mr. Snyder: Ok.

Mr. Sarbach: What we have before us tonight is not that issue. This is...inaudible.

Mr. Snyder: No, that, that issue is not, that's not been published nor could it be but if it's, you'll have a few weeks to ponder your thought as to, and that would be done at the meeting on the 26th.

Mrs. Kiesling: 22nd in Committee.

Mr. Snyder: 22nd which is a...

Mr. Peters: Committee.

Mr. Lane: Let me ask you too Paul without us taking any action tonight and obviously we can't because it's not on the agenda but is the door open right now for a legal challenge to that opinion of yours? Or does somebody have to wait until we take action or not action, officially no action?

Mr. Pusateri: Yea, technically I'm trying to think, I might not be completely accurate on this but I don't think it would be ripe, that's what the law says, ripe for a challenge until the deadline.

Mr. Lane: I'm just saying there's a five week period in here that....

Mr. Pusateri: Yea, it would...

Mr. Lane: ...that somebody could do something or not do something.

Mr. Pusateri: Yea, there's, once again I don't think it's ripe for challenge until the deadline comes. You know, the deadline the Board of Election has. Because technically, even though North Canton is on break the next five weeks, you certainly could have a special meeting or do something in the meantime. I mean the only reason we ...inaudible...because I wanted to make sure we got it before the deadline.

Mr. Snyder: Ok, with that in mind as you know come back to this little thing here, Ordinance 67-05 the Board of Elections has certified that it is of sufficient signature. The Finance Director of the City has done her due diligence, the Law Director. And I would need a motion to adopt the first reading of Ordinance No. 159-05.

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt the first reading of Ordinance No. 159-05**. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

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Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 159-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 159-05. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

27. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading of** Ordinance No. 160-05. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Ordinance No. 160-05 – First 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. 332 Issue 2 Improvement fund to the Contract Payment-ODOT account in the aggregate amount of \$198,000.00 for the current expenses during the fiscal year ending December 31, 2005 and declaring the same to be an emergency.

Mr. Snyder: This is just authorizing us to expend the additional money that we received from ODOT for the South Main Project. They're Issue 2 monies and this will allow the Finance Director to draw her warrants and spend the money. Any questions?

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt the first reading of** Ordinance No. 160-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Peters moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 160-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 160-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

28. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, first reading of** Ordinance No. 161-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 161-05 – First Reading

An ordinance approving, confirming and accepting a perpetual sanitary sewer easement for part of Out Lot 212 and known as Parcel No. 5700052 and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach?

Mr. Sarbach: This is basically a housekeeping for down there at Heiser, southwest. And it allows us to take over that main to that sewer that was put in down there. And I move that we adopt the first reading of Ordinance 161-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of** Ordinance No. 161-05. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Mr. Sarbach: Mr. Chairman, I move we suspend the rules...

Mr. Pusateri: Mr., I'm sorry, Mr. President, Mr. Benekos has just informed me that there's no need for this to be an emergency. That's correct?

Mr. Benekos: That's correct.

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Mr. Snyder: Ok, just three readings will be fine on that?

Mr. Benekos: Correct, I apologize.

Mr. Snyder: No problem. We'll just...

Mr. Lane: We can put one under our belts so we could pull it out later.

Mr. Sarbach: Mr. Chairman, never mind.

Mr. Pusateri: Sorry about that Mr. Sarbach.

Mr. Snyder: We'll save that one for next...inaudible.

Mr. Pusateri: Sure, we can amend it. We can amend it next...

Mr. Snyder: Turn the sirens down, we're going, moving on.

29. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 162-05. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Ordinance No. 162-05 – First Reading

An ordinance approving, confirming and accepting a perpetual sanitary sewer easement located in the Northeast Quarter of Section 8, Township 11 (Plain Township), Range 8, and known as Parcel No. 5500727, situated in the City of North Canton, County of Stark, State of Ohio, necessary for the construction of the Marquardt Sanitary Sewer Project and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach?

Mr. Sarbach: Is this correct Jim?

Mr. Benekos: This is correct.

Mr. Sarbach: Ok, this is one of two pieces of legislation accepting a sanitary sewer easement off Marquardt to the Sanctuary Development. And we discussed this, this will also allow us to get rid of some pump stations. Get back into gravity feed which will save us money in the long run. I know we want to save it in the short run but we do need to save it in the long run too. So I move we adopt the first reading of Ordinance No. 162-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 162-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 162-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 162-05. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

30. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 163-05. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 163-05 – First Reading

An ordinance approving, confirming and accepting a perpetual sanitary sewer easement located in the Northeast Quarter of Section 8, Township 11 (Plain Township), Range 8, and known as Parcel No. 5502588, situated in the City of North Canton, County of Stark, State of Ohio, necessary for the construction of the Marquardt Sanitary Sewer Project and declaring the same to be an emergency.

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Mr. Snyder: Chairman Sarbach?

Mr. Sarbach: This is a companion to the previous one. I believe the easements go on between the two lots so we're taking part of the easement from each property owner or we're accepting part of the easement from each property owner. And I move that we adopt the first reading of Ordinance 163-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 163-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules for Ordinance No. 163-05.** All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules Ordinance No. 163-05.** All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Sarbach: Snyder?

Mr. Snyder: Yes. I was fascinated by that.

Mr. Sarbach: I thought that was ...inaudible...I didn't know what that was.

Mr. Snyder: That goes to show you how much brain power I've got. Thank you. May I have a motion to read by title only Ordinance, first reading of Ordinance No. 164-05?

Mr. Lane: Wait until you see him when an airplane goes by.

Mr. Snyder: Oh, you ought to see me. That's why I can't go outside ...inaudible.

31. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, first reading of Ordinance No. 164-05.** All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mr. Sarbach: We're getting close guys. Let's get this done.

Ordinance No. 164-05 – First Reading

An ordinance amending Section 3 of Ordinance No. 48-05, purchase and installation of a Hydraulic Freight Elevator, by an increase in the allocation, in an amount not to exceed \$110,000.00 and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach?

Mr. Sarbach: This is for the freight elevator at the Water Treatment Plant that is sorely needed to safely move materials and equipment around that new plant. This should serve us for the next twenty to thirty years as the first one has for the first thirty years, I believe. With that I move we, this is about a \$25,000 increase...inaudible...and it reflects the low bid that we received and I move that we adopt the first reading of Ordinance No. 164-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance No. 164-05.** All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules for Ordinance No. 164-05.** All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules for Ordinance No. 164-05.** All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

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Mr. Snyder: Chairman Sarbach does this elevator go to the top?

Mr. Sarbach: No, this just goes from the middle to the bottom. It doesn't go to the top.

Mr. Snyder: Just making sure.

Mr. Sarbach: Right Mike?

Mr. Miller: I'm not touching that one.

Mr. Snyder: Just wanted to know. May I have a motion to read by title only, first reading of Ordinance No. 165-05?

32. Mr. Peters moved and Mrs. Kiesling seconded to **read by title only, first reading of Ordinance No. 165-05. All members present voting:**
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Ordinance No. 165-05 – First Reading

An ordinance declaring that no person who has been convicted of, is convicted of, has plead guilty to, or pleads guilty to either a sexually oriented offense that is not a registration-exempt sexually oriented offense or a child-victim oriented offense shall establish a residence or occupy residential or occupy residential premises within five thousand two hundred eighty feet (5,280) of any school premises, public park, library, or public pool.

Mr. Snyder: Chairman Peters?

Mr. Peters: Yes, this ordinance basically mirrors the Ohio Revised Code with a few exceptions. The first one being, right now the Ohio Revised Code you can't occupy residence within 1,000 feet. This just takes it up to basically one mile and we're also adding public parks, public pools and libraries to the ordinance. Open up to comments because we talked very little about this last week. Dave, we'll start with you.

Mr. Lindower: Yea, I, I'm quite concerned about this. The intent of this ordinance, I think, is an excellent idea. Obviously, anybody who is aware of the fact that we've got as many sexual offenders running around as what we do. We would like to throw them off the plant let alone out of North Canton. However, I still think there's some serious challenges here. I think that number one, by exceeding the parameters of the State law and the Revised Code, I think you're pushing it a little bit. This is a civil violation. It's not a criminal act. And a civil violation in a case like this, a violation of an ordinance written like this would be under the responsibility of enforcement by the County Sheriff's Department. Am I correct on that Paul?

Mr. Pusateri: I did not look at that issue. I don't know. I'm sorry Mr. Lindower. I mean, you'd probably have a better feel for that than I do actually.

Mr. Lindower: Yea, I think there's a quite a bit of research that needs to be done on this yet, Jeff. I, like I say, I think the intent is good. I think that it's going to have to, we're going to have to address some of these issues because it's going to be challenged, guaranteed. In view of the fact that you come up with 5,280 feet or one mile from anyone of these particular places for a community the size of North Canton, you're basically saying, don't come to town. So, and that's good if we can do that but it's going to be challenged under somebody's Constitutional Rights. I'll go ahead and probably vote yes on the first reading here but I would like to have a lot more research done on it.

Mr. Peters: Yea, we are going to talk the next Committee meeting. We're going to talk about this some more. For sure.

Mr. Lindower: Ok.

Mr. Peters: And it'll give us a little more time to research it and a few things I want to look into also...

Mr. Pusateri: Yea, that's correct. This is one of my projects for the next five weeks.

Mr. Peters: I couldn't give him the whole five weeks off. Doug, anything?

Mr. Lane: No, I echo Dave's comments. And again I don't want to be put in a position to say I'm taking up civil law or criminal law because I really don't understand it all that much and most of the things we deal with are understandable. This is a pretty complicated issue and it's something that is left, I think better, to police and the lawyers. So I'd like to hear from our

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Police Department and I'd like to make sure whatever we do is going to be the least challengeable law. Maybe it's not 5280, maybe it's 2500, 3000, whatever. So I'd like to hear more from Paul. I'll certainly support it on first reading because I agree with Dave. I think the intent is excellent but until we go down that path, I'd like to make sure we have all of the research done. So this gives you the summer to do so.

Mr. Pusateri: Yea, I agree. It's, I'll tell you myself, it's, just looking at this ordinance, it's fairly complicated and it's something, it's territory I'm not that familiar with myself.

Mr. Lane: I think too, I did a little research after our last meeting and I pulled up the Sheriff's site and I'm not going to get into ...inaudible...stuff where I start naming names and show you my list and then make up numbers but I think the paper, the Rep stated there were quite a few people with North Canton addresses but as you know that can extend into Plain Township and down into Canton. And what I've found in looking at this and I might have missed a couple here and if I do, I do apologize. I only find five people that we're dealing with. Two are sexual predators, three are sexually oriented offenders and there are two in Ward 1, two in Ward 2, one in Ward 3 and none in Ward 4. And I believe the one, one of the two in Ward 2 was in the process of being moved while this list was being done, right? Isn't that the one we're talking about?

Mr. Miller: Ward 2.

Mr. Lane: Yea.

Mr. Peters: 2.

Mr. Lane: So again it's a relatively small number of people, thank goodness, that we're dealing with. It's not the sixteen or twenty or whatever. But I might have missed one in here by looking at an address wrong too. So for that I apologize but again it goes to why we need to do a lot of research on this.

Mr. Snyder: You know, it brings up a question.

Mr. Peters: Exactly. Marcia, you have anything?

Mrs. Kiesling: No, I agree. We just need to make sure we're not overstepping our bounds and I'm not sure we want to anger anybody either. So I want to shed light on this issue.

Mr. Peters: Greg?

Mr. Sarbach: This ordinance would keep those numbers from getting larger if this in fact enacted. And I'd be interested to see who would referendum this ordinance if it would pass, let alone...inaudible. I will support it on the first reading but I would like to hear more information on this.

Mr. Peters: Jon, any comment?

Mr. Snyder: I just, the only questions I have, I have a couple. I do know that one of those registrants is required by the Common Pleas Court to live with his parents. He's ordered by court order so I don't know what point, I don't think we can supercede court order. The other thing is, obviously the spirit of this is to prohibit these people from being on any city or municipal properties, correct?

Mrs. Kiesling: Or near them.

Mr. Snyder: Or near them but I think one of our properties has an employee that is a convicted sexual, because they list employees as well. And we may run into, we're going to have a problem there because...

Mr. Miller: It's not a City employee.

Mr. Snyder: Not a City employee but he's on, employed, it's our property though. He's done work for the City. The other thing is, I don't know, do we violate the HUD Laws when we start people, when we stop people from living somewhere. I don't know the Federal Housing Laws, but they're pretty strict.

Mr. Pusateri: I've got to think that if you completely exclude people from living in North Canton, there will probably be some problems. But, once again, that's a sense I have not backed up by research.

Mr. Snyder: So that's why it's...

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Mr. Lindower: You know what, one of the things that needs to be taken into consideration on this too is the different levels of sexual oriented offenders over a sexual predator. All the elements that are built into the State code that determines what classification these people fall in needs to be considered and the Court does that. You take a sexually oriented offender, for instance, there's somebody that convicted of a very minor sexual type crime. And I don't mean to minimize any sexual crimes but we've had them actually put in halfway houses on Charlotte, or on Portage Street, right straight across the street from the school, by the Courts, with their permission. Now that wasn't a sexual predator or serious offender like that but the issue is, the person's name would show up as being a sexually oriented offender. Those are the kind of things that I think need to be taken into consideration. You can build an ordinance that you're going to be able have somebody arrested for or even run out of town, basically, for going some place where they've got, they actually live. I think you're going to run into a big civil problem.

Mr. Pusateri: Yea, and these, to confirm with what Mr. Lindower is saying. If you look at the definition. Look at Section 2 of the proposed ordinance, sexually oriented offenses and it tells you what that means. And it goes on for a page, two pages. But and I have, I brought with me Chapter 29 of the Ohio Revised Code if Councilmembers had questions about particular, you know, criminal violations. Like for instance, you look at Paragraph A1(a) it says regardless of age of the victim of the offense, sexually oriented offense means Section 2907.02 and that's a rape. Ok, the other one is 2907.03 that's sexual battery. I mean you can go on and I can give you what those are throughout. But there are some that are less than, and once again, I'm not trying to minimize any sexual offense but some of them are like sexual imposition, but this is what the Courts, the State law has recognized as sexually oriented offense. This is the lesser of, the other one sexual predator is different. This includes pretty much everything. And of course, the other definition is any, any violation of the Chapter 29, sexual offenses that's child oriented. Of course, is considered a sexually oriented offense and subject to this ordinance. But if Council wants anytime, anyone of you individually throughout the next five weeks want to sit down and go through this ordinance with me, I certainly will. We can go through each one these paragraphs and I can let you know what that exactly means by the statutes. Because right now it's just, it's just reciting State law that you probably don't know what those mean.

Mr. Peters: I got a couple things. If you're done.

Mr. Pusateri: Sure.

Mr. Peters: A comment was made that by excluding everybody from the City might bring us some trouble. I would venture a guess that within the State of Ohio, there's got to be a town that's small enough where the Ohio Revised Code would exclude them from this.

Mr. Pusateri: That's a good point.

Mr. Peters: So what's the Constitutionalities? Is a certain size of a city allowed to exclude and not another certain size?

Mr. Pusateri: That's a good argument Mr. Peters. It really is.

Mr. Peters: The 1,000 feet, initially when it was made law required a legislative action, you know? This is what we're doing. We're just upping that. And I think you mentioned last week that there was a, was it in Texas?

Mr. Lane: Iowa.

Mr. Pusateri: I think it was Iowa.

Mr. Peters: That made 2,000 feet and that was upheld as being Constitutional so would the Ohio Supreme Court or the Federal Supreme Court, would they dictate that 2,000 is the limit or 3,000 or 10,000. We don't know.

Mr. Pusateri: Yea.

Mr. Peters: There's only one way to find out. And in order to be classified as an offender and be put on this website requires a whole different court proceeding too. So, obviously, what they did initially...

Mr. Pusateri: That's correct.

Mr. Peters: ...was serious enough to require that. So as far as minimizing the offense or whatever, I mean, if it requires for the judge and everyone to reconvene to classify this guy, I think that's enough.

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Mr. Pusateri: That's a valid point.

Mr. Peters: A couple things to think about while we're on but, you know, I definitely think we need to move forward with this. If we've got to tweak it here and there, if we can make it 2,500 and still exclude them from the City, I mean, I'll make no bones about it, that's my, that's my goal. So, anything else? Ok, with that, I move that we adopt the first reading, 165-05.

Mr. Peters moved and Mr. Sarbach seconded to **adopt the first reading of Ordinance No. 165-05.** All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

REPORTS:

Mr. Snyder: Ok, reports. Director of Law?

Mr. Pusateri: I do not have a report. Thank you Mr. President.

Mr. Snyder: Director of Finance?

Mrs. Herr: No report.

Mr. Snyder: Director of Administration?

Mr. Miller: Nothing this evening.

Mr. Snyder: Mr. Mayor?

Mayor Rice: Just a couple quick things. So everybody knows, those news releases went out. But just to reiterate, mosquito fogging is scheduled for this week in all sections of the City. Actually, starting tonight. Tonight's northeast, tomorrow night's southeast, Wednesday in the northwest and Thursday in the southwest. So that's our most recent round of mosquito fogging will be taking place. The other, the update on the economic development director. Mike and I completed our initial interviews with all three candidates. We met with two of them on Friday and one today. I think Mike would concur all three of them are excellent and very well qualified candidates. Very impressed by all three of them. We'll continue to proceed with additional review including some possible second, most likely second meetings with some of the, if not all three of them, reference checks, etc. that type of thing. I would anticipate offering the position to one of those three candidates sometime within the next two weeks. And we'll keep you posted on that. That's all.

Mr. Snyder: Appreciate that. Mr. Engineer?

Mr. Benekos: No report.

Mr. Snyder: Madam Clerk?

Mrs. Kalpac: No report.

REPORTS – COUNCIL:

Mr. Snyder: Member Lindower?

Mr. Lindower: No report.

Mr. Snyder: Member Lane?

Mr. Lane: New police uniforms, awesome. How long has that been, a couple of weeks?

Mr. Miller: A week ago, two weeks ago tomorrow. I think.

Mr. Pusateri: Have them come in and model for us.

Mr. Miller: Two weeks for the new uniforms?

Mr. Lane: Yea, I noticed it last week and it was after our meeting. I didn't get a chance to say anything so.

Mr. Pusateri: Inaudible...shake his little tush.

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Mr. Snyder: Inaudible....blue.

Mr. Lane: Yea, I like it. I like it. And NCPD, we can start a new show. And I know this will be our last chance to ask Jim for five weeks, how about Main Street? What's the latest? I noticed we're still at four lanes.

Mr. Sarbach: Five weeks, right Jim? Another five weeks anyway.

Mr. Benekos: I'll let you know in five weeks.

Mr. Lane: Will it be closed within five weeks or do we know?

Mr. Benekos: We're still working with the contractor to get a project schedule on that project. We'll see what happens.

Mr. Lane: So until further notice we've got four lanes. We don't have to worry about anything right now.

Mr. Benekos: That's correct.

Mr. Lane: Ok.

Mr. Snyder: Even though, let me ask a question. It may be stupid and I apologize Mrs. Kiesling, but if we don't start in the next two, three weeks, I mean it's getting almost to be almost a joke. We'll be screwing around there in, this Christmas season.

Mr. Peters: Oh boy.

Mr. Benekos: That is a concern that we have and...

Mr. Snyder: I mean, wasn't it, I mean logic would prevail here, you haven't moved the utilities nor the gas lines yet. And you're talking about three weeks to do that minimum.

Mr. Benekos: The gas line is completed. They've cut the gas line on either side of the bridge so that's not a problem at this time. The electric utility is being moved. The above SBC cables are being moved and the television cables are being moved. The one concern is the underground SBC fiber optic cables. The contractor has to coordinate that with SBC and they've been working on that. But, but we are concerned about the schedule. We've been monitoring it. We've been discussing it with the contractor and with our construction manager on the project. We have a meeting scheduled tomorrow with the contract manager to discuss, discuss just that.

Mr. Snyder: Of course our funding is at risk if we don't start it right?

Mr. Benekos: I don't believe so. I think we're ok with the funding but I need to check with ODOT on that.

Mr. Snyder: You know, I would, I would think that if we wouldn't, if we could, you know, and I realize, obviously, I have vested, Mr. Lane and I have vested interest.

Mrs. Kiesling: So do the three of us.

Mr. Snyder: Yea, so if you would let us know. If we may inquire. Maybe you wouldn't mind if we called that office, if we call the engineer and check on that. Ok. That way we know what's going on. Thank you. I'm sorry, Mrs. Kiesling?

Mrs. Kiesling: One question, concern. Had a lot of yellow water on Bonnett the last few weeks. I know we talked a couple times. They're out flushing hydrants like twice in one week. A few of us have a feeling and the Water Department suggested maybe it was the Bachtel waterline being done and surged and all that. And now we're going to have James right next to us being done. And I've had a lot of calls, concerns because we're having so much trouble if potentially it is Bachtel. They're telling me it's not the South Main tank that's been adjusted or messed with recently, which usually bothers our system. But if James becomes an issue to us, I just wanted to get ahead of the game and let you know that it's already a problem and James hasn't begun.

Mr. Miller: James right now, I don't believe, is directly looped into either Bonnett or Lynhurst.

Mrs. Kiesling: Ok.

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Mr. Miller: We've got a catch-22 because what happens, what's been happening is we get a complaint from somebody that says that they'd like us to flush the hydrants. They think it's dirty. Soon as we flush the hydrants, it actually...

Mrs. Kiesling: Oh, makes it worse for about an hour.

Mr. Miller: ...makes it worse for awhile before it makes it better.

Mrs. Kiesling: And people on the street don't realize that and then they call. But it has been pretty bad recently.

Mr. Miller: And I'll have to show you a picture of what a six inch line looked like that came out of James is probably similar to what you've got in your line. And that may be one of the reasons why too.

Mrs. Kiesling: That'll make me want to go buy bottled water, I'm sure.

Mr. Snyder: Well they made that switch on James last week, didn't they?

Mr. Miller: We've got the new line in. I don't believe it's switched over yet.

Mr. Benekos: The new line's in. It's being tested and services will be switched over here later this week.

Mrs. Kiesling: So it'll be this week. The end of this week, next week, I'll be in Hilton Head so you won't hear from me but I don't know what...

Mr. Miller: Well there's a couple of your neighbors I know I'll hear from.

Mrs. Kiesling: Oh, they'll definitely call you...inaudible...I had lug coming out one day. It was pretty bad. And it was while you were flushing of course. I didn't realize you were flushing so. It can get pretty bad. That's my only comment, concern.

Mr. Snyder: Mr. Peters?

Mr. Peters: No report.

Mr. Snyder: Mr. Sarbach?

Mr. Sarbach: Do you have a start date for 9th Street NE project?

Mr. Benekos: A start date?

Mr. Sarbach: A start date.

Mr. Benekos: No. We just had that awarded by the Board of Control late last week. On Thursday, we will sit down with the contractor and get the start date. As I mentioned to you prior to the meeting, we still have two easements that we're trying to get from the property owners. We met with one of the property owners today. I talked with the other property owner and we're in the process of finalizing that. We should be starting here shortly.

Mr. Miller: Let me be a little bit more, a little bit more concrete. It takes us at maximum a month to put the contract together and get a notice to proceed. So there will be a notice to proceed within the next four weeks.

Mrs. Kiesling: And Jeff's not one of the owners that's holding us up, is he?

Mr. Miller: Not yet.

Mrs. Kiesling: I'm sorry.

Mr. Peters: Not yet.

Mr. Sarbach: Thank you.

FINAL CALL FOR NEW BUSINESS:

Mr. Snyder: As you know, this is the last meeting prior to the break. We will reconvene on the 22nd day of August at 6:30 for a public hearing. You are subject to the call of either the Mayor or myself for a special meeting. I don't anticipate nor do I think the Mayor does either. Other than that, I have nothing else. Is there any call for final business from the audience? Mam?

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Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, July 11, 7:00 p.m. 20 05

Ms. Burnett: I'm Suzanne Burnett and I just want to encourage you to do all you can with signage on these streets as you are working on them. Because when you go down, you get out of North Canton you feel very fortunate and when you come back in you feel you accomplished a great victory whether you come up Main Street or whether you come up, go up Everhard and try to come up Whipple. It is just almost like I can stay in North Canton and not go anywhere else. And that's pretty scary because I don't want to do that, although I love it here. So all you can do with signs to prepare us is just excellent because I don't think there's anything else we can do to work through this. But thanks for trying to make it as easy as possible.

Mr. Lane: We're working with the Chamber on a Shop North Canton Program. This is a good way to get that done.

Mr. Snyder: Anyone else wishing to speak. If there being no other business, I'll entertain a motion to adjourn.

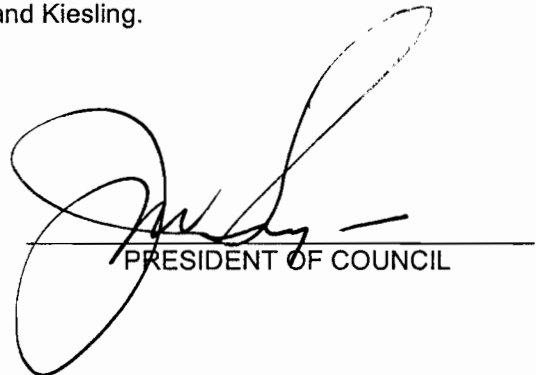
ADJOURN:

Mr. Sarbach moved and Mrs. Kiesling seconded to adjourn the Council meeting. All members present voting:

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

No: 0

The meeting adjourned at 8:33 p.m.



PRESIDENT OF COUNCIL

ATTEST:



CLERK OF COUNCIL

07/15/05-ALG