

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, June 28, 7:00 p.m. 20 04

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 President of Council Jon Snyder.
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 and Clerk of Council Bittle.

Mr. Snyder: May I have a motion to excuse Member Foltz?

Mr. Sarbach moved and Mrs. Kiesling 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: 6/14/04

Mr. Sarbach moved and Mr. Peters seconded to approve the minutes of the council meeting as presented. All members present voting:

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

Abstained: Kiesling.

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 June 21, 2004.

Ordinance, Rules & Claims Committee: Refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held June 21, 2004

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held June 21, 2004.

Executive Session (Finance & Property Committee): Refer to the minutes on file in the Council Office of the executive session (Finance & Property Committee) meeting held June 21, 2004.

Mr. Lane moved and Mrs. Kiesling 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: 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.

Chuck Osborne: My name is Chuck Osborne. 307 Fairview Street SE, here in North Canton, Ohio. On the agenda tonight is legislation to approve yet another tax abatement that I feel is unwarranted and should not be approved. I am referring to the tax abatement to the ... Reed Funeral Home described in Ordinance 108-04. Tax abatements are being given simply for the asking. Before I go on I would like to refer to a summary I found on the internet regarding the Ohio Community Reinvestment Area Program, which is put out by the Ohio Department of Development Office of Tax Exemption Incentives. I don't want to read the entire thing verbatim, I would like it put in the record though. But I will start out here - it starts out, community reinvestment areas are areas of land in which property owners can receive tax incentives for investing in real property improvements. The Community Reinvestment Area Program is a direct incentive tax exemption program benefitting property owners who renovate existing or construct new buildings. I'm going to skip a little bit here and go down to the next paragraph. The Ohio CRA Program should not be confused with the Federal Community Reinvestment Act, which requires lending institutions to lend within their service area. Ohio's CRA program was created to promote revitalization of areas where investment has been discouraged. I'll say that again, created to promote the revitalization of areas where investment has been discouraged. And basically we're talking about very

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depressed areas, areas long since in decline, by offering property tax exemptions for any increased property valuation that would result from renovation of existing structures or new construction activities within the area. And it goes on to say the program can be used to encourage historic preservation, residential rehabilitation or new residential construction and/or as an economic development tool to encourage commercial and industrial renovation or expansion and new construction. Now it goes on to say when the program was created in 1977, ... went - underwent major revisions in 94' and at present there are two types of CRA's, depending on which one at the time the CRA was granted. The summary goes on to say, a municipality or county must undertake a housing survey of the structures within the area proposed as a CRA. The results of the survey must support the finding that the area is one in which housing facilities are located, the emphasis on housing, and that new construction and renovation is discouraged. Now I might add here, I don't think Main Street is an area where investment is discouraged. So I have to harken back to January when we - when you gave the tax abatement for the Speedy Foods. That is not an area, right here on Main Street, that discourages new construction and renovation. Again, I'd like the rest of this put in the minutes. It goes on to say local municipalities or counties can determine the type of development to be supported by the CRA Program by specifying the eligibility of residential, commercial and/or industrial projects. The local legislative authority must designate a Housing Officer to review the applications; I don't know who that is...

Mr. Snyder: It's Julie Herr.

Mr. Osborne: I'm presuming it's Julie.

Mr. Snyder: That's correct.

Mr. Osborne: and to serve as the program lead. In addition, the local legislative authority must create a Tax Incentive Review Council to review performance on all agreements and projects. Who is the tax...

Mrs. Kiesling: The county does that. Correct?

Mr. Snyder: Mrs. Herr and myself serve on that committee at the county level.

Mr. Osborne: Okay. It says here, note that all commercial and industrial CRA agreements must ensure that at least 50 percent of the amount of taxes estimated that would have been charged on the improvements if the exemption had not taken place are made up by other taxes or payments available to the school district.

Mr. Snyder: That's true, they are. They're ...inaudible...

Mr. Osborne: Now we know that has not happened in either one of these two situations.

Mr. Snyder: I beg to differ sir. I think the administration did contact the school board and offered that position. The school board has the election, under 100 percent, to either take it or leave it. Some of our exemptions are made up in forms of purchase of equipment for the schools and ... The school board has that decision and it's totally at their discretion. But the administration has followed the letter of the law and notifiedinaudible...

Mr. Osborne: I would have to see documentation to all of this. It's easy to say this kind of information...

Mr. Snyder: Well I think that's public record. I believe the Director of Administration has that documentation.

Mr. Osborne: Because - again, I haven't seen - these are ten year abatements? I'd like to know the total abatement over these ten years of each one of these. And show me how this loss in collected taxes is being made up. Anyway, this summary goes on, while the CRA Program is primarily a housing oriented incentive, it does have considerable value as an economic development tool. It is extremely important for both property owners and local governments to realize the significance of the local authorization date. It also goes on here, in CRA's created after July 1, 1994, notice of all commercial and industrial projects must be given to the affected board of education a minimum of 14 days prior to the formal review of the agreement by the local legislative authority. Now I haven't taken the time to go back and determine whether it was a regular council meeting or a council of the whole, Mr. Snyder, you spoke regarding the Speedy Foods abatement and said that the school board had signed off on it. I talked to a school board member, he said he never saw it.

Mr. Snyder: Well first of all, by law we're required, if it's under a 100 percent, the school has - to notify the school 14 days prior to any action, which we do do. The Mayor's Office does do that. This particular Reed was notified twice. It falls within the 14 day period. They were notified. If it's over 50 percent the school board has 45 days. But they've been notified. They were sent a letter by the Mayor's Office stating the exact amount of the exemption sought and that's the way it works. Now...

Mr. Osborne: I'm talking about Speedy Foods...

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Mr. Snyder: Yea, Speedy Foods...

Mr. Osborne: You spoke to this council and said...

Mr. Snyder: All of them, they all follow the same, everyone of them we've done.

Mr. Osborne: Well one council - board member of the school board said he never saw it.

Mr. Snyder: Well sir I can't speak for that member, but I can speak for the council and the housing - the CRA Board, which I sit on also and I will tell you sir that we did notify them. I...

Mr. Osborne: And I've talked to another council - board member regarding the Reed and he's adamantly against the...inaudible...

Mr. Snyder: Well he has no privilege - that's his privilege...

Mr. Osborne: Inaudible...

Mr. Snyder: to be adamant against. He has no standing to contest it.

Mrs. Kiesling: But he could ask for something in return, like you stated, and they have not. If they have we aren't aware of it.

Mr. Snyder: One of them they've asked for salt and I think another one they've asked for computers. We had one with a tractor, but we've now since dissolved that, where they paid money yearly. The other ones are all under 50 percent, which they've asked nothing for.

Mrs. Kiesling: The 100 percent abatements they've been asking for something?

Mr. Snyder: Yea.

Mr. Osborne: It goes on to say, note that if a CRA agreement is proposed which does not meet the 50 percent new revenue requirement, then the local legislative authority must request the board of education approval a minimum of 30 days prior to the scheduled local legislative review. Again, I'll give you copies of this, this is at the Ohio Department of Development Office of Tax Exemption. The use of tax abatements for commercial enterprises in this city does not meet the spirit intent of that law. As I stated in this council chamber earlier this year when the tax abatement was given for the Speedy Foods on Main Street and the same is true for this request for Reed Funeral Home. I have to go back and ask you, is South Main Street, the main street of this community, considered an area where investment is discouraged? And as it - I read earlier, you have to provide a letter to the office of development that your area is an area where development is discouraged. Meaning, in my mind, that the area is so depressed that nobody wants to go in there and try to fix up their properties or invest in the community. Now if we're saying our main street in this town is an area where investment is discouraged, either we're all blind or this city has gone far beyond what we've all ever imagined. The CRA was created to promote the revitalization of areas where investment is discouraged. The investment in a Speedy Foods by a private developer on South Main Street was for a commercial enterprise. A CRA is primarily a housing oriented incentive. I believe this council is about to make the same mistake with a tax abatement for the Reed Funeral Home. You are distorting and perverting the true purpose of the Ohio Community Reinvestment Area Program. As I said earlier, this is all coming from the Ohio Department of Development Office of Tax Exemption Incentives. I've got their phone number here. I didn't mean to sandbag you Mrs. Kiesling, I only got on the internet this afternoon around 3:00 ...

Mrs. Kiesling: I've already read all of that.

Mr. Osborne: and in 30 seconds I got all this information.

Mrs. Kiesling: I know, I've been on the internet also.

Mr. Osborne: It's a housing incentive program designed for residential housing in areas that are thoroughly, thoroughly depressed. I'd like to know if council has determined that at least 50 percent of the amount of taxes estimated that would have been charged on the improvements for the Reed Funeral Home are being made up by other taxes or payments available to the school district as required by the CRA legislation. Has there been anything defined already, before this is approved, how you're going to make up the lost taxes?

Mr. Snyder: First of all Mr. Osborne, not to belabor the question, but it does go before the CRA Board. The CRA Board does make that deter...

Mr. Osborne: You just told me you and Mrs....

Mr. Snyder: That's the Tax Incentive Review Board. I said the CRA Board comprises of 5, 6 members I believe. Two members of council, the administrator, I believe Mrs. Herr...

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Mrs. Kiesling: A mem - a member from planning and...

Mr. Snyder: Planning ...

Mrs. Kiesling: And two residents.

Mr. Snyder: Two residents.

Mr. Osborne: Now is anybody going to get out of line here and - or is it just going to be a rubber stamped yes everybody?

Mr. Snyder: Inaudible... first of all, the abatement is only on the improvement. The \$1,100,000.00 that the tax is already being paid on that building is continued to be paid. The \$400,000.00 improvement is the portion that is abated. That is not money that the school presently has anyway.

Mr. Osborne: Well they can certainly use it cause we're losing 500 jobs...

Mr. Snyder: First of all sir, if you'll allow me to finish, they will - the city will make it up in income tax. They do have employees there who will pay city - who will more than make up that \$1,200.00 that is being abated. Secondly, if you would of done your homework sir you would of found out that the Reed Funeral Home would not locate within the municipal boundaries of North Canton unless they received tax abatement. So there goes your depressed area.

Mr. Osborne: Inaudible...

Mr. Snyder: They're not lining up sir, the last time I looked, at the city limits on any corner here, come in here and open a business in the City of North Canton or any other municipality within the State of Ohio. So I believe that through the efforts of the administration and the Reeds that we're going to put a viable business on Pittsburg Road paying income tax with the potential I believe of 4 or 5 employees at the end of a period...

Mrs. Kiesling: I lost track.

Mr. Snyder: Something like that.

Mr. Osborne: Inaudible... you brought that up, we're guaranteed one employee for the first year. As many as 3 employees in year two and three and additional 2 part timers...

Mr. Snyder: Right.

Mr. Osborne: the remainder of the ten year term.

Mr. Snyder: Right.

Mr. Osborne: I don't think that's anything - although you know we like to have any and all new businesses, whether it's a mom and pop or a corporate like Hoover. I don't think that brings to city any more than all the other small businesses we have here in town and yet they're not getting their taxes abated. And by the way ... before you speak, I just had a resident tell me they saw in the paper where the deed had already transferred for the Reed Funeral Home. So although you told me here a few weeks ago that they're coming to the city hinged on this tax abatement ...

Mr. Snyder: They are.

Mr. Osborne: Then why have they already ...

Mr. Snyder: Well because they know they have it. Inaudible...

Mr. Osborne: consummated the property?

Mr. Snyder: Well they know they had it. We notified them. By law we had to notify them. They're notified.

Mrs. Kiesling: We had our meeting two weeks ago.

Mr. Snyder: Three weeks ago I believe. They were notified that it was approved.

Mrs. Kiesling: And for the most part council ...inaudible...

Mr. Osborne: So without public input ...

Mr. Snyder: There is place - that isn't required sir.

Mr. Osborne: Without public - without ... in this forum there's public input.

Mr. Snyder: Yea, well we've been listening to you.

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Mr. Osborne: So you've already promised them and this is just a show of - rubber stamp?

Mr. Snyder: I would suggest, seeing how you have a lot of time on your hands, possibly you should drive around the community and find all these businesses that want to locate here without tax incentives or something else. You obviously are an expert on it so maybe you possibly should go out there and see how many people you can bring to some of the vacant buildings we have along Main Street and along the other areas. And I think that the mayor would welcome that without having to pay any money. But that's neither here nor there. Go ahead, continue.

Mr. Osborne: Alright has - so you haven't determined and you haven't told me how you're making up the lost taxes for the school district.

Mr. Snyder: I just explained to you.

Mr. Miller: Sir, if I may...

Mr. Sarbach: There are no lost taxes.

Mr. Osborne: Do you have it defined in writing, before this is approved, how you're making up the lost taxes to the schools?

Mr. Snyder: There is no lost taxes to the schools.

Mr. Osborne: They would of gained taxes on the improvement. Alright, I'll go on. Just as I thought, I think I could safely say...

Mr. Osborne: there are no other taxes or payments...

Mr. Osborne: to make up for the abated taxes as required...

Mrs. Kiesling: I have a rebuttal to that.

Mr. Osborne: by the CRA legislation.

Mrs. Kiesling: There is 2 to 3 employees who will be paying income tax, where before there weren't. So yes, there is going to be tax generated, just a different form.

Mr. Osborne: In exchange for this tax abatement, Reed Funeral Home is promising 1 job the first year, 2 more full time positions in the second and third year and 2 part time positions in the fourth and fifth years for a total payroll of \$110,032.00. The total annual payroll promised by the Speedy Foods, that was given a tax abatement earlier this year, had a total annual payroll of only 110,000. So I guess this \$32.00 increase in total payroll, does this make Reed Funeral Home that more deserving for a tax abatement? There are people out there that make more than this as a single wage earner. And you're getting all excited about some part time jobs.

Mrs. Kiesling: We're getting excited that they're willing to put money into the building and improve it.

Mr. Osborne: You're perverting what the CRA is all about. It was designed for housing ...

Mrs. Kiesling: Chuck...

Mr. Osborne: In depressed areas.

Mrs. Kiesling: We have debated this so many times.

Mr. Osborne: That's right ... the council ...inaudible...

Mrs. Kiesling: You and I totally disagree on this.

Mr. Osborne: Well the housing of development...

Mrs. Kiesling: I read it.

Mr. Osborne: of Ohio ...

Mrs. Kiesling: In my opinion - I perceive it differently than you do obviously.

Mr. Osborne: This council is jeopardizing the income stream that goes to the North Canton City School District and getting nothing in return. How is the school district expected to be successful in its next school levy next year or the following year when City Council is giving away revenue desperately needed

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for the North Canton City School District? This council is giving selected businesses an unfair advantage when tax abatements are given for little or nothing in return and you are perverting the true purpose of tax abatements as described in the CRA legislation. I don't mean to give you an underhanded blow here, but you may be gaining some financial support for yourselves in your next campaign for reelection, but you are undermining the financial future of this city and the North Canton City School District and I ask that you rethink the request for a tax abatement for the Reed Funeral Home. And I'll leave one here for Mary Louise ...inaudible... Mrs. Kiesling.

Mrs. Kiesling: I already have one.

Mr. Osborne: Inaudible... I made copies for the rest of council.
(Per Mr. Osborne's request, a copy of the summary is attached to the original minutes.)

Mrs. Kiesling: Thanks.

Mr. Snyder: Thank you sir. Is anyone else wishing to speak before the council this evening? Please step forward, state your name and address for the record.

Barb Schollaert: Hello, my name is Barb Schollaert. I live on 9th Street. And normally Mr. Fano is up here speaking about our problems on our street. But I decided to come, give another face to the street, to tell you people live on that street and not just the businesses. And I know he has you know talked to all of you and he - we keep wanting something to be done with 9th Street. And I think I just wanted to keep 9th Street on your minds. Because as I come from the square even curbs and gutters - and I did this today, I went from East Maple, when you're heading north every street on the west and the east is curbed and guttered except for 9th. Okay. We have - we definitely get more traffic. During the school year all the buses use our street. And I teach in North Canton, it's not a problem, I don't care if the buses come down, but they use our street because it's wider. They can make that turn that they can't make at 9th Street. We all - I mean at 10th. We also have two businesses. So we are getting so much traffic on 9th Street and yet we feel between the sewer problems and just not having curbs and gutters we really do - we feel like we've been ignored. Last time I spoke, you know right after the flood, and I have some pictures from the flood and also the way the street looks ...inaudible... pass around. The flood was a year ago. We haven't had any water since except we were pretty afraid last week about Thursday night we were up about half the night wondering if it was going to happen again. We - I did say the sewer line was crushed in front of my house. The city did fix it. After the last time I spoke the city did send a camera down and I appreciate it, and they found out the rest of the pipes were not crushed. But we still know there's a problem, everyone knows there's a problem, we're the lowest spot in I believe in almost three blocks. The water doesn't go over to the west side of 9th Street, it comes back down. If Mr. Fano didn't get a couple feet of water in his basement, it would of been up to the first floor in my house. So I was kind of grateful he's my neighbor with that big basement. But visibly, as you can see in the pictures, the street still continues to crumble and there's spots that it's sinking still. And I know you're doing a study, but I've lived there for 27 years and we keep hearing oh good, next year we're going to do your street and so we all - we're all quiet. I tried to even get some people from the street to come and they said why come, they keep telling us it's going to get done and nothing is done. So I guess what you know - how - it keeps crumbling. The city - I asked the city to come and patch it. They patched it. It looks horrible. I had to spend tons of money on Rice's Nursery to get my front landscaped. I had a bunch of people down from Cleveland and they couldn't believe how bad the street looked. They said it's a shame the city can't do your street. We know there's a problem. And Mr. Fano told me that now there's a study about it. We know the sewer is - whatever the sewer problem is it's not taking in all the water. If you visibly are on that street and not just driving by, there's low spots, it keeps crumbling. So I guess ... I just want to keep 9th Street on your mind. We've been told over and over again next year, next year and now there's a study. So I guess what I'd like to know - and we are the lowest and unfortunately my house is the lowest. Much smaller, less traveled streets all over North Canton and I applaud them, I don't know what they did, but their streets are getting done and they're much less traveled streets than ours. So I guess I would like you to tell me publicly, I don't know who would answer this, how is it decided how streets are done? What can we do to make 9th Street as important as some of these other streets? I know it's going to be a lot of money, but it keeps being pushed off year after year after year. I mean I've heard this and I've lived there 27 years. Some of the neighbors have been there 40 years and they tell me there were floods even before that. What can we do? Raw sewage in my basement and crumbling street in front of my house is an emergency as far as I'm concerned. I notice some of your things they do to an emergency situation. If you were in my basement with that raw sewage you would of thought it was pretty much an emergency too. So do we need to call a ward meeting, do we need to call the paper, get signatures again? What can I do, as a person who lives on that street, to say we need more than just a promise that next spring something is going to be done? You know I - even with the study we're telling you it's not taking the water. We know that, we know the problem is there. And this has been going on for over 10 years that I know of. So I don't know who answers that, but I don't want you to forget about 9th Street, cause there's a lot of people that live on there. A lot of people are improving their homes. I live - I teach in North Canton. I love living in the inside of the city. People kept telling me why don't you just move already you have so many problems on that street? I love living where I live, but I also feel like I'm being penalized. And ours is a busy street with two businesses, buses going down. We're not a little side street that seems to be getting more attention than our bigger street. So I don't know who...

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Mr. Miller: I can answer some of that. There is a study that's being completed. Because we have to have the study done to know what to fix so it doesn't flood. Putting in curb and gutter will be nice as far as the aesthetics, but if still floods every time it rains, in your basement, Mr. Fano's basement, we haven't done anything really. In addition to the study - it's beyond the study, there's already been an engineering firm hired, CTI, that's in the process of designing the improvement for 9th and Orchard. So that is underway. The design will be done some time this year. Based upon that design being done, this council will have before it a budget price an estimate before going forward with that project next year and it's going to be a question of making sure that that gets put in next year's budget for it to be started and done next year.

Ms. Schollaert: Well how do we make sure it stays in there? Because we've been promised...

Mr. Miller: Inaudible...

Ms. Schollaert: every spring. Your - 9th Street is on. I mean it's been years, we've been told 9th Street is going to be done next spring. So we all go oh good and then we wait and 9th Street is not done and we keep seeing all the other streets around us being done.

Mr. Miller: I can't promise anything other than the engineering drawings will be done and then I'll present it to council, because I don't vote. You've got seven people, actually six people here tonight, but seven people that vote and they're the ones that's going to say what's in the budget and what's not in the budget next year. And you can talk to your ward councilman and to each of the other council people and I'm sure that they certainly understand, because Mr. Fano has been here fairly regular. I've seen him up at the podium ...

Ms. Schollaert: I know, he keeps me informed.

Mr. Miller: probably about a half dozen times since I've been here and I've not even been here six months yet. So a...

Ms. Schollaert: Well ...

Mr. Miller: they are certainly well aware that there is a problem.

Ms. Schollaert: Well, I think it's because when you get that much sewage and that much damage in your property or your basement and you're someone that wants to live in town in North Canton, we're not moving out of the limits. You know we love being in town. He has his business in town. He does a really good business. I just think you know we're being penalized somehow because cause all these... - and I know it's a lot of money, but I guess I just want you to make sure that 9th Street is up there for all the new people - on their minds. I also - the front is horrible - the front of my house is horrible. So I called the city and they did come out and patch and they actually made it look worse. So if there's anyway that I can get the full thing patch in front. I mean it just looks horrible by those pictures. And the street is still crumbling, there's still spots where it's crumbling all over. So I guess I wanted you to hear someone else besides Mr. Fano to know that people do live on 9th Street. And you know I don't even mind living next to businesses. I love where I live. But I guess I want the city to know that you know we don't want to be forgotten and kept putting off next year and next year and next year cause we have heard that for 10 years already by various people. So you've been told. You heard it again.

Mr. Miller: Yea.

Ms. Schollaert: And I get - when will we know, when will the study be done? Do you have any idea?

Mr. Miller: The study is ongoing. That will probably be done in the next month or two to give the engineer a little bit better guidance as to far - as far as what needs to be done with the sanitary sewer to keep it from backing up. There's two bottlenecks, one at 10th and one at 9th, where it comes down at even more than a 90 degree angle and has to go back and that's one of the problems we feel. But once that study is done that will verify that and then we'll engineer a solution to it. And again, I'll present to council.

Ms. Schollaert: And our councilman will know so I can get ahold of you and we can find out what...

Mr. Miller: Yes mam.

Ms. Schollaert: I just don't want to keep putting it off for three more years.

Mr. Miller: And again, I don't think it's the money as much as being - to know what to do to fix it.

Ms. Schollaert: Okay.

Mr. Miller: Because you can throw money at the problem if it doesn't fix the problem you know you've wasted the money. So I think that everybody just wants to be responsible and make sure that once it goes and gets fixed that 9th Street is indeed fixed and you don't have this kind of problem again.

Ms. Schollaert: Okay. Thank you. I just wanted you to know that there's people not just businesses on 9th Street.

Mr. Miller: I understand.

Ms. Schollaert: Thank you for listening.

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Mr. Lane: We do have just two major projects that are being looked into this year with studies, one is 9th and one is Knoll. And I don't think it would behoove us unless we run totally broke to do all this study and then not do the project.

Ms. Schollaert: Inaudible...

Mr. Lane: But there's no promises made until December when the budget is put together.

Ms. Schollaert: Okay...

Mr. Lane: But those are the two major projects.

Ms. Schollaert: You understand my concern...

Mr. Lane: Of course I do. I know...

Ms. Schollaert: We've been told this year after year that the street is going to be done.

Mr. Lane: But I saw it on paper and it's there. And like I said I can't imagine why we would want to spend the kind of money we're spending to study something and then not do it.

Mr. Lindower: I want you to know also that if Mr. Benekos were here tonight he would verify the fact that I've been a thorn in his side over that issue up there for quite awhile, along with Mr. Fano. We remind him as often as we possibly can about that issue up there so that they don't forget it. However, like Mr. Miller said, the engineering studies have to be done and we can't go out there and dig the street up ourselves

Ms. Schollaert: Okay.

Mr. Lindower: so we're working at it.

Ms. Schollaert: Okay. Well I'll be in touch to find out about the study then. Thank you.

Mr. Snyder: Thank you mam. Anybody else wishing to speak to the council? Seeing none...

OLD BUSINESS:

- 8. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 87-04. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Mr. Pusateri: I'd like to remind council the third time again, this is a very thick ordinance. I'll be reading the first paragraph of the ordinance. This is Special Purpose Flood Damage Reduction Ordinance No. 87-04 of North Canton, Ohio.

Ordinance No. 87-04 - Third Reading

ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Council of the City of North Canton, State of Ohio, does ordain as follows.

Mr. Pusateri: And the rest of pages follow.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, thank you. This being the third reading we've talked about this a few times. I really don't have anything other to add other than the fact that there was a public meeting or public hearing held on this. No one stepped up to speak for or against. So with that being said Doug, do you have any ...inaudible...

Mr. Lane: No, I don't have anything to add.

- Mr. Peters moved and Mr. Lane seconded to **adopt the third reading** of Ordinance No. 87-04. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

- 9. Mr. Peters moved and Mr. Sarbach seconded to **read by title only, third reading** of Ordinance No. 88-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

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Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, June 24, 20 04

Ordinance No. 88-04 - Third Reading

Ordinance No. 88-04 authorizing the Director of Finance of the City of North Canton to make payment of a moral claim in the amount of \$1,362.81 to Patrick M. Linet for reimbursement of expenses resulting from a sanitary sewer backup.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, thank you. Third reading. I just want to ask Mr. Miller, have we...

Mr. Miller: We are in the process of filing - oh, we filed the claim, following through with the claim with AEP and Time Warner.

Mr. Peters: So it's AEP and Time Warner. Okay.

Mr. Miller: That's who belongs to those two lines up there.

Mr. Peters: Alright, very good. And with that we'll be reimbursed basically this full amount.

Mr. Miller: That's certainly what we're looking for.

Mr. Peters: That's all I want to hear.

Mr. Sarbach: Well that amount and more.

Mr. Peters: Yea.

Mr. Sarbach: That amount plus the repair of the...

Mr. Miller: Yes.

Mr. Sarbach: the moral claim plus the repair ...inaudible...

Mr. Miller: We're looking not only to get this reimbursed by AEP, but our cost to dig it up two times at this point.

Mr. Peters: Okay, very good. Well with that being said, I move that we adopt the third reading of 88-04.

Mr. Peters moved and Mr. Lane seconded to **adopt the third reading** of Ordinance No. 88-04.

All members present voting:

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

No: 0

10. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 94-04. All members present voting:

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

No: 0

Ordinance No. 94-04 - Third Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into a two year Lease Agreement by and between the City of North Canton and The Knights of Columbus, Bishop McFadden Council 3777, Home Corporation, North Canton, Ohio, to lease Lot No. 3998 and part of Out Lot 177 in the City of North Canton for various recreational facilities within the City of North Canton.

Mr. Snyder: Again, I don't believe that lease is up on that property. However, they're getting ready to just put it in motion so that they're ready. It's a proactive move. We've leased that property for several years to K of C for the ballfields for the children and we'd like to continue that as we spoke in committee. Any questions? If not...

Mr. Lane moved and Mrs. Kiesling seconded to **adopt the third reading** of Ordinance No. 94-04.

All members present voting:

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

No: 0

11. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, third reading** of Ordinance No. 95-04. All members present voting:

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

No: 0

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DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, June 28, 20 04

Ordinance No. 95-04 - Third Reading

An ordinance authorizing the Board of Control of the City of North Canton, through the Director of Administration, 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 chemicals for the Water Treatment Plant.

Mr. Snyder: Again, this is a proactive movement the - it's not up yet. Rather than do it as we've done in years past on an emergency basis, we're getting set so that it can go out and get ready to go for chemicals. Any questions on that? If not...

Mr. Peters moved and Mrs. Kiesling seconded to **adopt the third reading** of Ordinance No. 95-04. All members present voting:

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

No: 0

12. Mr. Lane moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 96-04. All members present voting:

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

No: 0

Ordinance No. 96-04 - Third Reading

An ordinance authorizing the Board of Control of the City of North Canton, through the Director of Administration, 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 rock salt for ice control.

Mr. Snyder: Again, this is a matter of housekeeping. We want to bid that out so we don't have to do it on an emergency basis. So we've done it on three readings. And if there's no questions...

Mr. Lane moved and Mrs. Kiesling seconded to **adopt the third reading** of Ordinance No. 96-04. All members present voting:

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

No: 0

13. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, second reading** of Ordinance No. 104-04. All members present voting:

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

No: 0

Ordinance No. 104-04 - Second Reading

Ordinance No. 104-04 establishing guidelines, procedures and criteria for use by the Board of Control as it pertains to procedures to determine lowest and best bid for construction of public improvements, local bidder preference and materials to be purchased locally.

Mr. Snyder: This is - the administration would prefer to purchase, as well as have bids, from people who live within the municipal boundaries and pay city income tax. And this will allow them to do that even though the bid could possibly be as much as \$10,000.00 over someone's bid who does not either reside or has his business or her business within the municipal corporation. It's encouraging people to locate business inside the city and the city - for them doing that the city is giving them a preference, as it's done in private enterprise all the time and this is legal. And it does show the people who can do business with the city as one of the larger employers and one of the largest purchasers in the general area that's what gives it to them, so that's the rationale behind that. So if there are no questions ...

Mr. Lane moved and Mr. Peters seconded to **adopt the second reading** of Ordinance No. 104-04. All members present voting:

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

No: 0

NEW BUSINESS:

14. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, first reading** of Resolution No. 106-04. All members present voting:

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

No: 0

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DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, June 28,20 04

Resolution No. 106-04 - First Reading

A Resolution on submission of request to the Stark County Auditor pursuant to Ohio Revised Code Section 5705.03(B) to certify to the City of North Canton, Stark County, Ohio, as taxing authority for the City of North Canton, Stark County, Ohio the total current tax valuation of City of North Canton, Stark County, Ohio, as a subdivision and the dollar amount of revenue that would be generated for a replacement tax of one (1.0) mill pursuant to Ohio Revised Code Sections 5705.19, 5705.191 and 5705.25 for the purpose of providing additional funds for the City's portion of street improvements in the City of North Canton, commencing in 2005, first due in calendar year 2006 and declaring the same to be an emergency.

Mr. Snyder: This might seem very familiar to you. As you know, some time within the last few weeks we passed similar legislation. However, the language of that legislation contained the wrong date. It did in fact say that it would commence in 2004 and begin to collect and ... to us in 2005. As well as the next one contained an erroneous statement to EMS. So we sent it down and we had to send it back. But again, to recap the purpose of the this and I don't know the exact date, I apologize, sometime in the 60's, the city has a one mill renewal levy to go towards street improvement. It was ... it was first put in at one mill. It presently receives about .20 percentage of that one mill or approximately \$111,000.00. This is a replacement levy which would take the new taxing entity and I think it costs the, if I'm not mistaken, again, I'm not positive somewhere in the neighborhood of near \$50.00 to the average property owner in the city. But that money is strictly used - it's within the ten mills the city is permitted by law to collect and it is earmarked strictly for improvement to streets only. It can be used for nothing but that purpose. And as you know we have several streets and projects that are need of repair. So this is a proactive approach rather than renew the existing one mill that's out there, which would eventually trickle down be collecting less and less each year. I think the new mills will bear some two hundred and forty some odd thousand, if my memory serves me right. Any questions? Seeing none...

Mrs. Kiesling moved and Mr. Peters seconded to **adopt the first reading** of Resolution No. 106-04. All members present voting:

Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules** for Resolution No. 106-04. 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** Resolution No. 106-04. All members present voting:

Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Snyder: The reason for the emergency is that we are on a time limit to get to the auditor and back so that we may get it to the Board of Elections by, I think, some time in the middle part of August so that it can appear on the November ballot.

15. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, first reading** of Resolution No. 107-04. All members present voting:

Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Resolution No. 107-04 - First Reading

A Resolution on submission of request to the Stark County Auditor pursuant to Ohio Revised Code Section 5705.03(B) to certify to the City of North Canton, Stark County, Ohio, as taxing authority for the City of North Canton, Stark County, Ohio the total current tax valuation of City of North Canton, Stark County, Ohio, as a subdivision and the dollar amount of revenue that would be generated for a replacement tax of one (1.0) mill pursuant to Ohio Revised Code Sections 5705.19, 5705.191 and 5705.25 for the purpose of providing additional funds for the City's portion of storm water sewer improvements in the City of North Canton, commencing in 2005, first due in calendar year 2006 and declaring the same to be an emergency.

Mr. Snyder: This is identical to the previous with the exception that it is earmarked for storm water. As we just heard we have a situation there ...inaudible... in Mr. Lane's ward both requiring an inordinate amount money to repair, for him to do in phases. And by doing this we again address those problems a little easier with more money. So if there's no questions...

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Mr. Lane moved and Mr. Peters seconded to **adopt the first reading** of Resolution No. 107-04.
 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 Resolution No. 107-04.
 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** Resolution No. 107-04. All members present voting:
 Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
 No: 0

- 16. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 108-04. All members present voting:
 Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
 No: 0

Ordinance No. 108-04 - First Reading

An ordinance authorizing an agreement with Reed Funeral Home, Inc. providing for a project and real property tax exemption pursuant to the Ohio community Reinvestment Area Program, and declaring the same to be an emergency.

Mr. Snyder: Chairman Kiesling.

Mrs. Kiesling: Yes, this is what we've talked about in great length these last few months. We made a new community reinvestment area in the Pittsburg, Portage area of the town hoping to help Reed Funeral Home relocate into the old - is it the Elks that was there - the old Elks building. They plan on putting about \$400,000.00 worth of renovation into it. They plan on - I talked to Mr. Reed myself and he intends, in the next probably five years, it will be the biggest funeral home between the two, the one in Canton and the one here. He intends to - he has a little more area down here and he intends to move a lot of his business this way. In the next year he promises 1 employee, the year after that 2 and possibly 2 part - for sure two part time, in the year four and five he is hoping for more. On - the tax abatement is 50 percent over 10 years. Julie is gone this week, but I did write down it's about 3600 a year abatement is what it adds up to. Originally she told us something different in the meeting, but she redid it last time and now she's gone so I can't confirm, but what she told us a few weeks ago it's about 3600 a year. And this is for 10 years. And there's a Tax Incentive Review Board that does review it and if the employees do not come and the improvements are not made, they will take the abatement away from them. So we have followed all the rules.

Mr. Snyder: And Mrs. Kiesling may I mention that the application was sent to the Ohio Department of Development, through the efforts of the administration it was expedited. But it did meet all the criteria presently of the Ohio Revised Code for a community reinvestment area. The housing study was done, the proper channels were followed, all information sent to the development department, they did approve it. The Housing Board of the City of North Canton meet and approved it. And council did pass it on ...

Mr. Miller: If I may add to that.
 Mr. Snyder: Yes sir, please.

Mr. Miller: Just to refresh everybody's recollection. We mailed down the application on May 5th. We got approval on May 13th from the department of development. Our application was very much in order. I've got the notebook here, council has a copy of the notebook as well. The application is being approved under 3735.671, 37 - that section of the Ohio Revised - or the - yea, the Ohio Revised Code specifically deals with a written agreement where commercial, industrial property is to be exempted pursuant to the CRA. So it's specifically one of the things that can be approved in a CRA. This CRA was approved quickly partially because of the homework that we did and also partially because it meets one of the two criteria. One is that the area is run down. Two is that the investment has been basically not encouraged in the area. The Valley View subdivision itself has not had a new house built in it since 1965. There are 11 of the 21 lots that are still vacant. That was the housing hook, if you will, that we used to have the CRA approved in tow. The process is being followed by the letter, to the "t", pursuant to Ohio Revised Code. The 14 day letter was sent out by Julie Herr, as the Housing Officer, to the school board which is all that's required because the abatement is equal to 50 percent or less of the additional amount of the additional appraised value of the property. So that the school board will still get the same amount they've been getting. They will only get 50 percent of the improved amount and at the end of 10 years they will get the

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other 50 percent. So the school board is still getting an increase in taxes, they're just not getting as much of the pie if you will as they originally - as they would get if there's no abatement.

Mr. Snyder: Sir, one question. That brings up a good point I don't think no one has thought of. The actual assessment of real property tax will be on the actual market value now, not what they've been paying. They were paying on the appraised value prior to, which probably was considerably less than the market value of 1,100,000. Is that...

Mr. Miller: The 50 percent will apply to the increase in the taxes.
Mr. Snyder: Of the 400.

Mr. Miller: So if they were paying, let's say for the sake of argument, \$10,000.00 a year in taxes and the increase is 15,000 or goes to 15, they will be abated on half of that increase from 10 to 15 or \$2,500.00. That's how it works.
Mr. Snyder: Okay.

Mr. Miller: It's based on the actual appraisal after the improvements are done.

Mr. Snyder: Okay. Now also, those 11 empty lots that you allude to qualify to be put in under CRA guidelines. Correct?
Mr. Miller: Those...

Mr. Snyder: So if someone would go in there and want to put a new home in a somewhat blighted area, they would be encouraged to do so because there are tax incentives in that area.

Mr. Miller: That's absolutely correct. That's absolutely correct. That in fact there was one call about one of the lots early on in the process. So if they wanted to build a house they would fall under that portion of the CRA and would receive 100 percent tax abatement on that increase in evaluation on the house.

Mr. Snyder: So possibly - it's a good marketing tool for those houses there.

Mr. Miller: Absolutely.

Mr. Snyder: Thank you Chairman Kiesling, I didn't mean to interrupt your report. Okay.

Mrs. Kiesling: I motion to adopt it.

Mr. Snyder: Okay.

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt the first reading** of Ordinance No. 108-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 108-04. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder and Kiesling.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 108-04. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Kiesling and Lane.
No: 0

Mr. Snyder: Chairman Sarbach, my question to you sir, on 109-04, you just want the first reading, but you don't want this read ...

Mr. Sarbach: That is correct.

Mr. Snyder: under an emergency?

Mr. Sarbach: That is correct.

Mr. Snyder: So you just read it as a normal piece of legislation?

Mr. Sarbach: We'll leave the emergency in there, but we won't give it the second reading tonight.

Mr. Snyder: Okay. But you want to leave the emergency in there?
Mr. Sarbach: Yes.
Mr. Snyder: Okay.

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17. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 109-04. All members present voting:
Yes: Peters, Sarbach, Snyder, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 109-04 - First Reading

An ordinance authorizing the Board of Control of the City of North Canton, through the Director of Administration, 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 an agreement for the Freedom Waterline at the Water Treatment Plant.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Okay, this is an additional waterline to better serve community. If something happens to the line that is going out we're done. This will give us a second line out of the plant and also it goes out to the west to serve our growing westerly customers. The reason for the confusion, the engineer is looking at an option that may or may not be better than having this ordinance and possibly doing it a different way. But until that happens we want to continue with this ordinance and we'll just eliminate the emergency. We'll give it its first reading. If something better comes along, I will recommend that we - in that subsequent readings that we turn it down when - if the better option comes along with the Water Treatment Plant. So with that I move we adopt the first reading of Ordinance No. 109-04.

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 109-04. All members present voting:
Yes: Sarbach, Snyder, Kiesling, Lane, Lindower and Peters.
No: 0

18. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 110-04. All members present voting:
Yes: Snyder, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Ordinance No. 110-04 - First Reading

An ordinance authorizing a waterline extension to St. James Place No. 10, located in part of the S.E. and S.W. Quarters of Section 32, Lake Township, Range 8, Stark County, Ohio in accordance with plans and specifications approved by the North Canton City Engineer, and accepting any necessary easements associated with said waterline extension, and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This we want to leave the emergency in. This is a - outside customers and this will allow the developer to proceed with the construction, at no expense to the city, and allow the city to accept easements on the lines. And with that I move that we adopt the first reading of Ordinance No. 110-04.

Mr. Lindower: Mr. Sarbach, can I ask a question?
Mr. Sarbach: Yes, please.

Mr. Lindower: Is this access off of Brumbaugh Road is that where this waterline is extended?

Mr. Sarbach: I would ...

Mrs. Kiesling: St. James...

Mr. Sarbach: I do not think, but I would have to defer to the engineer who isn't here. I don't think it's off...

Mr. Lindower: Mt. Pleasant or Brumbaugh ...inaudible...

Unidentified: Mt. Pleasant...

Mr. Sarbach: I can't answer that.

Mrs. Kiesling: It's beyond Mt. Pleasant I think. Isn't Brumbaugh after Mt. Pleasant, north of it?
Mr. Sarbach: Yes.

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Mrs. Kiesling: It's in between Brumbaugh and not quite State, there's another street.

Mr. Snyder: You can get in off of Mt. Pleasant. I know if you go down Mt. Pleasant and turn to the left...

Mr. Lindower: Mt. Pleasant ...inaudible...

Mr. Snyder: you go into St. Ives then St. James is right ...

Mrs. Kiesling: St. James is south, then St. Ives.

Mr. Snyder: Yea - St. Ives.

Mrs. Kiesling: So I think St. James is off Brumbaugh.

Mr. Lindower: Inaudible... off of Mt. Pleasant you can get at it.

Mr. Sarbach: Is there...

Mrs. Kiesling: Yea, yes, yes...

Mr. Sarbach: Is there a problem if it was off of...

Mr. Lindower: No, I had the question asked of me and I said I ...inaudible...

Mr. Sarbach: Okay. I think the engineer has those plans. So off hand I can't answer that.

Mr. Lindower: I can ask Jim the next time I see him.

Mr. Sarbach: Alright. Any other questions be...

Mr. Lindower: No, that's ...inaudible...

Mr. Sarbach: I'd like to call the question then.

Mr. Snyder: Okay.

Mrs. Bittle: We missed...

Mrs. Kiesling: Second.

Mrs. Bittle: Oh, thank you.

Mrs. Kiesling: You're welcome.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 110-04.

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. 110-04. All members present voting:

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

No: 0

19. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 111-04. All members present voting:

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

No: 0

Ordinance No. 111-04 - First Reading

Ordinance No. 111-04 authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into a contract for the Gaslight/Edgewood Sanitary Sewer Project and declaring the same to be an emergency.

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Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is the well discussed sewer project in Ward 3 and it comes with a price tag of 240,000 and I believe just over 114,000 of that will be covered under assessments in that area. Anybody have any questions or comments on that before I move? If not, I move that we adopt the first reading of Ordinance No. 111-04.

Mr. Sarbach moved and Mr. Lane seconded to **adopt the first reading** of Ordinance No. 111-04.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Lane seconded to **suspend the rules** for Ordinance No. 111-04. All members present voting:

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

No: 0

Mr. Lane moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 111-04. All members present voting:

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

No: 0

REPORTS:

Mr. Snyder: Director of Law, any report?

Mr. Pusateri: Yes, Mr. President, I have report and have a memorandum to hand out to start the report. So ...inaudible...

Mr. Snyder: Inaudible...

Mr. Pusateri: Yes, Mr. President, the effective date for the resolution instructing me to prepare charges and prepare the hearings for the removal of the Mayor, the effective date comes up, if my calculations are right, July 4th or 5th.

Mrs. Bittle: I think it's the 4th.

Mr. Pusateri: The 4th...

Mrs. Kiesling: Isn't that 40 days?

Mr. Pusateri: It's the 4th. I believe, is the right calculation. So with that in mind, this being the last regular council meeting before that time period, I'd like to go over some procedures and issues for the removal from office you know according to North Canton Charter. And I set out nine different points and bullet points to go over with council. And I'd like to go over each one of these points tonight. It's somewhat consuming, but I think it's very important that we move forward and I mean and everybody understands where we're going in this process. Now I've prepared this myself on my computer so if there's some typos blame me not my secretary. The first section - the first point I have there is Section 5.06 of North Canton City Charter and I break it down into five bullet points. As we already know here the office is declared to be vacant by Council if the Mayor is found guilty of gross negligence - I mean gross misconduct, I'm sorry, misfeasance or malfeasance in office. Now there are other sections in that particular section of the Charter, both those are the three that I understand what Council wants to move on pursuant to the letter from Frank Forchione. If there are other points reading that section Council wants to look at I'd like the Council to let me know as soon as possible, but I think those are the three points that Council wants me to look at. Then I'd put those charges together and I would serve those on the Mayor pursuant to the Rules of Civil Procedure. And that simply means that I - there's got to be proof of service as you serve somebody under the Rules of Civil Procedure. Now if Council has questions at any time or if the Mayor has any questions, you're welcome to ask me any questions as I go through these points. Now the public hearing, as we all know, is at least 15 days after I serve the Mayor of the charges. Alright. Now I put not like trial, less formal. I want Council to understand that this is not like a trial where there are Rules of Evidence, Rules of Civil Procedure, this is a lot less formal. In trial before a court there's certain questions you can ask. You can't ask hearsay questions for instance or redundant questions or questions already asked. This is a lot less formal of a process. And as I go through this outline it will make more sense. The fourth bullet point, as the Charter says, the Mayor has an opportunity to be heard, to present evidence and examine witnesses. Now those three points are very important. I mean this can't happen without him being here. He has to have the opportunity to be heard and make his side known. To present evidence, that means he can present evidence as well. Just like a trial, he can subpoena witnesses, subpoena documents to present Council as to his side of the hearing and then and also examine and cross examine those witnesses that Council decides to subpoena and ask questions of. And the Charter says it's either the Mayor or it could be his attorney. And I think in all fairness it could be either one of them at any time during the hearing. And the last point, the decision of Council shall be final with limits of appeal. I've talked to council already about the standard of appeal if this were to be appealed after the hearing. And the biggest issue

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would be process, making sure the Mayor is given sufficient due process and that's the first line of appeal. And the second is, can Council articulate specific facts that lead to the conclusion, whatever that conclusion may be. That's what the court would be looking at on appeal. Now I do have to backup and ask or thank Doug Lane, because when he voted on this resolution he did make a comment that he didn't vote for an emergency to give me 30 days to look through this process and I've got to say Doug I've needed the 30 days. So I do thank you on that part you know...

Mr. Lane: Take all the time you'd like.

Mr. Pusateri: Yea. I've researched a lot of this and it's come to this. But I do thank you ... council for that time actually. Number two, subpoena. Now in order for this hearing to have any validity and I stated before, we're going to have to have the power to subpoena. And I've researched that extensively. And legislative bodies have historically in this country have had inherent power to subpoena anytime there's been an investigation or any kind of hearing. If a legislative body does not have the power to subpoena it cannot perform its functions. Now in addition there are state sections, state codes that aren't exactly on point as to our charter, but certainly give us guidance as to council's authority to issue subpoenas. In fact there was a case, I just pulled out of New Jersey, it was much like this. Where in that case the mayor himself was subpoenaed and contested that subpoena. It went to the Supreme Court in New Jersey and they stated clearly that the council had the power to subpoena. And the mechanism - the issue of subpoena is that what if somebody doesn't abide by subpoena, how do you enforce it? How does council enforce it? You don't have any enforcement mechanism to make somebody show up. What you would do is you would file an action in Common Pleas Court, it's called an Order to Show Cause as to why an individual should not be held in contempt of court. And that's - you would use the courts as your authority to enforce a particular subpoena. In addition, the witnesses that would be testifying at this hearing are going to be witnesses under oath, which is very important. Which we'll have a court reporter here that will give the oath before each witness testifies. Who can be subpoenaed? At this point I don't see any limitations to that. The Mayor could be subpoenaed, Council as a member - members of council could even be subpoenaed, employees and non-employees. Now when I mention employees, I have been told by some members of the - are employees of the City of North Canton, that there is a level of anxiety about having to testify in this hearing, which I think is understandable. But I want to make sure Council is aware of that anxiety of some employees to have to testify in this hearing. Point three, role of Council. Now back up two, this memo is not - there might be some points here that I've not brought up on this memo so we can address those at a later date. But role of Council, they hear evidence of course, to ask questions. How this hearing should proceed is that, as the Law Director, and you'll see later on in point four the role of Law Director, I will bring the witnesses to Council as Council decides to subpoena. And whoever the Mayor decides to subpoena and ask just foundational questions of those witnesses and then open up the floor for council to ask questions. That enables me to be in a position where I can make sure the due process rights of the Mayor are protected and the procedure is going accordingly. Like I said before, the only issue an appeal of great concern is whether or not we follow a process or procedure that's recognized. And the ultimate question is whether or not the Mayor would be afforded due process and have every opportunity to oppose any of these charges. So once again, council would then ask questions. So as we get there, I mean we'll organize when exactly witnesses are going to appear so council has that in advance to know what questions to prepare and be ready for. Subpoenaed witnesses, when this process starts, once again, I will write a letter to Council and to the Mayor asking what witnesses they would want to subpoena. And so I'll be sending you a letter sometime in the future asking for that. And also, the council can subpoena documents. Subpoenas just aren't limited to testimony, but documents also can be subpoenaed and we'll have to think about that as well. Anytime during this process if anybody - any member of council has questions, of course you can call me here or call me at my private office, call me at home on the weekends, for guidance on this procedure.

Mr. Lane: Paul.

Mr. Pusateri: Yea.

Mr. Lane: Can you back up and then I want to ask about this. At any point in time, for instance under subpoenaed witnesses, and I understand and I do respect your opinion, but if somebody either in the public or the Mayor's side of this or anybody else on council, anybody, can they question this? And the other question that I had was when you get into these contempt of court proceedings if somebody doesn't show, does bring this whole thing to a halt until we get that individual in here one way or the other?

Mr. Pusateri: Well let me answer that question...

Mr. Lane: Can they file something that could stall this thing out for months?

Mr. Pusateri: Well to answer that question, we'll have to take one step at a time. This is...

Mr. Lane: I know. I'm just trying to play devil's advocate.

Mr. Pusateri: There is very little precedence to this. But my suggestion would be at this point we would move on with other witnesses and file the order to show cause you know contempt - why they should be held in contempt and move on with other witnesses. That would be my suggestion at that point, I think, unless something changes that I'm not thinking of at this point. But...

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Mr. Lane: Okay. And then regarding subpoenaed documents, I mean a lot of these documents Frank has already got. Can we reuse those or do we have to go back and subpoena that law firm again to ask about Mr. DeSario and all of those things?

Mr. Pusateri: Well I don't think - I think those documents will probably be fine.

Mr. Lane: Okay.

Mr. Pusateri: I mean even in a civil proceeding, even in a trial setting, those documents would come under exceptions for authenticity and also for hearsay because they're business documents. So even - and this hearing is less formal than a trial so I think they'd probably be okay.

Mr. Lane: Well it would certainly save a lot of time if we didn't have to go back through all that. So...

Mr. Pusateri: Yea, I agree. So those are probably okay.

Mr. Lane: Okay. Thank you, I ...

Mr. Pusateri: But if you have a particular document that you want me to look at and answer that question to, I certainly will. Okay. And then ultimately the council would be the - they would find the facts and then I say and, and I underlined the word then, make conclusions. And I have it in parenthesis here, it says caution to Council on this sequence. It's very important that Council recognize that sequence that you hear facts first, make conclusions second. And I caution Council not to give opinions on what they think the facts conclude until the whole hearing is done. It's much like a jury trial, you don't want jurors talking about the facts in a public open setting until they hear all the facts. Otherwise I think it taints the proceedings, but the - you know the appearance of a propriety. So I really do caution Council to limit your discussions about conclusions while the process is going on. Okay, number four, and once again, I mean if Council has questions on any of these points, at any time later, call me - role of the Law Director - prepare and serve charges, as I already talked about above, prepare necessary documents for both Council and the Mayor. Inaudible... the hearing or before the hearing or if the Mayor or Council wants to subpoena for documents or for witnesses, I take of that, that's my role. Prepare witnesses of - before the charges. Prepare witnesses before the hearing itself. And then I would ask foundational questions of a witness to establish why they're at this hearing, what the purpose of their testimony is going to be. And once I'm finished doing that, I turned it over Council to ask them the meat of the questions and that allows me, once again, to be in a position where I can keep the process going and make sure that the - we're following due process. Alright. I also - part of my role is to organize documents, schedule presentation of the witnesses. I'm sure a lot of the witnesses will have questions before they testify. Setting up the hearing of course, taking care of the court reporter - all that stuff. Making sure the oath is administered. And I want to emphasize again this next bullet point, I'm taking a position of neutrality, I represent the City of North Canton. My job will be to present evidence good or bad - I mean good or bad for the Mayor, good or bad for the Council. It will be the Council's final determination as to how they perceive or interpret the evidence that comes out of that hearing. Some of this is repetitive. Next point, insure proper procedure. By me taking a less forceful role in asking questions, it enables me once again to advise council during the hearing. So if there's some evidence coming out that council perceives to be maybe perhaps irrelevant or way out of the scope of the hearing, council can ask well what do you think Mr. Pusateri on that piece of evidence and I can give them advice. Next point, once again, ...inaudible... repetitive, protect due process rights of the Mayor. Next bullet point - this is not really a role of mine, but I want to make sure we emphasize the fact that and that the public is fully aware of this already, that I'm being paid separate from my normal pay at a rate of \$150.00 an hour to conduct this hearing and that's pursuant to an ordinance that was passed in - I don't know, 99' or 2000 ... per diem.

Mrs. Bittle: It goes back a long time.

Mr. Pusateri: Yea, I can't remember exactly. The next point is important here. I mean typically when an attorney, like myself, talks to a client it's in executive session or privately because there's the attorney client privilege, but now that we're dealing with a potential removal of elected officer, I've taken a role and I think it's the right role to take cause this is completely open and public communication as I'm doing today. Inaudible... nothing to hide in this hearing. This also emphasized in my role in this of neutrality. This is open and public communication. Now as we go through this hearing there may be exceptions to that, but we'll take those as they come. And we'll have to be able to articulate some exception under the open meetings act of course, to have an executive session if that were to take place. Okay, five is the role of the Mayor. Now I understand and the Mayor can have an attorney pursuant to the Charter. And I understand he has consulted with an attorney and I've talked to that attorney as well and I will continue to talk to that attorney as well. And going back to that last point I just made, I will continue to be open with that attorney and hide nothing. Whatever case law or anything he wants from me to - that I'm using to justify my views on this, I will certainly give that to him. I mean that's certainly not an advantage for an attorney to give information to another lawyer, but once again I'm taking the position this needs to be and public and that's even to Mayor Rice's attorney. Now the role of the Mayor, he could provide myself, the Law Director, with his witnesses or - and or documents that he'd want to subpoena. Remember, Council is the one with authority to issue the subpoenas. So what the Mayor would do is give me the documents for the witnesses he would want to subpoena. I would go to council - I would draft those subpoenas and get council's approval on those subpoenas and then go out and issue them

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collect the other documents that he wanted or talk to other witnesses he wanted talked with. And then again, a role of the Mayor is, just as I repeated - repeating what I said earlier in point one, is to be heard, present evidence and examine witnesses (through his attorney) the Charter clearly allows for an attorney. Okay, now sixth is more of a practical issue, is when this hearing would be set. I do believe that we need to set it sometime soon. I suggest some weeks there. Now when I give you those weeks my personal calendar and I'm sure some of your calendars too, aren't completely open, but there are five weeks to look at, the week of August 16th, the week of August 23rd, the 30th, the week of September 6th, the 13th. August 16th may be a little bit ambitious, but I do think we need to set a date certain so we have something to work towards. I mean it certainly would make sure I get things done that needs done before a certain date. We don't have to set that tonight, but I think we need to probably do that soon. And I put in parenthesis there coordinate with Mayor and his attorney. Because of course if his attorney has a trial during the week of August 23rd we have to be willing to not use that week and go to another week. I suggest perhaps I sit down with the Mayor and his attorney, find available dates within the month of August and September so we can get some dates certain here. I think it's important to get these dates set because I'm sure, like the rest of you, I mean I'm the same way, dates always need filled and if I don't put something down I lose a date. Consecutive days, you know at some - at the beginning of this I estimated three days and I mean I don't know if that's right or wrong. I just - it's somewhat of a guess. But I want to suggest to council that this doesn't have to be consecutive days, we could have one day per week for four weeks. That's perhaps a way to lessen the burden on people missing work - days, evenings, weekends. Some members of council and other people have come to me with some concerns that they can't take that much time off from work, which is a legitimate concern. So do we do this in the evenings? If we do it in the evenings we won't get a full eight hours of testimony in one day, we're probably limited to three hours. It's liable, of course, to drag the proceedings out further, but at least it would give people an opportunity to work a full day and then come to the hearing. And also, I think Mrs. Kiesling mentioned too, that would enable the public to participate fully if it's in the evening hours. So that's something council has to decide and think about and I would think and I would suggest that we do that quickly.

Mr. Snyder: Mr. Pusateri, may I interject ...
Mr. Pusateri: Anytime.

Mr. Snyder: Thank you sir. It would be my wish and I'm speaking for myself personally, but the members of council can concur or not, I would think, due to the fact that this is a bold move on the part of the Council, the public would want to be in attendance at the majority of the meeting. I would be my suggestion - two things sir, that they begin approximately around 5 to 6 p.m. in the evening, allowing the public full access to the meeting. Secondly, I believe the venue of the meeting should be moved from this chamber, as you can see we're at a regular council meeting and we're - it's 30 to 40 percent full, to the Civic Center.

Mr. Pusateri: I don't know if they have a sound system ...inaudible...

Mr. Snyder: Well we could make a adequate provision. Because I don't believe you have enough room in this chamber. As we know, by the time you added two council tables, a table for the court reporter and I will ... and I will almost assure you that the broadcast media, the print media and the media of Cleveland television will be probably in attendance and there will be no room for the general public to sit.

Mr. Lane: Hey Jon, can I make a suggestion?
Mr. Snyder: Please.

Mr. Lane: Perhaps we talk to Walsh and see if their auditorium might be available or something along those lines that already has audio visual equipment and link ups and just a thought.

Mr. Snyder: Well yes. I am not opposed to either place, but I don't think this chamber is large enough for that...

Mr. Lane: I do agree with you on that.

Mr. Snyder: And I do think that they should be - if you're going to do a day, possibly a day and an evening. But I would again think most of it should be - even though I realize it's time consuming, but the ability of a lot of the council members to attend and the public and the witness to attend. It's ...

Mr. Pusateri: I might suggest weekends as well. I don't know...

Mr. Snyder: Yes. I have no problem there myself. But again that, but that - I would think we should explore that venue as you - and do that. And if it was at the Civic Center we couldn't possibly because that's usually rented on the weekends, so we'd have to confine that to during the week. But there are probably means - this fellow that left this little gift of this landing device could probably wire that for some type of sound.

Mrs. Bittle: We have to have something built because there's nothing there right now other than that portable mic ...inaudible...

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Mr. Snyder: No, that wouldn't serve the purpose. But again, I'm only thinking cause I don't think - that's just something to ponder. But again I ...

Mr. Pusateri: That's fine. I - but starting now with council has instructions for me and or suggestions or concerns, please get those to me you know in writing as soon as I can - as soon as you can so I can start addressing that - those issues. And I will talk to the Mayor's attorney as well on these issues.

Mr. Snyder: Okay.

Mr. Pusateri: Okay. Seven, I just mentioned the word you know precedence. Of course as we all know this is an extremely rare proceedings. It's not unheard of, but there - it is rare. And I give a suggestion and I gave council and the mayor articles about the removal of Mark Roach for instance in 1999. He is the - he was the treasurer from the county, where Horowitz was the attorney for the county who oversaw those proceedings. And Mr. Roach was ultimately removed by two of the three county commissioners. That was appealed to the Common Pleas Court. All the local judges had recused themselves and brought in an outside judge to hear that and the judge upheld the removal in a very quick fashion. So there are - there is precedent and there's precedent from other states. There is an example from Boston Heights, which is just I believe, just north of here isn't it, by Cuyahoga Falls, where an elected officer was removed and I think it was the clerk that was removed in that proceeding against the village. And once again, I say there are out of state cases. I mentioned the one case out of New Jersey already. And then the last bullet point and I - just to emphasis this again, I will work with the attorney for the mayor in setting up the procedure as much as he wants to be involved. Number eight, some points that I just want to bring out in public cause I've heard statements about this and I've been asked the question too, is whether or not there are conflicts. For instance conflicts for the fact if the Mayor were to be removed is the President of Council conflicted out of the hearing, and the answer is no. And the same is true for those council members who assisted in bringing charges. I mean there was some question whether or not those members of council could be conflicted out, and the answer is no. Now point 9 is very important cause no matter how charged and excited and angry people get, I think it's very important that we can maintain respect and decorum throughout these proceedings. It's like a trial and that's why attorneys are required to refer to the judge as your honor, even when the judge is ruling against us and we're furious, we still have to say your honor and if we don't we can be held in contempt and fined. So I do think it's very necessary if this is going to move forward, that some level with respect that we address people with Mr. and Mrs. and use those types of you know that type of language when we're addressing people and not by first name and really work hard at keeping that going. And I will remind you through the process that we need to continue that. With that I've gone over all the points in this memorandum. Like I said, this is not conclusive. I'm sure there are other issues I've failed to bring up tonight, but I wanted to make sure I at least addressed these issues with Council tonight and the Mayor. And I'm open to questions at any time. Like I said, once again, call me at my office, private office, at home or here, that's fine.

Mrs. Kiesling: I have a question about the days. I thought the 30 days were up on the legislation.

Mr. Pusateri: No the - our charter states that the Mayor has 10 days to veto or disapprove, approve the - or not sign the legislation passed by Council. And then there's a particular section of the charter, that I can't remember exactly what section, which says that the 30 days starts ticking from either the day he signs it or the date - the days he had to disapprove it. So, we've got the 10 days and the 30 days starts ticking after that. It was submitted to the Mayor on, and I don't have the exact dates, I apologize, whatever date would of been what, the 4th of June?

Mrs. Bittle: It would of been the Tuesday after.

Mrs. Kiesling: It was like the 24th or 25th.

Mr. Pusateri: The Tuesday after council. It would of been the 4th ...

Mrs. Kiesling: of May.

Mr. Pusateri: Excuse me.

Mrs. Kiesling: It was May because.

Mr. Pusateri: May 24th. Okay, yea, that's right, it was passed on that day. The Mayor then had 10 days to sign it, which he didn't sign. So 30 days after that tenth day is when it takes in effect, pursuant to our charter. Okay. So and I believe it's July 4th, if I'm not mistaken. Right Mary Louise, that..

Mrs. Bittle: I think it is ...

Mr. Pusateri: It may be the 5th, but either way it's a holiday anyhow. So it wouldn't be ...

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Mrs. Kiesling: That seem - honestly if you think about it, in other terms of let's say other referendums out there, it doesn't seem fair. Because other referendums had 30 days to get their signatures because the Mayor decided to sign that piece of legislation and this possible referendum has 40 days. There has to be a standard and you're telling me there isn't. The standard is when he signs it, which I don't think that's a standard.

Mr. Pusateri: Well we - I've had this discussion recently.

Mrs. Kiesling: I know you have and...

Mr. Pusateri: I - but I have to go off the Charter there is - as far as the effective date of an ordinance. Now there's some question, I understand what you're saying as to when people have 30 days to get petitions signed for referendum. And I've not researched that issue closely, but I'm going to make a conservative opinion just saying that it's 30 days from the date that he either signs or doesn't sign it. I'm going to give them the full benefit of the time to get enough signatures on that petition. I know some people have contrary view on that, but that's not my opinion.

Mrs. Kiesling: It's just ... it's just - there's no - it just seems ...

Mr. Pusateri: I understand ...

Mrs. Kiesling: inconsistent.

Mr. Pusateri: Well the reason is I think is that there are other - you're looking at it only from North Canton's Charter and there are other forms of municipal government that may be different that wouldn't conflict with the state statute. But I will give the petitioners the most time possible. At least that's my opinion off the top of my head at this point to get those signatures as they think they can. And as I already told council, that's not the issue anyhow in dealing with the petition, but...

Mrs. Kiesling: But, I know - I was just - I was confused as to the date.

Mr. Pusateri: No, that's alright. I can understand the confusion. Any other questions? Inaudible... sorry I took so much time, but I thought it was necessary. Thank you.

Mr. Snyder: Am I to understand now that you're going to - what are you going to do about this date of this hearing? When are you going to set this? Are we going to tell you a date or you're going to ...

Mr. Pusateri: I'd like council to give me some direction, yes. And this is council's hearing and I need some direction from council. When I get some direction from council as to consecutive days, evenings, I will then sit down with the Mayor and his attorney and hammer out some dates. And I'm looking at those five weeks. I think that that gives us - those weeks are realistic goals, but not too far out, but it gives us enough time to get things organized working at a very hard pace.

Mrs. Kiesling: Well can we come to some consensus tonight or do you want to ...

Mr. Pusateri: That's fine. Yea, you could do that. That's however Council decides...

Mrs. Kiesling: Or ...inaudible... not prepared.

Mr. Pusateri: People need to look at their calendars...

Mr. Lane: Inaudible... look at my calendar.

Mrs. Kiesling: Well I know we can't give you a date probably, because you still have to make sure Mr. Plakas and ...

Mr. Lane: I think it's better if you could find out from Mr. Plakas when he's not available and then give us.

Mr. Pusateri: I could do that.

Mrs. Kiesling: Well we need to decide are we doing evenings, are we doing every other day, are we doing one day a week, are we doing...

Mr. Pusateri: Yea, that would help too.

Mrs. Kiesling: That's what we really need to decide.

Mr. Pusateri: I think that's probably true.

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Mr. Lane: I mean you're asking that right now?

Mrs. Kiesling: I am.

Mr. Lane: I can't make any days at all unless it's an absolute emergency.

Mrs. Kiesling: So we need to go more like from 6 ...

Mr. Lane: 5:00 or 6:00.

Mr. Pusateri: Okay ...inaudible...

Mr. Lane: That's just my case and I'm sure without speaking for him ...

Mr. Pusateri: You're not the only one that has said that Mr. Lane...

Mrs. Kiesling: Right. No...

Mr. Lane: I think Doug Foltz would probably have the same problem...

Mr. Pusateri: Yea.

Mr. Lane: working full time.

Mrs. Kiesling: That's fine.

Mr. Sarbach: Doug, could you be there by 5?

Mr. Lane: I could do my best to be here 5:00 or 5:15, yea. Inaudible... 5:00 or 5:15 I don't think it's going to make that much difference if you start at 5:00 or...

Mr. Pusateri: Make it 5:30 just to be safe.

Mr. Lane: 5:30 to be safe.

Mrs. Kiesling: Yea, maybe we can eat before we come if ...

Mr. Pusateri: 5:30 to 9:00? I mean I think going past 9:00 is trying people when you think...

Mrs. Kiesling: Alright, so we stated 5:30...

Mr. Pusateri: With maybe two breaks in between there.

Mrs. Kiesling: And now we need to decide on everyday, every other day, what we prefer. Of course that needs to be coordinated with Mr. Plakas.

Mr. Snyder: Well I think for reasons of just - if a person has worked 8 hours, I can now only speak for myself as I approach my golden years, but I ...

Mrs. Kiesling: You don't want to do it everyday.

Mr. Snyder: No, I really don't, honestly. I think I'd rather go have my teeth pulled out. But honestly I think what I might suggest, and you do - but I would say the week of the 23rd and the 30th and do two or three days one week, two or three days the next week and wrap it up. That gives you six nights of - about 18 hours which is equivalent to ...

Mr. Pusateri: I'll remind Council too, you're taking an active role in this and asking questions, so there's preparation on your part as well. So if you would go consecutive days it would be very difficult...

Mrs. Kiesling: Right...

Mr. Pusateri: Inaudible... you put a full time - a full day into it.

Mr. Snyder: That gives you about six weeks between the beginning and the start ... well we still have - when's our first council meeting back?

Mrs. Bittle: It would be August 23rd, that Monday. I think that's a Monday.

Mr. Snyder: So we'll have a council meeting...

Mrs. Kiesling: Yea.

Mrs. Bittle: That would be a council of the whole.

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Mr. Snyder: Then we'll do it Tuesday, Wednesday and Thursday. Is that how you'll do it?

Mrs. Kiesling: We don't want to do them consecutive.

Mr. Snyder: You don't want to do them consecutively?

Mr. Lane: I wouldn't do more than two a week.

Mrs. Kiesling: I thought you just said didn't.

Mr. Snyder: Do it Tuesday and Wednesday of that week?

Mr. Lane: Yea, or Tuesday, Thursday...

Mrs. Kiesling: Do ... we're going to be here Monday. So Monday, Tuesday, Thursday?

Mr. Snyder: That's fine.

Mr. Pusateri: Well doesn't council still want - you have to have a regular meeting.

Mrs. Kiesling: Right, I mean Monday we'll be here anyways.

Mr. Snyder: Yea.

Mr. Pusateri: Oh, I see, right.

Mr. Snyder: You've got to have a meeting.

Mr. Pusateri: A regular council meeting.

Mrs. Kiesling: I know.

Mr. Snyder: We're required by law to have that meeting.

Mrs. Kiesling: Right.

Mr. Snyder: So you can only have a hearing on Tuesday and Wednesday.

Mrs. Kiesling: Inaudible...

Mr. Pusateri: Well let me talk with Attorney Plakas and see his availability.

Mr. Snyder: And maybe Saturday morning a couple hours.

Mrs. Kiesling: We could do that.

Mr. Snyder: Okay, try that out, see how that works, call us back.

Mr. Pusateri: I'll come back with dates and times.

Mrs. Kiesling: Call us back.

Mr. Snyder: Okay. Does that conclude your part Mr. Pusateri?

Mr. Pusateri: It sure does.

Mr. Snyder: Thank you.

Mr. Pusateri: Thank you Mr. President.

Mr. Snyder: You're welcome sir. Director of Administration Miller, have you any comments?

Mr. Miller: Tough act to follow, but I've got a couple things. One, water rate study, just to bring everybody up to date, we have another meeting this week. Our goal is to finalize the preliminary study and get it in council's hands on July 12th meeting. So that council has the summer recess to review it, ask some questions. We might need to tweak some because again, the rate will not be etched in stone. There will be things that are variables in it that we can change that will effect the water rate not only this year, but in 5 years or 10 years depending on what projects we want to see happen, what ward we want to see them happen, those type of things. So it's going to be a work in progress even when council gets it. Because again, we're going to look for council input even before we finalize that water rate study and go forward with recommending a water rate. Second thing, on a more positive note and trying to hopefully get the newspaper to help solicit funds to get final step in place, the Fairways Golf Course, which was the former home of Jacob Gaskins, has been approved as site on the Underground Railroad by the

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Friends of Freedom Society. At this point in time, before we do a formal dedication if you will, there is a plaque that's available through the society between the amount of 1,500 and 2,000 dollars. Look for input from council on that and or certainly somebody that's philanthropic out there in the community that wants come forward with that money. Inaudible.. a foundation or something like that, I'll be approaching foundations as well. I just wanted to let council know that.

Mr. Snyder: Good. Thank you sir. Mr. Mayor.

Mayor Rice: Just a quick reminder to the public. This week 4th of July this year is on Sunday, caused a little bit of a change in our normal schedule. The 4th of July kids parade, put on by the Jaycees, will be on the 4th, but at 4:00 in the afternoon as opposed to - if everybody remembers, it's normally in the morning. So a little FYI on that. And then the fireworks also will be at 10:00 that evening. Both of those will happen on Sunday the 4th. The parade was moved later due to - did not want to conflict with the numerous houses of worship up and down Main Street and didn't want to disrupt that on Sunday morning. Therefore, the parade is moved to later in the afternoon. And I believe the Y is having their run on - is that right Gordon, on Monday then, right?

Gordon East: Yes, the 5th.

Mayor Rice: So it will be on the 5th.

Mr. East: Yes.

Mayor Rice: Normally those are all on the same day, but that's how it breaks out this year because of the 4th falling on Sunday.

Unidentified: Yes.

Mayor Rice: So I appreciate - the media's already done a pretty good job of getting that word out cause it's a little different this year. But, that's all.

Mr. Snyder: Thank you sir. Madam Clerk.

Mrs. Bittle: No report.

REPORTS - COUNCIL:

Mr. Snyder: Mr. Lindower.

Mr. Lindower: No report.

Mr. Snyder: Mr. Lane.

Mr. Lane: No report.

Mr. Snyder: Mrs. Kiesling.

Mrs. Kiesling: No report.

Mr. Snyder: Mr. Peters.

Mr. Peters: I just have a couple questions. Michael, in regards to that 9th Street deal, you said CTI is doing the contract ...

Mr. Miller: That's the engineering firm, yes.

Mr. Peters: for the engineering. What's the - what did you say the time frame was for that?

Mr. Miller: They should be able to get pretty close to the final spec and at least get an estimate for us within the next six months. And then get us in a point where we can go out to bid hopefully within another month or two after that.

Mr. Peters: And we - Mr. President, as far as the 05 budget, that's going to be in December?

Mrs. Kiesling: Yes.

Mr. Snyder: The preparation - the tax budget is prepared and it's going to the county. That's the only the estimated revenues from taxes. The fiscal budget the mayor prepares and is normally ready for initial review by the chairman of finance around the - usually about the 15th of November and it comes to council the first meeting in December and it's adopted normally in two readings, sometimes in one. But it won't - it will be ready - I should say your input is to what monies we'll have available?

Mr. Peters: Yea, if the study comes in after...

Mr. Snyder: After the budget?

Mr. Peters: The budget.

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Mr. Miller: We'll have an estimate in place for council to look at on that 9th Street project prior to or with that fiscal budget when it's ...

Mr. Peters: Alright.

Mr. Snyder: And at that point, depending what you adopt, I mean the projects will be ... by administration and if your project is not fully adopted or partially adopted and you and the council chooses to adopt that project, you can strike a project or an appropriated line item and move it into that. Do you follow what I am saying?

Mr. Peters: Yea.

Mr. Snyder: So out of another appropriation line or a ... well it has to be out of capital projects, you can't take it out of an appropriated line, but depending, you could move that project out and move it to your project. And they generally ask for - and they're well aware of that project and a couple other projects that are there.

Mr. Peters: Okay.

Mr. Snyder: Okay.

Mr. Peters: That's all I have ...inaudible...

Mr. Snyder: No problem. Mr. Sarbach.

Mr. Sarbach: Yea, a couple things. Mrs. Schollaert's presentation is appreciated. Ten years ago, when I was involved as a ward councilman, there was not the support on council to move forward with that project, much to my dismay. I think there was probably two of us that wanted to do it and we didn't have it. But thanks to Mr. Fano, mostly, to his efforts and the efforts of the Engineer, I think we have universal support on this council to move forward with this as funds allow and we're making sure that funds allow at this point. The second item I have is South Main Street there at the Speedy Foods' development, Marathon store. I noticed driving past there that there was no silt barriers and that mud and dirt were running in the street. And I wondered if that could be remedied, if the mud could be cleaned up and something put there. I don't think the rain is done. So I think ...inaudible... Normally you see around those projects that there's silt barriers up, but I did not see any. So if you could look into that I would appreciate it. That's all I have Mr. Chairman.

Mr. Snyder: Thank you. A couple things. Mr. Miller, have you ever explored the thought of some type of community golf outing or golf tournament to support that plaque? I know there's a lot of people that still in our community are not really realizing that the city does own that golf course and possibly we could work something with the leasee there that we could, on a Saturday or Sunday, have a little fun tournament for people to come and a few of the dollars proceeds to do that. Also, I believe right below that is that - does that railroad belong to the City of Akron now where they...

Mr. Miller: Yes.

Mr. Snyder: they come down there and possibly they may be interested in stopping there and having lunch and viewing that. They're just a wedge away. They could stop originally there on Salway for a lemonade and then continue onward to ...

Mr. Miller: I will explore it...

Mr. Snyder: No sir. But I know possibly you may be able to tie that together where that could be a stop and help Mr. Larizza's cause there for his lunch business. That was - we can kind of tie it together. That's only a thought. I don't know if that would work, but thank you for taking that down.

Unidentified: Inaudible... look it up.

Mr. Snyder: And the other thing, I would to move the meeting from next Monday, the 5th of July. As normally in the past when the building is closed we don't have a meeting. And - although we've opened it up before. This year we'd like to move it to the 6th, which is a Tuesday, at the same time, 7:00 p.m. Is there any conflict with - I don't believe Mr. Lane will be in attendance nor Mr. Foltz. So we'll have a limited crew at that point. Do I need a motion...

Mr. Snyder: Madam Clerk, on that?

Mr. Miller: Sir...

Mr. Sarbach: Sounds like a pizza night to me if they're going to be gone.

Mrs. Kiesling: I motion.

Mr. Snyder: Is there a second?

Mr. Peters: I'll second.

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Mr. Snyder: Do you mind calling a roll on that?

Mr. Sarbach: I think Mr. Miller has something.

Mr. Snyder: Mr. Miller, excuse me.

Mr. Miller: Just so you know, the administrator will not be present. I banked on the 5th being the meeting and you guys not having one and I will be on my honeymoon that week.

Mr. Snyder: That's not a problem sir.

Mr. Peters: That's no excuse.

Mr. Miller: I hope not. That's as good of an excuse as I can come up with.

Mr. Snyder: I don't think we can compete with that. I don't think we'll even try.

Unidentified: Inaudible... seeing him show up.

Mr. Snyder: Well sir, we wish you only the best of luck on that.

Mr. Miller: Thank you.

Mr. Snyder: I'm sure you're looking forward to rest ...

Mr. Miller: Yea I am.

Mr. Snyder: The peace and the rest a bit more than ...

Mr. Miller: Yea.

Mr. Snyder: Well we do wish you very much success in that.

Mr. Miller: Thank you.

Mr. Sarbach: Congratulations Mike.

Mr. Miller: Thank you.

Mr. Snyder: Is that alright then if we do that?

Mrs. Bittle: Didn't we have a second ...inaudible...

Mr. Snyder: Now we can move that to - where you headed Aruba or...

Mr. Miller: St. Martin.

Mr. Sarbach: Yea, St. Martin.

Mr. Snyder: We can put it on wheels. Show your wife what you do every night.

Unidentified: Move the meeting to St. Martin.

Mr. Snyder: Please call the roll.

All members present voting:

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

No: 0

Mr. Snyder: Thank you. I have nothing else.

FINAL CALL FOR NEW BUSINESS:

Mr. Snyder: Final call for business. Anyone in the audience wishing to speak to the council?

Unidentified: Chuck.

Chuck Osborne: Inaudible... one ...inaudible... One further followup on Mr. Miller's comments and Mr. Snyder's comments regarding the fact that the office in Columbus, you said approved, office of development, I guess, in Columbus approved the application. I would dare say that they do not second guess local authorities as long as the paperwork is in correct order they're not going to second guess. And if local authorities, what I think foolish enough to hand these out, they're just

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going to rubber stamp them and put them in their file. Also, I would like to mention this, I wasn't going to mention this earlier, but I have to disagree with the Law Director regarding the effectiveness of legislation. I'm the one ... I guess started the discussion on this and I find it very illogical that you can tell the public that if you're going referendum a certain issue you only have 30 days, but this other group is opposed to this other issue and they want to referendum it, but they've got 35 or 38 or 40 days. I believe this is standardized. You begin your referendum as soon as the legislation is passed. That you get a certified copy certifying the verbiage, the language that's in the legislation and that was passed by council so that verbiage can be placed in the petition and that everybody must realize you have 30 days. To favor one entity referenduming an issue and say they get 40 days and another issue is only allowed 35 or 30 days is totally illogical and I think it conflicts with Ohio Revised Code. That's why in the two issues that I referendumed I played by the strict interpretation, which is what I think the logical representation of that law is, that way there's no guess work. Because to figure it the way you're looking at it Mr. Pusateri, a citizen would have to be aware, on a daily basis, as to when the mayor signed it or did not sign it. And the final day that the petitions have to be turned in would be in limbo until the 10th day. And you're telling me that if the mayor didn't sign it, in effect he's giving a certain group an extra 10 days to collect signatures. Whereas if he's - possibly believes in the legislation and it needs to be enacted promptly and he signs it promptly he's penalizing the group who wants to referendum it by encroaching on them for 30 days. Anyway, I disagree with your interpretation, but that's the purpose of a democracy in America. And I feel this way on any issue, this isn't this particular issue. And that's why this issue has never come up, at least on the two issues that I referendumed. Because your window of referendum begins as soon as it's passed and terminates 30 days and that's the end of it. There's no guesswork, there's no wondering by the public, there's no confusion. So I just wanted to say that. Thank you.

Mr. Snyder: Mrs. Magel.

Kathy Magel: 1025 East Maple Street, North Canton. I don't want to confuse people more than they're already confused, but you're confused and you don't know your charter. And this is the basis of the whole trial in the first place. I never had 40 days for a referendum. Read your charter, I had 30. I was not allowed access to the legislation until the Mayor determined either "a" sign it, "b", not to sign it or "c" within 10 days give it back to the Clerk of Council with a suggestion of why he would not sign it. If that happened, if "c" happened, read your charter, Council has then 30 days to resubmit the same legislation if they so wish. The Mayor also can veto part of it, veto a partial, veto all of it, veto none of it and the person then who is trying to referendum could never get the proper verbiage certified by the Clerk of Council because we wouldn't know what the proper language was. We had to sit for 10 days without knowing what was going to happen "a", "b" or "c". You have 30 days after the 10 days. You don't even get to see what the actual resolution is. Because how I would I under - how I know what "a", "b" or "c" was going to happen. I did not consult with the Mayor whatsoever. And that you don't even need to subpoena me on, I'll swear to God. So let's clear this up, 30 days. If you'd like me to read your charter to you, I will. Thank you.

Mr. Snyder: Thank you. Anyone else wishing to speak to the council? Seeing none, may I have a motion to adjourn the meeting?

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 8:50 p.m.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL