

RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON SPECIAL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, March 15, 6:55 p.m. 20 04

CALL TO ORDER:

The special council meeting was called to order Monday, March 15, 2004 at 6:55 p.m. by President of Council Jon Snyder.

Mr. Snyder: Will the Clerk please call the roll.

ROLL CALL:

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

Mr. Snyder: Thank you. This meeting was called to order and relative to Ordinance No. 31-04. Pursuant to that there's a request from the Mayor directed here. Mr. Mayor, is it you or your representative that wants to speak sir?

Mayor Rice: I think I'd prefer at this time to turn it over to my representative.

Mr. Snyder: Inaudible... thank you. Mr. Plakas, I would caution you sir that we are not interested, and other than in written testimony, this body is not in position as we will be doing some changes to accept any type of testimony ... relative to that sir. So if you would keep your remarks to this ordinance only I would appreciate it.

Mr. Lane: Don't we have to vote on that?

Unidentified: Yea.

Mr. Lane: To suspend...

Mr. Snyder: Oh excuse me - ... yes, ... we have a motion to allow the Mayor's representative speak?

Mr. Lane: So moved.

Mr. Snyder: Second, is there a second?

Mr. Peters: Second.

Mr. Snyder: Please call the roll.

All members present voting:

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

No: 0

Mr. Snyder: Alright sir.

Mr. Plakas: Thank you Mr. Snyder and Council. For the record my name is Lee Plakas and along with Attorney Christopher Huryn, we're here to hopefully take ten minutes of council's time to review some relevant law and facts which will enable council, I think very quickly in its ten minutes, to save \$10,000.00 of the tax payers' money. And with regard to Ordinance No. 31-04, I would respectfully suggest that after a quick review of the applicable law and facts, that the unsubstantiated allegations, which apparently prompted this ordinance, are devoid of facts and more importantly have no legal relevancy whatsoever. Before we get to those, if in fact there were a reasonable basis, a probable cause, a reasonable intellectual justification to actually pursue this ordinance, prior to doing that the tax payers have already paid for at least four agencies that are qualified and empowered to investigate exactly situations like these and those four agencies include: The Ohio Ethics Commission, The Ohio Elections Commission, The Canton City Prosecutor and the Stark County Prosecutor. However, if in fact the council prefers to cast aside the authority and the jurisdiction of those four agencies and instead conduct its own investigation, I would respectfully suggest to you that we have prepared for you a documentation here and memorandum which answers each of the four points that have apparently been the foundation of this ordinance. And if you review each of these four points, I believe that in ten minutes you will be able to see that the answers that we've given you here, both as to the relevant law and facts, will be the same exact answers that this council will receive if it chooses to barge ahead and spend and waste \$10,000.00 worth of tax payers' money. So with the permission of Mr. Snyder, President, may I have my partner, Mr. Chris Huryn, provide each of the council members with copies of the memorandum and that will enable us to quickly highlight what we think are the relevant portions of these issues.

Unidentified: Thank you.

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Mr. Plakas: Thank you. The first allegation, which apparently was raised by a citizen, which prompted council to initiate this ordinance, were the allegations involving a law firm by the name of Johnson and Angelo and the \$200.00 contribution. First of all you would take a moment to review the appropriate laws and with regard to each of these arguments we have appendices and documentation. But first of all, as you see on page 2, the attorney ... the attorney's contribution did not violate any election laws ...inaudible... on either a state or local basis. Number 2, as we note in "B", the facts are very clear, as you can see from the chronologically, that Mayor Rice did not play an active role in the city's decision to hire the law firm of Johnson and Angelo and Attorney Johnson's contributions to the Mayor's campaign occurred months after the city's initial contact and hiring of the firm. And you can see from the chronologically and I won't take council's time now to review it, but it's very clear that Johnson and Angelo was in place months before the \$200.00 contribution, which was in any event legal, it could of been a two million dollar contribution, it was legal. Now, number 2, the second point raised by apparently one of the citizens, is that whether or not the contribution by employees to the Mayor's campaign was in some regard a violation of any applicable law. And it's very clear that neither the City Charter nor Ohio law prohibit city employees from contributing to an elected city official's campaign. Now not only are they permitted to contribution without restriction, but a political candidate is permitted to actually solicit employees. That's the law. And in fact even though that's the law, the Mayor took pains to make sure that there was not even the appearance of impropriety by intentionally removing the names of the city employees from the campaign solicitation mailing lists. Number three, there's been a comment apparently made, again without any facts to support it, by a citizen that the Mayor ... was somehow conducting campaign activities from City Hall. In this regard, rather than relying upon rumors, grapevine or innuendo, we have in regard to this claim provided you with actual sworn affidavits. And first a set of three affidavits confirm from Mr. Benekos, your City Engineer and Administrative Assistants Kimberly George and Linda Tice, that in fact that the proper procedures were utilized and Mayor Rice made it very clear and set down a bright line that said there shall be no campaign activities from the premises of City Council. Three sworn affidavits that have the force of law. Not only that, we can see that the edict that the Mayor issued with regard to insuring that these activities were not conducted, actually worked because in under tab 3, 3b, we have the sworn affidavit of two residents from the city that actually tried, on city premises, to make to a political campaign contribution. And when they attempted to do that they were told what the rules were and what the policy was that the Mayor had laid down and they were told I'm sorry but we cannot accept your campaign contributions and in fact they did not. Finally the fourth apparent unsubstantiated allegation, which somehow was the impetuous for this council's preliminary pursuit to this ordinance, was that somehow the now historical investigation by the Ohio Ethics Commission should be reincarnated and now should be somehow be re-reviewed and enable somebody - tell someone to expend \$10,000.00 of tax payers' monies to re-review something that cannot and should not be changed and appropriately was ruled by two agencies to be no violation. It's interesting in that regard, even though the council was apparently provided with some of the documents from the Ohio Ethics campaign, they apparently were not provided with documents that were helpful to the Mayor's case and supported in part, of course, the decision by the Prosecutor and the Ohio Ethics Commission not to take any action and finding no violation that was the cause of any action and we've attached some of those documents too. So in summary, ladies and gentlemen, if we want to conduct the business of our government and the citizens' business based on our intellectual abilities and based on facts and reason and logic with the knowledge of the law, then we have our answers. If however we want to spend tax payers' money whenever somebody uses the grapevine to make some sort of whatever it is - whether it's political sour grapes, I think the Repository referred to it as grapevine, if that's how we're going to conduct our business and disregard all the agencies that are in place, that are there and that we've paid for as citizens to conduct investigations like this, then we're changing the standard as to how we handle our trust and our responsibility to the citizens. And rather than a rationale standard of taking action based on reasonable facts, probable cause, justifiable cause, whatever you want to call it, basically we're taking action and spending a whole bunch of money and a whole bunch of time and smearing people's reputations and characters based on rumors and the grapevine and the kind of things we used to do on the playground in elementary school. If that's the intent then the perception, if not the reality of what you do to the citizens, will be deemed purely political. So I would respectfully suggest that, even though I haven't taken the time to go through each and every page, that this is the result that you can come to now or this is the result that you can come to after making some more headlines for the city and spending at least \$10,000.00 of the tax payers' money. So however you want to do it the result and the conclusion will be the same. There is absolutely no legal nor any factual basis to pursue this and I would respectfully suggest that Ordinance No. 31-04 should die tonight. Thank you for your time.

Mr. Snyder: Thank you Mr. Plakas, appreciate your comments sir. Alright, Chairman Lindower, we need a motion to read by title only, first - second reading of Ordinance No. 31-04.

Mr. Lindower: Mr. President, if I could...

Mr. Snyder: Sir.

Mr. Lindower: In regards to Mr. Plakas' statements and information that we've discussed and have become aware of, I would like to ask that we table Ordinance No. 31-04 at this particular time for discussion later on if I could. I would like to make that motion if I could.

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Mr. Snyder: Alright sir. There is a motion on the floor to table Ordinance No. 31-04, is there a second?

Mrs. Kiesling: I'll second.

Mr. Snyder: Is there any discussion? If not, would the Clerk please call the roll.

All members present voting:

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

No: 0

Mr. Snyder: Thank you. May I have a motion to adjourn this Special Meeting of Council, Monday, March 15, 2004, 7:10 p.m.?

ADJOURN:

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

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

No: 0

The special council meeting adjourned at 7:10 p.m.

PRESIDENT OF COUNCIL

ATTEST:

DIRECTOR OF FINANCE