

RECORD OF PROCEEDINGS
 COUNCIL OF THE CITY OF NORTH CANTON REGULAR

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, March 8, 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 Rev. Eli Klingensmith, Zion United Church of Christ.
3. All present recited the Pledge of Allegiance.

Mr. Snyder: Madam Clerk, please call the roll.

ROLL CALL:

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

5. Consideration

Minutes of Council Meeting: 2/23/04
 Minutes of Public Hearing: 3/1/04

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

6. Committee Reports

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held March 1, 2004.

Personnel & Safety Committee: Refer to the minutes on file in the Council Office of the Personnel & Safety Committee meeting held March 1, 2004.

Street & Alley Committee: Refer to the minutes on file in the Council Office of the Street & Alley Committee meeting held March 1, 2004.

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held March 1, 2004.

Executive Session (Finance & Property): Refer to the minutes on file in the Council Office of the Executive Session (Finance & Property Committee) meeting held February 23, 2004.

Executive Session (Personnel & Safety): Refer to the minutes on file in the Council Office of the Executive Session (Personnel & Safety Committee) meeting held March 1, 2004.

Mr. Lane moved and Mr. Sarbach seconded to approve the committee report minutes and executive session minutes as presented. All members present voting:
 Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
 No: 0

7. Recognition of Visitors

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

Chuck Osborne: My name is Chuck Osborne. 307 Fairview Street SE - North Canton, Ohio. I feel compelled to address the comments that were made in last week's Council of the Whole meeting by two members of this body regarding their reluctance to move ahead with an investigation of Mayor Tom Rice. First, I would like to point out that it is your duty first and foremost to ensure that the conduct of city business is handled in an open and trustworthy fashion. When there are allegations that jeopardize the public's trust in the process of government it is imperative that steps be taken in an expeditious and timely manner to restore the public's trust in their government and their elected officials. Second, the comments in the press from Mayor Tom Rice that the allegations I have made are politically motivated are simply untrue. If my intentions were politically motivated, I would of acted before the election not after the election. If you want to know what a politically motivated attack on a public official looks like, just go back to October of 2002 when here say evidence was presented to this body. Some council members, who are still sitting on this council today, with no hesitation, voted to immediately initiate a full blown investigation. It was a witch hunt for any possible misconduct

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that could be found and none was found. Allegations of wrong doing have been made against Mayor Tom Rice and presented to this body. This is not a witch hunt to find any possible misconduct, specific allegations have been presented to this body in writing with evidence to backup the allegations. Mr. Foltz, in my last meeting as a member of this council on November 24, 2003, you said and I quote, "Chuck, we didn't see eye to eye on a lot of issues, but I respect your research, your compassion towards your beliefs." Mr. Foltz, if you meant what you said, I ask that you vote with this body to move ahead with an investigation. I ask that you put your duty as a city councilman ahead of any personal friendships that you may have with Mayor Tom Rice. Mr. Lane, I ask you to do your duty as well. Every member of this council has taken an oath and I quote, "to support the Constitution of the United States, the Constitution of the State of Ohio and the Ordinances and Resolutions of the City of North Canton and to faithfully, honestly and impartially discharge the duties of the Office of Council Member of the City of North Canton, Ohio." Any attempt to thwart a fair and impartial investigation by this body would constitute a coverup and undermine the public's trust in North Canton City Government. I have copies of this for council. Thank you very much.

Mr. Snyder: Thank you. Does anyone else wish to speak? Mr. Smith...

Mr. Foltz: Inaudible... I knew if I said something nice about him it would come back to haunt me.

Bill Smith: My name is Bill Smith. I live at 1057 Dogwood Avenue NE - North Canton. On tonight's agenda Ordinance No. 30-04 authorizes Mr. Tod Morrow to be named Assistant Law Director to the City of North Canton. It is my understanding that when Mr. Pusateri was named Law Director that the salaries of the former law director and assistant law director would be used to pay his salary. How much more money is ... going to cost - is this going to cost the city? It is also my understanding that on February 10, 2004, six members of this council sent a letter to Mayor Rice asking that a certain candidate's name be removed from consideration because he maintained a political working relationship with the Mayor. Mr. Morrow was or is an at large member and vice chairman of the North Canton Republican Committee along with Councilman Jon Snyder who is also was or is an at large member of this committee. Also Councilman Marcia Kiesling was or is an officer of this committee and Councilman Greg Sarbach also was or is a member of this committee. This in my opinion is a political working relationship with the above mentioned group of people. What is good for one branch of the government should be good for all branches of the government. There is also a question of what this person is to be paid and whether he gets benefits. I respectfully ask in the interest of the public as a whole ahead of one person that Mr. Morrow's name be withdrawn from consideration as assistant law director and that this position not be filled. Thank you.

Mr. Snyder: Inaudible... I feel compelled to answer your question Mr. Smith. I think if you look at the ordinance sir, it does, when we hired Mr. Pusateri, we did have a portion that we would have the ability to hire an assistant law director at a rate of pay not to exceed, I believe, \$200.00 an hour.

Mr. Pusateri: Per meeting.

Mr. Snyder: Per meeting and it is in the ordinance sir, which we passed when we hired Mr. Pusateri. And as to the fact that I'm a member of the Republican ... I'm a nonvoting member so I do not have a conflict. I cannot vote on the committee, I do not vote on the committee and...

Mr. Smith: Well the bottom line Mr. Snyder is with all the roads that need repaired with the winter we've had, I don't feel that us spending this money on an assistant law director at this time is worthy of that.

Mr. Snyder: Well so noted sir. Thank you.

Mr. Sarbach: Mr. Smith are you aware that this is not a salaried position that this is a...
Mr. Smith: Yes I am.

Mr. Sarbach: Are you aware of that? Fine very good.

Mr. Snyder: Anyone else wishing to speak? Mr. Viscounte, then you sir. Come up.

Roger Viscounte: I have some pass outs that my son ...inaudible... There'll be enough left that if anybody in the audience wants one they can have one. As you know I have spoken here before trying to get help with the flooding problem on West Nimishillen Creek and since last August I've talked to the Mayor, the City Administrator - in fact I've talked to both City Administrators and Mr. Benekos, who is the engineer for the city. And I've gone over this problem and what they're telling me is they have no authority to do anything. They are afraid that they will be sued if they go on this property and remove or tamper or do anything with this dam. However, I've issued a copy of the Ohio Revised Code number 715.47, which deals with that and the city does have authority to do it. Now the obstruction of course is the dam. And in talking with Mr. Benekos and Mr. Miller, Mr. Benekos said that the dam is an obstruction, there's no question about that. And before my - my dilemma is this, they want me to sue the owner of that property rather than take care of it as the city administration. They want to wait until I get flooded again and have

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another \$2,000.00 worth of damage. You know I've been in this city for 42 years and I've taught and coached at Hoover for 19 years. I may have had you or your kids in school. Maybe some of you played for me. I love the city, I love the school. I thought that I contributed a lot to this city. In this edition from February of the Our Town, North Canton you mentioned the fact that we had - 25 years ago we had our defense make a county record of seven shutouts in one season. Well that was my defense. I coached that defense for 14 years and I helped to make a lot of kids men and hopefully a lot of young ladies, young women, but I can get no help or respect from anybody here. And I'm quite disappointed in the fact that no one wants to help me. That's my statement. Does anyone have any questions for me?

Mr. Snyder: Mr. Viscounte ... sir.
Mr. Viscounte: Yes sir.

Mr. Snyder: Did I understand that this dam is on private property?

Mr. Viscounte: Yes it is. That's what they tell me. It doesn't make any difference because the West Nimishillen Creek is not owned by anybody.

Mr. Snyder: But it's on the - it's through the property of that person.

Mr. Viscounte: It is through the property, but any obstruction that causes flooding to anyone else in the neighborhood, according to this law, the city may remove or do something with it. We are a municipal corporation, correct?

Mr. Snyder: Sir, I'm not an attorney. I don't know if we have standing to go ...

Mr. Viscounte: Well we are...

Mr. Pusateri: I don't have - I have not had an opportunity to look at this statute, but it says stagnant water.

Mr. Viscounte: You read the whole thing, just don't read one line.

Mr. Pusateri: Yea, I've read it. I'm not sure - I'm going to have to research this law ...
Mr. Viscounte: Pardon...

Mr. Pusateri: I haven't had a chance to research the statute which you provided to us today, but reading - what I see so far it says, when water becomes stagnant that it should - it can be removed. Inaudible... the dam that's causing...

Mr. Viscounte: Now it also goes on to say obstructions in any waterway, stream, creek, which the West Nimishillen is, causing any flooding or damage to anyone else in the neighborhood. That's what it says.

Mr. Sarbach: Mr. Viscounte, are you aware that this legislative body of seven councilmen is prohibited by charter to instruct any city employees to do any work of any kind?

Mr. Viscounte: No, but you can instruct the administration.

Mr. Sarbach: No we cannot sir.

Mrs. Kiesling: Only with an ordinance.

Mr. Sarbach: We can legislate. We can legislate ordinances, but by charter we cannot tell them...

Mr. Viscounte: So in other words all of you people are voted into this office and you're telling me hey that's your problem. Even if the law says...

Mr. Sarbach: No, that's not what we're telling you sir. That's not what I said. I said we are prohibited by charter, as the seven members of council, to send anyone anywhere to do anything in this city; that's an administrative function. The Mayor, the Director of Law...

Mr. Viscounte: And the Mayor and the Director of Law and whatever...inaudible...

Mr. Sarbach: Inaudible... alright, I'll let you finish sir.

Mr. Viscounte: and the City Council. Is that correct?

Mr. Sarbach: I didn't hear what you said.

Mr. Viscounte: I said they're not responsible to the City Council?

Mr. Sarbach: No sir, they are not.

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Mr. Viscounte: So why do we have this body?

Mr. Sarbach: To legislate, to fund. We - this side of the table funds the projects that go on in the city and that side of the table implements the projects that goes on in the city.

Mr. Pusateri: I issued an opinion, excuse me Mr. Sarbach, I issued an opinion this about a month ago or two months ago I think it was.

Mr. Lane: A month and a half I think its been.

Mr. Pusateri: And I addressed most of the issues in that opinion and I don't recall all the issues that I put in that letter but I certainly ...inaudible... get that for you if you don't have a copy of it. If I recall, the issues dealt with the fact that this dam that property owner owns property on both of the creek if that's not mistaken, right? Right? Okay. So he's able to build or whoever owns that property can build the dam, nothing prohibits him from doing so. Now if it causes flooding for property owners upstream, the person upstream has a legal right to sue that person for damages or enjoin them, prevent them from building that dam or have them tear it down. Now this cause is even more complicated because there are 14 property owners, I think something like that, have an easement. I can't remember the exact number, but they all have easements in that same area of the creek. Because at some in the past it was used for recreational area of that part of the city.

Mr. Viscounte: It was below the dam that was used.

Mr. Pusateri: Yea, so that the point being is that's one issue that it's a property private dam, it's private property owner that owns property on both of the stream is allowed to build a dam. Okay. And the other issue was that - this is off my memory now, the flow of the creek. There's the - what department requires us to do a study before we alter ...

Mr. Benekos: FEMA would require a Letter Map Amendment if we alter the stream in the flood plain.
Mr. Pusateri: Sure.

Mr. Benekos: So that would need to be done.

Mr. Pusateri: Which is a 20,000 - \$20,000.00 expense ...inaudible... or something like that?

Mr. Benekos: 15,000 to 20,000.

Mr. Pusateri: I can't remember. But then I did go out there. There was the property owner that I drove out there and he took me down and showed me where the dam was, which I was very glad that he was there because I didn't it was that, it was a lot farther back than I thought it was. And I spent a good hour with him looking at the dam and researched the law and I'm confident that there's nothing the city can do at this point because that dam is on private property. Now if the water became a stagnant water as the statute ...inaudible...

Mr. Viscounte: We're not talking about only stagnant water, we're talking about the back up because of the dam, flooding property in the neighborhood.

Mr. Pusateri: Inaudible...

Mr. Viscounte: And the dam is an obstruction and according to this law they can remove those obstructions to prevent the flooding. Anybody else?

Mr. Lane: No, I just want to add and that I - I know you know that I worked on this.

Mr. Viscounte: Yes I do.

Mr. Lane: Okay. And so did Rick prior to me. But I know Mike has been out there and he looked at it and we did find the possibility of an obstruction if I remember right.

Mr. Miller: I've been working on this and ...

Mr. Lane: I know. I gave it to you the day - the first day you came in.

Mr. Miller: The first day it was on the list...

Mr. Viscounte: Mike has been out there a couple times that I know of.

Mr. Lane: Right.

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Mr. Miller: I've been out there, I've been in contact with ODNR and I talked with and got addresses so I could talk to USGS folks about it. I'm getting - I was in contact - we're getting in contract with the Army Corps of Engineers to look at this. And I guess I'm somewhat offended in that Mr. Viscounte, you said you've gotten no help and I've given you no respect - the city has given you no respect and I don't think that's the case. I've been working very hard to try to find an answer to the solution.

Mr. Viscounte: Okay, well there's been no communication then.

Mr. Miller: Mr. Viscounte, you've been in my office...

Mr. Viscounte: I've been in your office...

Mr. Miller: four or five times and I've called...

Mr. Viscounte: you have never talked to me. You never called me or anything.

Mr. Miller: I was in your house for...

Mr. Viscounte: I don't know what you're smiling at...

Mr. Miller: Sir, I was in your house for an hour.

Mr. Viscounte: Yea, you were in with Jim Benekos and he said that the dam is an obstruction and it says right in this law that any obstruction can be removed on any creek. I don't want to get flooded again.

Mr. Miller: Sir, I don't want you to get flooded again either.

Mr. Viscounte: So what are we waiting for? We're going to wait till I get flooded then I got to sue the other guy. Right?

Mr. Miller: Sir, I'm...

Mr. Viscounte: This is in the municipal corporation of North Canton. You guys do have authority to do it.

Mr. Miller: Sir, I'm trying to find a legal answer to your situation so I don't go to jail to just solve the problem - bottom line.

Mr. Viscounte: And you don't think this is a legal answer?

Mr. Miller: No sir.

Mr. Viscounte: Well I guess the Ohio Revised Code is no good then. You might as well through it out.

Mr. Snyder: Thank you sir. Does anyone else wish to speak to the council? If so step forward, state your name and address for the record. Mrs. Magel.

Kathy Magel: My name is Kathy Magel. I live at 1025 East Maple Street - North Canton, Ohio. And I guess I might as well not speak right now if we just threw the Ohio Revised Code away because that's what my speech was going to be about. I'd like for you to take the Ohio Revised Code very seriously. Nancy is going to be passing some handouts also. Now before I get to that, Mr. President, last week was there any mention of the name Tod Morrow? Do you recall?

Mr. Snyder: In what context? I'm sorry.

Mrs. Magel: To be the assistant law director.

Mr. Snyder: I don't recall that...

Mrs. Magel: Does anybody recall the name being mentioned?

Mr. Lane: I don't believe in session, but I know we've talked about it.

Mr. Snyder: I don't - I can't...

Mrs. Magel: To the public.

Mr. Sarbach: I don't recall.

Mrs. Kiesling: I don't remember either.

Mr. Sarbach: No I don't...

Mr. Snyder: I can't honestly tell you that...

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Mrs. Magel: Okay, so the public - and yet this is on an emergency tonight. Was there any discussion last Monday concerning and they're still not on here, but maybe rumor, \$10,000.00 for - what's the \$10,000.00 for? Not to be expent for a - oh, Chuckie boy's witch hunt. Is that part of your package? I don't know, is it?

Mr. Snyder: Yea, I think it is.

Mrs. Magel: Okay.

Mr. Snyder: Are you referring to a specific ordinance or...

Mrs. Magel: 31-04.

Mr. Snyder: I believe it does state not to exceed a certain amount of money.

Mrs. Magel: Okay, but that was never brought out to the public. Let me tell you what I'm getting at. There seems to be a pattern of this. I wouldn't be up here needing to speak tonight if there wasn't a meeting in the executive session and then you came out and voted on an emergency to question the validity of an annexation referendum. You said something about 731.30, which we could of course had no idea what the Ohio Revised Code 731.30 really meant and we couldn't speak for two weeks.

Mrs. Kiesling: I read it.

Mrs. Magel: Miriam is not available tonight. So this is her package and I would like to speak since she cannot. First thing is the ordinance is 29-04.

Unidentified: Miriam.

Mrs. Magel: The purpose of that ordinance is to question the referendum annexation for the Sanctuary. It was passed 6 to 1 and I would like to thank Doug Foltz consider - his consideration of the people. In that time I found out that Mayor Tom Rice did not sign it for two reasons. Because he questioned if it jeopardized the citizens' legal standing in the case before the court. As I had spoke to Mr. Pusateri that was a question and apparently it was a good question, but we didn't get the answer. There may be that we don't have - that the Referendum Committee is not part of this and cannot give their view point. The second thing was that we do have a charter and that's going to come into play tonight of what I'd like to talk about. And I would like this council consider our charter. Number one, here's your package, first page, Section 731.30, Application of Sections, that is what the argument is based upon of why the validity of the referendum of annexation came into question. Now I don't have any problem with that, but I wish you would of read a little bit further. Page - go to your second page of your thing, 731.41 this is the Ohio Revised Code and I am not about to throw it away. It says, Section 731.28 to 731.41 of the Revised Code do not apply - do not apply to any municipal corporation which adopts its own charter containing an initiative and referendum provision for its ... ordinance - for its own ordinances and other legal measures. How many of you - I in particular think 30 falls between 28 and 41. Is there anyone on this council that disagrees with me? Does 30 fall in between 28 and 41? If that's so then this argument is based on a revised code that does not apply to any municipal corporation which has its own charter containing an initiative and referendum. Page 3 - our charter, Section 5.07 - this is our charter, I hope you've seen it before, it's page 17, what's it loudly, clearly say - initiative and referendum. We are a charter city and we do have provisions for initiative and referendum. Therefore 30 does not apply to North Canton. Also, if you take a look at our referendum it also says we have to agree to the Constitution of Ohio. Next page, Constitution of Ohio, the initiative and referendum powers are hereby reserved to the people of each municipality on all questions which such municipalities may now or hereafter be authorized. Such powers shall be exercised in the manner now provided by law. So I don't care if you go to the Ohio Constitution, I don't care if you through the Ohio Revised Code, Section 731.31 does not apply to us. I would of been able to tell you this before you passed it on an emergency, except you didn't give me any time to research it. Just for the heck of it - I didn't give you a copy of this, ran out of copy, Section 701.03, definition of Communitive Economic Development Agreement, Ohio Revised Code definition, this is the actual what a CEDA is, what it can do, what it cannot do. Second page, CEDA Agreement shall not be in derogation of the powers granted to municipal corporations, Ohio Constitution, which I just talked you about, or any other provisions of the Ohio Constitution or of a municipal charter. By virtue of definition of a CEDA it is spelled out. It was not supposed to oversee - it was not supposed to be in derogation of a municipal charter. Our municipal charter, if you read it again, says we can referendum any - you'd better read it - the electors of the municipality shall, not may, shall have the power to approve or reject at the polls any ordinance. So therefore, what I'm asking tonight then the argument concerning the validity of the annexation referendum i.e. 731.30, seemingly is present - is premised on a part of the law that does not apply to North Canton. Therefore, the Referendum Committee is requesting Ordinance 29-04 to be repealed and save the tax payers the expense of this declaratory judgement. Thank you.

Mr. Snyder: Thank you.

Mrs. Kiesling: May I comment one - make one comment? We were in two executive sessions about the CEDA Declaratory Judgement.

Mrs. Magel: Okay.

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Mrs. Kiesling: The first executive session was before a committee meeting when I did come out and speak - specifically I read 731.30.

Mrs. Magel: You read it when - the night we passed it on emergency.

Mrs. Kiesling: No I didn't, I read it the week before in our - after our committee meeting. Then the next week we had another executive session we brought it out that week and passed it on an emergency. You did have a week, we made sure of it.

Mrs. Magel: We're in disagreement on that and...

Mrs. Kiesling: I agree. And it will be in the tapes, that's fine.

Mrs. Magel: Okay.

Mrs. Kiesling: But we came out of ... a committee night our first executive session.

Mrs. Magel: Okay. Although - fine, one week wasn't enough to - seeing that we didn't know what the 731.30 could of even been. But I recall - my recollection was it was the night that you came out and we were just clueless as to what it was or could of been and looked into it and checked out the Ohio Revised Code. Either way point taken, I hope my point was taken.

Mrs. Kiesling: Definitely.

Mrs. Magel: It doesn't apply to North Canton. Just take a look at the rest of the Ohio Revised Code that's in your packets. Thank you.

Mr. Snyder: Anyone else wishing to speak to the council this evening? Seeing none, may I have a motion to - pardon, prior to that, relative to Resolution 26-04, we need to purchase this truck. I believe ... is set up to go on the Board of Control, is it not? Inaudible...

Mrs. Herr: Yes.

Mr. Snyder: Yes. This and unfortunately when we originally proffered this particular resolution, as you know, we were under the assumption that a resolution required only one reading. And by interpretation of the Law Director, a resolution is equivalent to an ordinance, it does need three readings or emergency legislation to make it take effect immediately. And as they are in a position, they direly need the truck for the spring season, I'm asking that we amend Resolution 26-04 to include an emergency measure that it be adopted on emergency this evening so that they can move forward at the Board of Control and purchase that truck.

Mr. Sarbach: Is this on the advice and approval of the administration?

Mr. Snyder: It's on the request of the Department of Law and the Department of Finance...

Mr. Sarbach: Okay.

Mr. Snyder: that initiated the resolution.

Mr. Lane: This is the truck that's due in in December? Is that...

Mr. Snyder: No, I don't know when - I don't know what the delivery period of it is.

Mr. Pusateri: Inaudible...

Mr. Lane: Is this the fire truck we're talking about?

Mrs. Herr: No.

Mr. Snyder: No, no, no, no...

Mr. Lane: Oh, I'm sorry.

Mr. Snyder: this is a dump truck.

Mr. Lane: This is the dump truck. Okay, I'm on a whole different truck. Sorry.

Mr. Sarbach: Dump truck.

Mr. Snyder: And the - what has happened is where we used to purchase the truck, I guess it now goes to the Department of Transportation versus the way we bought it under state bidding before. So and again I - the problem was I lead you to believe that it was - a resolution was adoptable on one reading and I stand corrected on that. So that's why I'm asking that be amended. Is there a motion to do that?

Mr. Sarbach moved and Mrs. Kiesling seconded to amend Resolution No. 26-04 to include an emergency clause. All members present voting:

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

No: 0

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Mr. Snyder: Thank you.

OLD BUSINESS:

8. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, second reading** of Resolution No. 26-04.

Mrs. Bittle: As amended.

Mr. Snyder: Pardon. Oh as amended, thank you.

All members present voting:

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

No: 0

Mr. Snyder: May I have a motion to suspend the rules of council ... Resolution No. 26-04...

Mr. Sarbach: Let him read it.

Mr. Snyder: Oh excuse me, I'm moving along ...inaudible...

Mr. Pusateri: That was helpful though, we have a lot of ordinances to read tonight ...

Mr. Snyder: It wasn't very big...

Mr. Sarbach: You need an assistant.

Resolution No. 26-04 - Second Reading

Resolution No. 26-04 authorizing participation in the Ohio Department of Transportation contracts for the purchase of machinery, materials, supplies or other articles which the Department has entered into pursuant to Ohio Revised Code Section 5513.01(B).

Mr. Foltz: Someone escape from the jail?

Unidentified: Inaudible... sound like somebody's car alarm.

Mrs. Kiesling: Inaudible... again.

Mayor Rice: Inaudible... is that your alarm ...

Mr. Pusateri: Inaudible... alarm.

Mr. Snyder: Okay, as we just discussed, that is a resolution to allow us to enter into a purchase agreement with the Ohio Department of Transportation for that dump truck. Is there any questions on it? May I have a motion to adopt the second reading of Resolution 26-04?

Mr. Pusateri: By emergency.

Mr. Snyder: By emergency.

Mr. Lane moved and Mr. Peters seconded to **adopt the seconded reading, as amended, of** Resolution No. 26-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules, as amended, for** Resolution No. 26-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules, as amended, Resolution No. 26-04.** All members present voting:

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

No: 0

NEW BUSINESS:

9. Mr. Sarbach moved and Mr. Lane seconded to **read by title only, first reading** of Ordinance No. 30-04. All members present voting:

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

No: 0

Ordinance No. 30-04 - First Reading

Ordinance No. 30-04 authorizing Attorney Tod T. Morrow to serve as Assistant Director of Law, pursuant to Ordinance No. 123-03, and declaring the same to be an emergency.

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Mr. Snyder: Chairman Lindower.

Mr. Lindower: This is an ordinance to authorize using Mr. Morrow as Assistant Law Director in the absence of Mr. Pusateri. In view of the fact that there has been some questions raised here tonight, I would ask - like to ask Mr. Pusateri if I could, this is not any kind of a permanent assignment for Mr. Morrow?

Mr. Pusateri: No.

Mr. Lindower: I understand also that he works in the same law firm as you do.
 Mr. Pusateri: He does.

Mr. Lindower: So he would have a direct line of communication with you as far as city business occurring at the time, right?
 Mr. Pusateri: That is correct.

Mr. Lindower: And in view of that fact, if in fact something would arise during his tenure here while you are absent, he would recognize the fact that there may be a conflict of interest and step aside from the issue at the time. Is that ...

Mr. Pusateri: I'm not sure I understood the question. Sorry Mr. Lindower.

Mr. Lindower: Should something arise in your absence while Mr. Morrow is attending the council meetings that maybe would give rise to a conflict of interest of some sort, he would be able to remove himself from that ... at that particular time ...inaudible... Same thing you would run into ...

Mr. Pusateri: Yea, certainly, certainly. If I understand your question correctly.

Mr. Lindower: And should we - let me just again, I ask you hypothetical here, suppose you should become absent again in six more months for whatever reason, personal reasons or vacation or whatever, Mr. Morrow wouldn't necessarily be the next person to sit in in your place. Is that right? Couldn't it be someone else from your firm?

Mr. Pusateri: No. I think what we're doing here is that he'd be designated as the assistant for those times that I am absent from council meetings. If I remembered it, the ordinance that we passed when I became law director permitted that to take place at 200 bucks a meeting...

Mr. Lindower: Right.
 Mr. Pusateri: and I assured council at that time that there would be very few meetings that I would miss. And in particular, why it arises at this time is that I am going to take a family vacation a week after Easter.

Mr. Lindower: Okay. At the \$200.00 per hour per meeting ...

Mr. Pusateri: Per meeting, not per hour, per meeting.

Mr. Lindower: Yea, per meeting. Okay that's all the money that's already been set aside...

Mr. Pusateri: That is correct.
 Mr. Lindower: Okay.

Mr. Pusateri: He's not taking on a - Mary Louise and I have actually talked about this last week, he's not going to have a tag, name tag or nothing on the doors, it's just only when those meetings when I'm absent that you have somebody here in my place and it shouldn't be that often. In fact my second vacation is going to be during the - I organized it during the summer when you guys are taking your vacation - or you're taking your few weeks off. So I think that's like the end of July, right?

Mr. Lindower: I personally feel that it's a good idea to have someone from your firm who is going to be able to keep a constant line of communication with you in your absence when you get back and exchange information.
 Mr. Pusateri: Absolutely.

Mr. Lindower: Do you, after what has been stated tonight as far as his political connections with the Republican party or whatever the situation is, do you feel that that would cause any kind of disruption here?

Mr. Pusateri: I don't think so. I wasn't - I'm only half aware of his political connections, to tell you the truth.

Mr. Lindower: As I was here, I had no idea who he was associated with or why. Under - you know...

Mr. Pusateri: That's not going to effect his...

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Mr. Lindower: After answering those questions I don't have any problem with passing this ordinance tonight. Marcia, do you have anything?

Mrs. Kiesling: I don't have any problem. The North Canton Republican Committee is exactly that. We are - we meet once a month and we put out the know our government books every other year and we do some stuff here at the Main Street Festival and we pass out literature for presidential campaigns and primaries. Our main goal is to get information out to fellow Republicans. I don't see how that can be a conflict of interest.

Mr. Lindower: Inaudible...

Mr. Pusateri: Sure ...inaudible... further to your questions. One of the reasons I thought of Tod is because he and I work close together on a lot of issues, a lot of litigation issues, I know him well, I have no reason to doubt his abilities, he's a very good lawyer and if he is in a situation at a meeting here he doesn't know the answer to he'll defer and wait till he gives you an answer till he knows the answer. So I have a lot of confidence in his abilities. He's a very good lawyer. So...

Mr. Lindower: I feel ...inaudible... short of time, I don't want to cut your vacation short or anything, but I feel that during the period of time that he may be covering for you let's say, I don't think that there would be that critical of an issue that would come up that if in fact there was important city business and being conducted properly he wouldn't be able to contact you and further get advise if he needed it. I don't ... personally have a problem ... Jeff, did you have anything?

Mr. Peters: No, I don't have a problem with it.

Mr. Lindower: Any other - Mr. Sarbach?

Mr. Sarbach: I'd just like to ask you if any member of this side of the dias suggested his name to you or lobbied you to use Tod. I mean you brought the name up.

Mr. Pusateri: Well that's a good question. I was the one who brought the name to this council.

Mr. Sarbach: That's - that was my understanding of it. I didn't bring it to you and I didn't hear anyone else bring it to you, but that doesn't mean somebody couldn't of called you sometime and proposed Tod or lobbied to have Tod. And I ...

Mr. Pusateri: That was my doing.

Mr. Sarbach: Okay, that was my understanding.

Mr. Pusateri: For the reasons I already stated.

Mr. Sarbach: Thank you.

Mr. Snyder: Anyone else?

Mr. Foltz: I just had a comment. Obviously I respect Mr. Pusateri's opinion and I'm sure Mr. Morrow is a fine attorney, but in light of what Bill Smith brought up tonight, I just see some inconsistencies from this council where I feel that the assistant law director is our pick. And I don't have a problem with it and I'm going to vote for him as I would of allowed the administration to make Pat DeOrio a possible candidate for the economic director position. I just feel there's an inconsistency here where we send letters out - not me, I get the letter after it's sent out, ...inaudible... not even discussed about the ... situation, but where we say there's political overtones with one but not the other. I'm going to be consistent in my voting record - my voting logic so to speak. So I don't have a problem. I just see an inconsistency here with what was sent out three weeks ago. That's my ...inaudible...

Mr. Lindower: Mr. Lane.

Mr. Lane: No, I don't have ...

Mr. Lindower: Okay, having heard that I again will say that I have no problem whatsoever with this at this particular time. The issues have been brought up, they've been discussed, they've been put on record and I don't see why we shouldn't proceed with this. I'd like to ask that we pass this on emergency tonight to get it put into place so that Mr. Pusateri has got plans made to go on vacation ...

Mr. Pusateri: Thank you.

Mr. Lindower: or whatever, he can carry on with it. Thank you.

Mr. Snyder: That is a motion sir, that...

Mr. Lindower: Yes sir. I'd ...inaudible...

Mr. Sarbach: I'll second that motion.

All members present voting:

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

No: 0

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Mr. Lane moved and Mr. Sarbach seconded to **suspend the rules** for Ordinance No. 30-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Lindower seconded to **adopt under suspension of the rules** Ordinance No. 30-04. All members present voting:

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

No: 0

10. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 31-04. All members present voting:

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

No: Foltz.

Ordinance No. 31-04 - First Reading

Ordinance No. 31-04 authorizing the Director of Law of the City of North Canton to engage the services of an Attorney qualified to provide a preliminary opinion concerning accusations pertaining to the Mayor in order to determine whether a more complete opinion is warranted.

Mr. Snyder: Chairman Lindower.

Mr. Lindower: Yes, again this is the ordinance we discussed in the Council of the Whole meeting last week. I feel that it's necessary that we clear the air on this particular issue that has come up. And I'd like to make a statement if I could. On February 23 of 2004, a letter was presented to the City Council accusing Mayor Rice of several wrongdoings. The complaints were lodged by Chuck Osborne who is a past elected official who also ran in the mayor's race. Could it be that this individual is only a malcontent who lost the election or is there substance to his accusations? By submitting his complaints directly to the Council in written form instead of the Director of Law, we this Council were placed on notice. It is not only our responsibility and duty as a council to do something rather than ignore the charges against the Mayor. That is why this council is requesting that the charges made by Mr. Osborne against the Mayor be investigated. I'd like to say that I, as well as some other members of this council, supported Mayor Rice during his last election campaign and we're eager to resolve this issue. The only fair and equitable way to either prove or disprove these charges is to obtain more factual information. I would say that I as chairman and including anyone of the members of my committee that would prefer to do so, will meet with Mr. Pusateri for further discussion in regards to this investigation. In our system of justice an individual is innocent of a crime until proven guilty. That's why I think it's imperative that we do the right thing and follow through with this investigation. Should Mr. Osborne's accusations be proven to be false or without merit, he's credibility will have spoken for itself. There's no question that no one enjoys being accused of wrongdoing, but I sincerely feel that we must pursue the facts presented and then act accordingly. Therefore, I ask this issue be acted upon as quickly as possible so that city government can proceed with business as expected by our citizens. I would like to, if I could, make a motion that we have a first reading on Ordinance No. 31-04.

Mr. Sarbach: Second.

Mr. Foltz: Is there any discussion? We got a second right?

Mr. Snyder: You want to read the motion then have the discussion or you want the discussion...

Mr. Lindower: No, I'm sorry about that, I ...inaudible...

Mr. Snyder: That's alright, we can read the ordinance then we can discuss it. Mr. Pusateri, will you read the ordinance?

Mr. Foltz: We already read the ordinance Jon.

Mr. Pusateri: Excuse me.

Mr. Foltz: We already read the ordinance President Snyder.

Mr. Snyder: Oh, I'm sorry. Then there is discussion - then it's open to discussion.

Mr. Lindower: Is there - Marcia, did you ...inaudible...

Mrs. Kiesling: Your statement was wonderfully written. I agree, I think we either need to find out that there was some wrong doing or there wasn't and move on.

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Mr. Peters: I agree with you David. If these accusations were leveled against me I would want an outside source to clear me.

Mr. Lindower: Greg.

Mr. Sarbach: My comment last week was I think yes, we need to move and clear our mayor and get on with the city's business and put all this behind us. But I'm deeply troubled by the behind the scenes lobbying by people to stop this investigation and that disturbs me greatly. So yes, I think we need to continue, have this investigation and whatever - where ever the chips fall we'll deal with it then. But I don't want to be a part of any coverup on something of this magnitude.

Mr. Lindower: If I could, to add to your remarks Mr. Sarbach. I am as distraught about these accusations as anyone. It's a very easy thing to make an accusation against a public official and let's face it, public officials are targets for accusations. In all fairness to Mayor Rice, I feel that we have to at least look into the situation far enough to determine whether there's enough information to go ahead with an in-depth investigation. We had to put a cap on this ordinance at \$10,000.00 and that's - I believe Mrs. Magel referred to that when she was speaking tonight. Ten thousand dollars is a lot of money. I think that working with Mr. Pusateri, he's our director of law, he understands the legal aspects of everything that's going on, we can at least conduct some sort of a preliminary investigation. Or not we, I wanted to say Mr. Pusateri, probably can obtain some additional facts worthy of coming to us and saying whether in fact it's a substantial enough issue to proceed any further with and that's really what I want to do. I hate to see an issue like this come to light and be discussed among the public and other councilman and people within the community and not have anything being done. I think we need to immediately try to decide whether there's enough information to go ahead with this or to drop the issue. And that's really why I'm asking that this ordinance be passed tonight. Doug, did you have anything you wanted to say?

Mr. Lane: Yea, I and I went down one path last week and I want to expand on that if I could a little bit. I made the remark that I'm concerned about spending tax payer dollars on it and I want you to know that I'm - if we're spending tax payer dollars on anything that raises to an important level something along this line. My problem is not with an investigation per say and I don't think we should even use the term investigation...

Mrs. Kiesling: Inaudible... not.

Mr. Lane: this is something where we're looking into - some allegations that were made. But we're also hiring somebody or will be hiring somebody with no subpoena powers whatsoever. This is going to allow anybody and if you look at this complaint or this letter there's four points on it, the first and the second are somewhat rhetorical questions that are based on the individual's judgement. And I'm not saying whether that's right or wrong because I don't want to debate those points, but the third does refer to evidence which is not supplied. And it talks about having an individual that can corroborate some of these charges. This individual - there was never any letter attached to this. We don't have any testimony from this individual. I can guarantee you that or I shouldn't be able to guarantee you that if somebody picks up the telephone or has this individual in for a meeting, whether they work for us or anybody else, that unless they're under subpoena power, that they're going to give an answer that is going to give conclusive evidence one way or the other. That's my major concern on this. What could end up as a nonconclusive report, which often happens on things like this, that takes us right back to the exact square that we're at right now and we've spent \$10,000.00 to get no answers and that concerns me. Or if it does lead us down to that path and whoever he or she is that we hire says that there's a problem here, then we're going to end up asking somebody to investigate anyway. Whether that be the Sheriff's Department, who does this kind of thing and has done it amongst elected officials in our county on several occasions or the Ohio Attorney General or the Ethics Commission or the Elections Commission or the Prosecutor's Office. So my point is if something is this important and somebody brought it to our attention, then I think it needs to be looked into by the proper people without spending the tax payer dollars until we absolutely have to. And at that point in time, if any of these things prove true and our Law Director then looks at this and says there's a charter violation, then I think we have to take some pretty serious action on it. The other thing that concerns me regarding point four of this, which is the investigation that was done before I came on council, many of you same people were here at that point in time when that came back. And I'm not going to accuse anybody of anything, but there was an opportunity at that point in time to take a look and see if there was a charter violation, whether there was criminal or civil wrongdoing and nobody took action on that. And the other thing that concerns me a little bit and correct me too if I'm wrong on any of this stuff because I'm coming into this starting December 1, but the other thing that I'm concerned about is that this does open the door to anybody writing a letter based on what we have as evidence without any kind of testimony from anybody or collaboration other than the one report which was looked at a year and a half ago, that anybody can write a letter and suddenly we're going to end up with four or five of these things going on at one time and we might as well put Ken Starr on retainer right now because we're going to end up spending a lot more than \$10,000.00 over the course of a year if we've got five or six of these things happening and that really concerns me. So I don't have a problem with looking into this matter, I just don't like looking into it in this way. And think we've done a lot of good things since December the 1st and even tonight many of these ordinances we're reading on first and second and third, they're all effecting people's lives in a positive way. And I don't one person can remember anything good we've done since December 1st, it's all been negative, negative, negative. So I say if there's a problem, then take this thing to the proper authorities, have it looked at, have them come back to us and then we can address it at that point in time.

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Mr. Lindower: In response to that, Mr. Lane, if you recall in my comment, I intend, along with ...inaudible... both Jeff and Marcia, as far as the personnel committee or myself contacting Mr. Pusateri and developing a little more information to satisfy myself and this committee. Let me liken this a little bit to what we're talking about. I think we're jumping ahead too far here by saying we're going to spend \$10,000.00 and we're going to do this and we're going to do that. I think what we need to do first of all is establish is there what in a criminal case is commonly probable cause, is there a reason to go further on with this investigation? We need to gather what definite evidence or facts that we have right now and determine whether in fact there is enough probable cause to go and spend any money on bringing a private person in here. We're all interested in finding out whether the accusations are correct or not, there's no question about that. It's been brought to the Council, we need to discuss it like we are tonight, we need to do something with it and I that's really what this ordinance is intended to do - do something with it and let legal authorities and people who have the authority to make a determination if there is or isn't a violation, is it worth pursuing to the amount of \$10,000.00 or even \$10.00 as far as I'm concerned. But it's something that needs to be done. And I don't want to get too long winded about it, but I think we're building this thing up and making more out of it than what we need to. It's a simple matter, an accusation is made, Mayor Rice is the ... the person receiving the accusations, we need to determine is there enough information to go forward or not - simple as that. And I don't want go any further than that at this particular time. Mr. Snyder.

Mr. Snyder: Thank you Chairman Lindower. Mr. Lane your points seem to be well articulated. However, I must disagree with you sir on two matters. Number one, this body by charter is not empowered to investigate criminal activity. The charter lays the power into the council that if there is a violation of the charter and the integrity of th charter or any office of an elected official, it is to be investigated by the council. When I received the complaint by - from Mr. Osborne, who most of you know is a very zealot individual, I turned it to Mr. Pusateri for his opinion. I don't think this is an investigation, I would rather not call it an investigation. But both the integrity of the Charter, the Office of the Mayor and the integrity of Mayor Tom Rice are at stake. I mean I think we owe it to the Mayor as - to either exonerate him or see what's going on there, I agree. But this person whom the - whether it be with your committee and the Law Director, however you want to do it, would find that out, if there is a violation of the charter, we deal with it accordingly the way the charter provides. If there is violation of the Revised Code of the State of Ohio relative to any type of activity, there are people that take care of that. But to take this matter and turn it to a police prosecutor or to the county prosecutor is very political in nature. I don't think the Mayor deserves that at this particular point. These are very serious and egregious accusations.

Mr. Lindower: Could I interrupt you ...inaudible...
 Mr. Snyder: Yes sir.

Mr. Lindower: Maybe I can save you a little conversation there. I didn't mean to project the idea or give you the idea that we intended to do an investigation.
 Mr. Snyder: Okay okay.

Mr. Lindower: I'm the first one to say that we have absolutely no investigative authority. My intent was to say that we would allow Mr. Pusateri, with the information that we've presented to him, to decide whether or not it would be necessary to go further with and again we'll call it an investigation or checking the facts or whatever you want to call it, to determine whether it's necessary to go hire an outside person to come in here and make a determination. I think with Mr. Pusateri's expertise in the law and knowing the City Charter and so forth the way he does he ought to be able to determine that. And that's what I would like to be able to report back to this council at a meeting. But and in view of the fact that we've got this ordinance on here I think that the to show good faith in the fact that we are interested in pursuing this to the end, whichever way it comes out, that I think we need to pass it.

Mr. Snyder: Inaudible... I appreciate that, thank you for your clarification.

Mr. Sarbach: I have one question. I'm neither a math major nor an attorney, but as an attorney I realize you do not have subpoena power, but you can dispose people, you can ask people to talk to you and put them under oath and record their statements to your questions. Is that correct? As if they were putting their hand on the Bible in the court room and giving...

Mr. Pusateri: There has to be some kind of cause of action or authority to do so. You can't dispose somebody or subpoena somebody without some kind of action. Inaudible...

Mr. Sarbach: Well is there a difference - there's a difference between disposing someone and subpoenaing someone. If nobody wants to talk to you, you can't make them talk to you...
 Mr. Pusateri: That's correct.

Mr. Sarbach: But if somebody wants to talk to you, you can put them under oath as an attorney...
 Mr. Pusateri: Oh sure.

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Mr. Sarbach: and take statements to gather facts.

Mr. Pusateri: If someone is willing - if someone wants to talk sure you can actually ask questions on tape and transcribe it.

Mr. Lindower: If I could Mr. Sarbach, I think I know where you're going. I think Mr. Pusateri has the authority and the ability to go and ask any individual who works for the City of North Canton a question if he would like to without putting them under oath or so forth. Or in regards to the question, only to satisfy himself as to whether there's more cause to go further on with it. Am I right Paul?

Mr. Pusateri: Well herein lies the problem. I'm the Law Director for the City of North Canton. I mean Council hires me, but I am the Law Director first and foremost for the City of North Canton, that includes Mayor Tom, that include the seven council members. And since I've been here since, was it October, September, I've worked with everybody individually, including Mr. Rice and we've worked well together and done a lot together and he's my client as council is my client. I cannot now investigate allegations behind my client's back. And I have obligations to him, they're called fiduciary obligations to my client. I can't do that, it's in conflict of my responsibility to him as the mayor as my client. So it puts me in a very awkward position to be talking to employees that work directly for him or underneath him about any misconduct that they may perceive or perceives him doing. So I really can't do that type of investigation of the mayor.

Mr. Lindower: I understand that now that you've explained that. However, short of actually going out and hiring F. Lee Bailey to come in here and try to do...

Mr. Pusateri: Yea...

Mr. Lindower: some type of investigation, is there someone - and again I don't agree with using the Sheriff's Department, Board of Elections or anybody else, those are all political entities as far as I'm concerned, can you tell us comfortably is there someone who can look into the bare facts of this issue and determine whether there is enough cause to go further ahead with it who is not connected in any way with the city?

Mr. Pusateri: That's - yes, that's the idea with...

Mr. Lindower: And obviously if they're going to do a cursory review of what's being presented here as far as the accusations against Mayor Rice, it certainly isn't going cost us \$10,000.00 to find out should we go further or not.

Mr. Pusateri: But this is - I think there's two sides to this coin. It's not an easy decision. But the first side of the coin is that you have a letter from an individual making general allegations, general conclusions about certain things the Mayor did or did not do. I read that letter with the attachments and on it's face it's general conclusions. I mean there aren't facts yet to back up those statements in detail. Now could some of those facts be validated or verified by individuals? It's quite possible. Now I've not taken that next step to ask anybody to do that, to verifying those facts for the very fact I just told you I can't do that, he's my client.

Mr. Lindower: Right.

Mr. Pusateri: And I work well with Tom Rice, I have in the past and I hope to in the future. So for me to asking questions behind his back would just destroy that client attorney relationship, which I don't want to do, it's not to the benefit of the city. So let me just - so that's the one side of the coin is that you have a letter that's very general in nature. I'd like to see - I understand that there is a certain individual who can collaborate some of these facts or verify some of these facts. Would it be beneficial to see that person put something in writing, sure. It'd make it a lot better if they would you know verify a lot of these facts. And the other side of the coin is that the council is in a position today where there are allegations made and if you do think they're - if you can reasonably articulate the facts to back up some of these allegations you want to take that next step further. The question is who and how are you going to do that. Who is going to conduct the investigation or give his opinion? I just told you it can't be me. So then the logical conclusion is then somebody outside the city to do that.

Mr. Lindower: But that would be somebody for you to pick.

Mr. Pusateri: Pick.

Mr. Lindower: Yea.

Mr. Pusateri: Sure. That's as far as I would go is to look for somebody to do that for council. But I do not want to get involved in that actual investigation or...

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Mr. Lindower: I have a feeling that this issue is being more complicated by the fact that Mr. Osborne has written in what two pages or several paragraphs what he could of put into one paragraph because a lot of it is past history that's over and done with and resolved and it shouldn't even be written on paper any more as far as I'm concerned. Because of the fact that there has been legal determinations made on guilt or innocence of those other accusations.

Mr. Foltz: Right, right.

Mr. Lindower: So there's a lot of rhetoric in there that doesn't belong. I think if the facts can - and this is where I'd like to meet with you if I could Paul, is to try to narrow this thing down to the actual accusations that Mr. Osborne are claiming are improper and have been conducted by Mayor Rice and have legal specific issues investigated by a person that you feel is independent. That's really - it's simple really. And I just - by discussing the \$10,000.00 issue, I'm only saying that when we write an ordinance like this where there's going to be some funding involved we have to put some sort of a cap or a limit on it and that's the only reason that's there. I don't want to have the public feel that's it's going to cost us \$10,000.00 for this. It may ...

Mr. Pusateri: Yea.

Mr. Lindower: But I'm saying right now it may not. So you know having said that I really don't have much more to say.

Mr. Pusateri: No, that's fine.

Mr. Foltz: Dave, yea, I'm waiting on my turn, thanks.

Mr. Lane: Could I just ask one more quick question before we vote?

Mr. Snyder: Sure.

Mr. Lane: In light of what you just said, if and I hope this doesn't happen, but if a flood of requests comes to us, you're in the same boat involving any of us...

Mr. Foltz: Right.

Mr. Lane: and him, right, so every single one of these has to be looked at by an outside source.

Mr. Pusateri: Absolutely.

Mr. Lane: Correct?

Mr. Pusateri: Absolutely.

Mr. Lane: Okay.

Mr. Pusateri: Yea, I...

Mr. Lindower: That's where we have to make the determination...

Mr. Lane: Right.

Mr. Lindower: are we going to have a knee jerk reaction or are we going to go as far in-depth as we can with every accusation that's made because...

Mr. Lane: That's my concern...

Mr. Pusateri: That's why...

Mr. Foltz: Exactly.

Mr. Lindower: You get the right person out there you break the city.

Mr. Foltz: Exactly.

Mr. Pusateri: That's why I asked - I asked the - and that's why I think it's very important today for council to articulate the specific facts...

Mr. Foltz: Right.

Mr. Pusateri: and not just make general allegations. Before you take the next step there needs to be something factual basis for the allegations of that letter to let you take that next step. Otherwise you're going to be in a position where every time you get a written request to investigate somebody else you're going to feel obligated to do so because of the negative precedent that you set.

Unidentified: You have a charter in your drawer.

Mr. Pusateri: So I mean in order to distinguish this ... at this time now from any of those future letters, you need to look at factually, not just the conclusions, but the facts to get to that conclusion.

Mr. Foltz: Dave, if I may.

Mr. Lane: Thank you Doug, I appreciate that.

Mr. Foltz: I'm glad you touched on that Law Director Pusateri, cause that's where I was going. And Doug - Doug Lane did an excellent job. As far as your opinion I agree with 99 percent of what you said. So you didn't leave me a lot of new information to bring out here, but I'm just going to explain something. Anyone that's known me, know my last eight years on council, is my thought process and that's logic and common sense. Okay. It doesn't get any more basic than that and that's all you need in the world. And when you look at this, when you look at the letter sent ...inaudible... before we get into that I'm address some of Chuck Osborne's comments he made earlier. This is a quote, "no good deed goes unpunished" and that's one I did. Chuck, when you said - when you quoted me, we didn't see eye to eye on a lot of issues but I respect your research, you compassion towards your beliefs, I did say that. I felt I should say something somewhat nice to you going out, but that doesn't mean I agree with you ...

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Mr. Lindower: Inaudible...

Mr. Foltz: That doesn't mean I agree with you.

Mr. Lindower: I don't think that really has anything to do ...inaudible...

Mr. Foltz: Well it does because it gets down to if I don't vote for this impartial investigation there's - it would constitute some type of coverup. That's where I'm going Dave. I'm taken aback by these comments. You know my vote is my vote. I'm not covering anything up whether I'm friends with Tom Rice or not and it could be any individual here on council. I take that personally. If I vote no on this or other members of council that doesn't mean there's a coverup. Okay. That's my opinion based on my logic and reasoning. Now I'll get back to the letter here. Look at the letter for what it's worth. And Doug Lane also said this. Point one, if someone bought some campaign tickets or made a donation to Mayor Rice's campaign fund, that's legal, so what. Number two, numerous city employees have bought campaign tickets. That's happened everywhere I've ever been involved in government. Number three, that's the one we're looking at. What was done on city time towards this election? Where's the evidence with that? Where's the evidence? It's all here say. It's been reported to me. What does that mean, it's been reported to me? Number 4, the Ohio Ethics Commission made a ruling on this and it doesn't need to be brought up again. I don't even know why we have to look at it per the charter. That's just Chuck Osborne's opinion. In fact looking at that, those attachments and I did do that today, you know these are quotes right from the Ohio Ethics Commission, determined there was insufficient evidence to warrant criminal ethics charges against Mr. Rice. Mr. Forchione got involved and he was asked to have a joint admonishment to be sent to Mr. Rice and Council concerning certain issues. And Mr. Forchione said the conduct of Mayor Rice would be better addressed through remedies available to the Ohio Ethics Commission. Well they already made their ruling. So I don't even know why we're talking about number four anymore. So what this ... boils down to is someone - someone reported to Chuck Osborne that fund raising activities were going on during city time. Now does that warrant us spending any money at all? I think not. I think there's other avenues for this, as Doug Lane brought up. I understand that there's members of council here who want to get to the truth. And Dave, I follow your logic and I respect you as a council member, but here I have to narrow this down and really look at it. Is there political agendas here? There has to be - there has to be. This all happened last year, now it's brought to the forefront. We have an eighth council member here named Chuck Osborne who interrupts our meetings at any time and says whatever he wants. Now we've got to address this letter. And Doug Lane you're absolutely right, when does it stop. If someone accuses me are we going to have another inquiry? Or Jon Snyder or anybody else. Or should we look at who donated what to whose campaign and then look and see what votes were made? How long does this continue and how as city image do we suffer because of it? What businesses are going to want to locate here? What are we doing for our constituents, our tax payers? It's been nothing but headlines, political agenda. It's ridiculous. You seen the email to Jon, you included it in our packet I believe. Was that from you Jon? An electronic email. Well let's get on to running this city. Let the Mayor do his job and Mike Miller do his job as administrator and Jim Benekos do his job as engineer and let us do our jobs as council members and know that - what the differences are. I just don't see a lot of weight behind any of this. And I'm not going to vote to spend one dollar of tax payers' money to look at this until there is something more substantial brought to my attention.

Mr. Snyder: May I have a privileged question? If I may ask it. You know I hear what you both are saying that it could open the floodgates to many investigations. Law Director Pusateri, am I correct, the only thing that this body is empowered to do is look at things relative to the charter. So if there would be a floodgate of things that were against the civil law that would be up to the authorities ... invested in that authority to investigate. Is that correct?

Mr. Pusateri: Sure, your authority comes from the charter ...

Mr. Snyder: Right. The only thing that - if a member of this council has violated the charter, obviously it should be able to stand up to the public and be scrutinized by the public. So if the accusation came against me that something that I did against the charter, I should be able to defend myself somehow I suppose. But I mean you know not to say that I haven't, I hope I haven't, I try not to be. But I think the accusation is that of the charter, what we're speaking of. I think we're - to allow political entities to begin to look at things and give opinions we're right back - that does become very political. They're political in nature - appointed by politicians. I mean I think the opinion would exonerate the Mayor if the facts so prove it ... and I don't know. That's all I want to say, thank you for the privilege.

Mr. Lindower: Back to me.

Mr. Foltz: I believe there was a second ...inaudible... discussion Dave. So.

Mr. Lindower: Okay, well in view of the fact that there has been some discussion and I believe everybody has got their own personal opinion. The thing we want to project here is the right image to the public that allegations are going to be not discarded or disregarded. We're going to check into those the best we can with what we've got to work with and that's the reason why I asked that this ordinance be passed tonight. Again, I'd like to say that I will meet with Mr. Pusateri again so that I can bring it back to my committee or my committee bring it to the rest of council in regard to how much further we want to

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pursue this. With that I would you know I would of originally liked to had this done on an emergency to get done and over with. I think the longer you drag things out like this it tends to disrupt Mayor Rice's performance and his duties that he has to do with the city, but so be that we're going to have to muddle our way through it.

Mr. Lane: Dave, though in deference, even though I do have a difference of opinion on proceeding down this path, we could hold a special meeting over the next two weeks prior to the Council of the Whole and prior to the next regular scheduled council meeting, correct, to make the second and third readings on this. So it would speed that process along.

Mr. Lindower: I'd like to be able to do this...

Mr. Lane: I mean I have no problem with it. I mean I don't think I'm going to change my vote on it, but I might. But at the same time if that helps, I'm happy ...inaudible...

Mr. Lindower: Again, I would only ask that we proceed tonight because and then after tomorrow I would - if I'm the only one who is able to meet with Mr. Pusateri tomorrow, I would relay the information to my committee and to the other council members. If we could do that then possibly discuss what we want to do...

Mr. Snyder: Mr. Lindower, if I may caution you sir. The only problem if you meet as a committee sir ...
Mrs. Kiesling: No, we can't.

Mr. Snyder: you must notify the press. It has to be open 24 hours, unless you call an executive session of your committee only with the Law Director, which you're empowered to do sir. So at that...

Mrs. Bittle: You still need 24 hours.

Mr. Snyder: It needs 24 hours. So either way you...

Mr. Lindower: I'm glad you reminded me of that. You're right.

Mr. Snyder: otherwise we'd be in violation of the law.

Mr. Lane: You could be investigated for that.

Unidentified: Yea.

Mr. Pusateri: Anyone is welcome to call me anytime and I'll talk to them. I've talked to a number of people who called me - other members of council. So don't hesitate to call me individually and talk to me about it and I will tell you ...

Mrs. Kiesling: And maybe in the next week or so we can get maybe a letter from a collaborating witness, which may help put a couple people at ease if that's the case.

Mr. Snyder: I would say personally, Member Kiesling, that we're best to let the investigation, or excuse me, the opinion come from the person who is trained for it.

Mrs. Kiesling: And that's fine. They...

Mr. Snyder: I don't think that we're better to interfere in it ourselves.

Mrs. Kiesling: Do you know I don't want to interfere, but they're saying...

Mr. Snyder: No...

Mrs. Kiesling: they don't have enough information...

Mr. Snyder: Oh, I see what you're saying, but...

Mrs. Kiesling: Well, Mr. Lane is saying he doesn't have enough. But you're saying we can't really get any more. So you know we're sort of ...

Mr. Lindower: We certainly don't want to make it look like we're out soliciting information one way or another for anybody.

Mrs. Kiesling: Right.

Mr. Lindower: I mean it has to be totally independent of us. So I think we better stay out of it ourselves.

Mr. Lane: But if you could get this thing underway in three weeks or say in three and a half weeks...

Mr. Snyder: There's absolutely no question that you could have a...

Mr. Lane: We could have an answer relatively quickly.

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Mr. Snyder: four members can request it or it can be assigned for early before the next meeting if the - if you haven't - if you are what they call fast tracking the legislation. It still does require a 30 day moratorium after the signature of the mayor.

Mr. Lindower: For the time being, Mr. President, could we have a vote on 31-04?

Mr. Snyder: Yes sir.

Mrs. Kiesling: I'll second.

Mr. Snyder: Madam Clerk, please call the roll.

All members present voting:

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

No: Foltz and Lane.

11. Mr. Sarbach moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 32-04. All members present voting:
 Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
 No: 0

Ordinance No. 32-04 - First Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into a professional service agreement for the design of the James Street Rehab project and declaring the same to be an emergency.

Mr. Snyder: Chairman Lane.

Mr. Lane: Yea, we talked about this last week. This is the James Street project from start to finish involving curbs, gutters and water, right?

Mr. Benekos: Correct.

Mr. Lane: Yea, everything. And we do need it to be on an emergency we want to get up and running in time for construction season. So I would appreciate it.

Mrs. Kiesling: One question. We talked last night or last week about maybe ...

Mr. Lane: Extending that.

Mrs. Kiesling: Extending it to the very very end of James Street. Are we any further into looking at that before the design starts or..

Mr. Benekos: We didn't look at that any further yet.

Mrs. Kiesling: Are we going to before the design begins?

Mr. Benekos: We could do that.

Mrs. Kiesling: We could do that. I appreciate that.

Mr. Snyder: A portion of that is dedicated, correct?

Mr. Benekos: I believe the south half.

Mrs. Kiesling: Which makes sense.

Mr. Snyder: Okay.

Mrs. Kiesling: And this is for the design only, it will be built next year.

Mr. Benekos: If you appropriate the funds.

Mrs. Kiesling: I know, I agree, I understand that. Thank you.

Mr. Lane: No promises made, I can tell.

Mr. Miller: Good answer.

Mrs. Kiesling: Yea, right.

Mayor Rice: Exactly.

Mr. Snyder: Is there a motion?

Mrs. Kiesling moved and Mr. Lane seconded to **adopt the first reading** of Ordinance No. 32-04.

All members present voting:

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

No: 0

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Mrs. Kiesling moved and Mr. Lane seconded to **suspend the rules** for Ordinance No. 32-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 32-04. All members present voting:

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

No: 0

12. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 33-04. All members present voting:

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

No: 0

Ordinance No. 33-04 - First Reading

Ordinance No. 33-04 amending Ordinance No. 127-03 to correct the vacated portion of Alley No. 41 to 0.071 acres and declaring the same to be an emergency.

Mr. Snyder: Chairman Lane.

Mr. Lane: This is part of the Y project. And we had discovered a clerical error that we had ended up vacating the south portion of that alley and not the entire alley. So we've added the acreage into that and it's simply an amendment to the ordinance we've already passed. And it needs to be done on emergency so we can move forward.

Mr. Snyder: Alright...

Mr. Lane moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 33-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 33-04. All members present voting:

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

No: 0

Mr. Lane moved and Mr. Sarbach seconded to **adopt under suspension of the rules** Ordinance No. 33-04. All members present voting:

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

No: 0

13. Mrs. Kiesling moved and Mr. Sarbach seconded to **read by title only, first reading** of Ordinance No. 34-04. All members present voting:

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

No: 0

Ordinance No. 34-04 - First Reading

An ordinance authorizing the vacation of a portion of Alley No. 4 running from Foster Avenue westerly approximately 132.20 feet to the southwest corner of Lot No. 2204, located within the corporate limits of the City of North Canton, Ohio.

Mr. Snyder: Chairman Lane.

Mr. Lane: This is the situation that's been around forever. And the Kobelts are interested in building a driveway on their property. There is an area of that property that they discovered was - actually belongs to the city. So we would like to vacate that 7 feet, back 132.20 feet to their property line and then there's another 7 feet that we have to deal with or they have to deal with at another time, but we wanted to do the part the city owns and give it to them. And we held a public hearing on this last week and no one objected so I'd like to see us move forward. Unfortunately we can't do an emergency because it's a vacation. So...

Mr. Snyder: Okay. Any questions? If not...

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Mr. Lane moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 34-04.

All members present voting:

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

No: 0

14. Mr. Lane moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 35-04. All members present voting:

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

No: 0

Ordinance No. 35-04 - 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 a contract for the Summit SE & Alley Waterline Replacement project and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Yes, this is a budgeted project to upgrade the waterlines in that area. And we discussed it last week and I'd like to move forward. And I'll move that we adopt the first reading of Ordinance No. 35-04.

Mr. Snyder: Is there a second?

Mr. Foltz: Second.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 35-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 35-04. All members present voting:

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

No: 0

15. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 36-04. All members present voting:

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

No: 0

Ordinance No. 36-04 - 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 a contract for the East Maple Wells Raw Waterline project and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Yes, this is the much delayed project of hooking up the water fields on the east the side of town with the treatment plant on the opposite side of town. There were some concerns on this and I'd like to open it up to council if they have any questions. Doug, you had some and I...

Mr. Foltz: Yea. Greg, I don't know if so much concerns, but just clarification from the administration. If everyone read that Malcolm Pirnie report, it seems that things are going - progressing quite well over there at the well field area and I'm very much in favor of getting this done. But in the same sense - you know my question is is there still other steps that need to happen before we can really bring this on as a well field site? I know we have to obviously run the pipe up there and get that ready to go, but in voting for this now we're still - we still have some "t's" to cross and "i's" to dot. Is that right?

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Mr. Miller: There are still "i's" to dot and "t's" to cross, there still needs to be a recertification in the field by EPA. However, waiting for the "i's" to be...

Mr. Foltz: Right.

Mr. Miller: dotted and the "t's" to be crossed and then pass the ordinance is going to delay things even further.

Mr. Foltz: Right.

Mr. Miller: You can be assured that this won't formally go out to bid until such time as we have something in writing from EPA to dot the "i's" and cross the "t's".

Mr. Foltz: Okay.

Mr. Miller: But I want to make sure that we're, in a timely fashion, we get this out...

Mr. Foltz: Right.

Mr. Miller: in this construction season if it's all humanely possible to do.

Mr. Foltz: And I applaud the efficiency of that. I just wanted to make that known. You know there's - it looks good and chances are it's going to be fine, but we still have some other things to do. And if we're ready to go I'm all in favor of that. So my questions were answered by the Director of Administration. So that's all I had Greg.

Mr. Sarbach: Mr. Lindower.

Mr. Snyder: Chairman Sarbach, I had one question if I may. Excuse me, go ahead.

Mr. Sarbach: I'd like to recognize Dave Lindower first, he was - had a question.

Mr. Lindower: Yea, the only question I have is in regards to dotting the "i's" and crossing the "t's". I assume we're speaking about the testing of the water well itself to make sure it's ready to go before we put it online.

Mr. Miller: The water well has been tested.

Mr. Foltz: Twice...

Mr. Miller: What we need to have now, based upon those tests, is a formal blessing from EPA recertifying the well field for use and that's what we're waiting for. That information has been turned into EPA, but I don't want to end up being behind the curve as far as coming to council waiting two or three meetings in order to be able to put it out to bid.

Mr. Lindower: Do we feel Mike that that may happen before construction actually starts on that project?

Mr. Miller: It will happen before construction starts on this project.

Mr. Foltz: Inaudible...that was the ...inaudible... here.

Mr. Lindower: That was my question ...inaudible...

Mr. Miller: It will happen before.

Mr. Lindower: Okay, thanks.

Mr. Sarbach: Mr. Snyder.

Mr. Snyder: Thank you. Director Herr, I believe we have to borrow that million twenty-five.

Mrs. Herr: Yea.

Mr. Snyder: So there has to be a companion ordinance ...

Mrs. Herr: Yea, there will. It will be on the next Council of the Whole.

Mr. Snyder: Are we going to go to the state for that again ...?

Mrs. Herr: No, we're just going to do short term...

Mr. Snyder: Inaudible... a bond?

Mrs. Herr: Short term notes.

Mr. Snyder: Oh, similar to what we did for the other.

Mrs. Herr: Yea.

Mr. Snyder: Okay, thank you.

Mr. Sarbach: The only other comment I have is - does memory serves me correct, that that - the production well that is in place now was tested at a maximum capacity of three million gallons a day? Is...

Mr. Miller: I believe it's three. I believe the a - what we're planning to pump out of there is approximately two.

Mr. Sarbach: Yes, but it...

Mr. Miller: Three was the high end...

Mr. Sarbach: Was the maximum capacity certified?

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Mr. Miller: Two would be the safe yield.

Mr. Sarbach: And I - that was a memory thing and you know what happens to that after so many years. I just wanted to reconfirm that. So any other questions or comments from council? If not, I move - like to make a motion that we proceed with the first reading of Ordinance No. 36-04.

Mrs. Kiesling moved and Mr. Foltz seconded to **adopt the first reading** of Ordinance No. 36-04.

Mr. Sarbach: I made the motion, you're supposed to second it.

Mrs. Kiesling: Oh I'm sorry, second - third.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 36-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 36-04. All members present voting:

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

No: 0

Mr. Snyder: May I have a motion to read by title only, first reading of Ordinance No. 37-04?

Mrs. Kiesling: Motion.

Mr. Sarbach: I think it's - we've got a clerical ... Never mind excuse me, I stand corrected.

16. Mrs. Kiesling moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 37-04. All members present voting:

Yes: Foltz, Kiesling...

Mr. Lane: I'm going to - have to abstain on th vote on this, but can I go ahead and vote yes on this?

Mr. Pusateri: Oh yea, sure.

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

No: 0

Mr. Pusateri: Now the title I'm going to read has been amended to add some certain language. When I get to that language I'll tell you that language has been amended and at some point you'll have to move to amend the ordinance.

Mr. Snyder: You want us to amend prior to the reading? You want to read it and then we'll amend it as read?

Mr. Pusateri: Yea.

Mr. Snyder: Okay.

Ordinance No. 37-04 - First Reading

An ordinance authorizing the Strausser Avenue Waterline Extension, located in Jackson Township, Northeast Quarter of Section 12, County of Stark, State of 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. Pusateri: That clause, and accepting any necessary easement associated with said waterline extension was added to that title and we'll need to move to amend the ordinance that was not put in the original ordinance.

Mr. Snyder: That gives us rights where our line to have that as our easement.

Mr. Pusateri: Sure. Mr. Benekos suggested that change today I believe...

Mr. Benekos: Correct.

Mr. Pusateri: to add to the ordinance.

Mr. Sarbach: That's fine with the chairman. Committee have any problem with that?

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Mr. Snyder: May I have a motion to amend it as stated?

Mr. Sarbach moved and Mr. Peters seconded to **amend, as stated by Director of Law Pusateri,** Ordinance No. 37-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Mr. Sarbach: And I might add this is an outside funded - the customer will be paying for this waterline extension. So there's no charge to the city or the tax payers for this extension.

Mr. Snyder: Any other comments? If not...

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading, as amended of** Ordinance No. 37-04.

Mrs. Bittle: Lane.

Mr. Lane: I have to abstain on this. This involves one of my biggest clients, the Waikem family. So it's not probably a good thing in the current environment to be voting for.

Mr. Foltz: And we don't have to spend money on an investigation.

Mr. Sarbach: Very considerate of you Mr. Lane to do that.

Mr. Lane: Not a problem, trying to save the city some money.

Mr. Sarbach: Inaudible... Need more people like you.

All members present voting:

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

No: 0

Abstain: Lane.

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules, as amended,** for Ordinance No. 37-04. All members present voting:

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

No: 0

Abstain: Lane.

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules, as amended,** Ordinance No. 37-04. All members present voting:

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

No: 0

Abstain: Lane.

Mr. Snyder: Thank you.

17. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 38-04. All members present voting:

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

No: 0

Ordinance No. 38-04 - First Reading

Ordinance No. 38-04 authorizing the Director of Administration of the City of North Canton to reimburse property owners within the corporate limits of the City of North Canton for the owner's installation of a backflow apparatus on the waste water system; reimbursements not to exceed five thousand (\$5,000.00) dollars per annum, and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Yes, this is an ordinance that - I believe it really clarifies the previous ordinance that we had to do this, but it takes the liability off the city by reimbursing the customer that has this done. So I think Mr. Miller is on top of it. The dollar cap is \$5,000.00 a year that it will cost the city and depends on what the installation cost of these items would be would determine how many a year that the Director of Administration could do and he has the sole authority to approve those items. And with that I would like to move that we pass or approve the first reading of Ordinance No. 38-04.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 38-04.

All members present voting:

Yes: Snyder, Foltz, Kiesling...

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Mrs. Bittle: Lane.

Mr. Lane: I'm back in the game, yes.

Yes: Lane, Lindower, Peters and Sarbach.

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 38-04. All members present voting:

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

No: 0

Mr. Snyder: May I have a motion to adopt the Ordinance 38-04.

Mr. Sarbach: Under the suspended rules.

Mr. Snyder: Under the rules - suspend the rules of council.

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 38-04. All members present voting:

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

No: 0

18. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 39-04. All members present voting:

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

No: 0

Ordinance No. 39-04 - First Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into an agreement for the purchase of one (1) 7400 4x2 International Dump Truck & Gledhill Body package, for use by the Water Distribution Department, within the purview of the Ohio Department of Transportation contracts, pursuant to Section 5513.01(B) of the Revised Code, or, in the alternative, authorizing the Board of control, 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 to enter into a contract for the purchase of one (1) 7400 4x2 International Dump Truck & Gledhill Body Package, for use by the Water Distribution Department, and declaring the same to be an emergency.

Mr. Lindower: Could you repeat that?

Mr. Sarbach: No.

Mr. Snyder: This is clarifying our resolution that we passed earlier and this is for the purchase of that truck. And that's about it.

Mr. Sarbach moved and Mr. Lane seconded to **adopt the first reading** of Ordinance No. 39-04.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 39-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 39-04. All members present voting:

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

No: 0

Mr. Pusateri: Thanks council for passing it by emergency so I don't have to read it again.

19. Mrs. Kiesling moved and Mr. Sarbach seconded to **read by title only, first reading** of Resolution No. 40-04. All members present voting:

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

No: 0

Resolution No. 40-04 - First Reading

Amended and Restated Resolution of the Council of the City of North Canton, Stark County, Ohio, and declaring the same to be an emergency.

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Held Monday, March 8, 20 04

Mr. Snyder: As you know, we're mandated to restate our policy on the police and fire pension that we pick up the ten percent portion of the mandatory contribution. And that's what this resolution so states that we will continue to do that. The wording has changed somewhat since, but nothing changes financially, those are negotiated items and items that we've done for some time. Is there any question on that? If not...

Mr. Lane moved and Mrs. Kiesling seconded to **adopt the first reading** of Resolution No. 40-04.
All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mr. Lane moved and Mr. Peters seconded to **suspend the rules** for Resolution No. 40-04. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules** Resolution No. 40-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

- 20. Mrs. Kiesling moved and Mr. Lane seconded to **read by title only, first reading** of Ordinance No. 41-04. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

Ordinance No. 41-04 - First Reading

An ordinance authorizing the supplemental appropriation of funds of the City of North Canton, Ohio, to be appropriated from the unappropriated balance of the No. 212 General Trust Fund to the Inter-Fund Transfer account in the aggregate amount of \$13,599.50 for the current expenses during the fiscal year ending December 31, 2004.

Mr. Snyder: This money will be transferred, that's the required deposits account. And the next piece of legislation will actually authorize the transfer - this authorizes the transfer and then the next piece will make the transfer. Any question on that? If not...

Mrs. Kiesling moved and Mr. Lane seconded to **adopt the first reading** of Ordinance No. 41-04.
All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Mr. Snyder: May I have a motion to suspend the rules of council for Ordinance No. 41-04?

Mr. Sarbach: So moved -

Mrs. Kiesling: There's - it's not on...
Mr. Sarbach: I don't - it's not an emergency - I don't...

Mr. Snyder: Oh, isn't it? I thought it was. The next one is. No, it isn't. I'm sorry, I got so used to suspending the rules might as well just - I apologize for that. Thank you.

- 21. Mr. Lane moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 42-04. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 42-04 - First Reading

An ordinance authorizing the transfer of funds of the City of North Canton, Ohio from the General Trust Fund to the Required Deposits Fund in the amount of \$13,599.50 for the current expenses during the fiscal year ending December 31, 2004.

Mr. Snyder: This will actually make the transfer of the required funds. If there are not questions...

Mr. Lane moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 42-04.
All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

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REPORTS:

Mr. Snyder: Report - Director of Law.
Mr. Pusateri: No I do not, thank you.

Mr. Snyder: Director of Finance.

Mrs. Herr: Yes, I just wanted to make mention that Mr. Miller and I are going to be meeting with the Karcher Group this week to discuss improvements to our web site. So I would like if any of you have any ideas, anything that you would like to see the possibility of being implemented, to please contact me, let me know so we can this process. And whatever things that you would like to see happen we can possibly incorporate. That's it.
Mrs. Kiesling: Great.

Mr. Lindower: Julie, is there anybody else that's been considered for that web site or are you just going to continue with Karcher?

Mrs. Herr: I think we're going to continue with Karcher. They have some you know other clients that we've looked at their web sites. And we feel that since they're the ones that are currently hosting it now they're familiar our content and I think it would just be the best just to - this way we can started quicker and hopefully get the results you know ...

Mr. Lindower: It's not their fault then that the thing has broken down over the last couple years.

Mrs. Herr: They inherited it.
Mr. Lindower: Oh, okay.

Mrs. Herr: They did not design the web site, they inherited it. So...

Mr. Lindower: It's not working well ...inaudible...

Mr. Sarbach: So now they can redesign the web site and ...

Mrs. Herr: They can redesign it according to you know their ideas, their you know capabilities and...

Mr. Sarbach: And Mike is involved.

Mrs. Herr: Pardon.

Mr. Miller: Yes.

Mr. Sarbach: And Mike is involved.

Mrs. Herr: Yes.

Mr. Sarbach: I'm for it.

Mr. Lindower: Okay.

Mr. Miller: To elaborate on that a little bit, they did what we paid them to do when they did the switch over a few years ago. If you look at the Walsh College or Walsh University site, if you look at some other sites that they've done, they can do a very excellent job as far as making it user friendly. They are working on the chamber as well. So there will be a natural interconnection between the chamber and the city site. The meeting is Wednesday the 10th at 2:00, so any comments you have would be appreciated before that point in time.

Mr. Lindower: The way it stands now it looks like you've got about a hundred dollars worth.

Mr. Miller: No comment.

Mr. Lane: But your picture looks good on it.

Mr. Sarbach: You inherited too, right?

Unidentified: That alone is worth the price of admission.

Mr. Snyder: Any comment, Director of Administration?

Mr. Miller: No further comments.

Mr. Snyder: Mr. Mayor.

Mayor Rice: No report.

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Mr. Snyder: Mr. Engineer.
 Mr. Benekos: No report.

Mr. Snyder: Madam Clerk.
 Mrs. Bittle: No report.

REPORTS - COUNCIL:

Mr. Snyder: Mr. Foltz.
 Mr. Foltz: No report.

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: No report.

Mr. Snyder: Mr. Sarbach.
 Mr. Sarbach: No report, I don't want to break the trend.

Mr. Snyder: I wanted to only ask one question. Someone said to me - Member Lindower, do you request a special meeting of the council relative to Ordinance 32 - I think it's 32 or what...
 Mr. Sarbach: 31-04.

Mr. Snyder: 31-04?

Mr. Lindower: 31-04? Yea.

Mr. Snyder: I would only ask that someone introduce a motion at least it takes four - so that those don't have to be hand delivered by the Police Department, they can be picked up and it saves both time and money if you can - so if someone would give a motion to - for a special meeting next - what do you need five minutes?

Mr. Lindower: Probably no more than that really.

Mr. Snyder: 6:55?
 Mr. Lindower: 6:55 on what next Monday?

Mr. Snyder: I believe that's the 15th.

Mrs. Kiesling: I'll motion.

Mr. Peters: Yes.

Mr. Snyder: Is there a second.

Mr. Lane: I'll second that.

All members present voting:
 Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
 No: 0

Mr. Snyder: The other thing is this is five Mondays so there will only be two additional meetings and there will not be a meeting on the last Monday of the month.

FINAL CALL FOR NEW BUSINESS:

Mr. Snyder: This is a final call for business. Anyone in the audience have any final statement?

Chuck Osborne: Yes, I have a few final comments. First, or for Mr. Lane, you're concern if there's going to be one investigation after another assumes that you have many people in elective positions who have or literally violate city law. I don't think we've seen that in this city, hopefully. So I think you should ... let your mind rest on that. Mr. Foltz, Ohio Revised Code 3517.09, no

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person or committee shall solicit, ask, invite or demand directly or indirectly, orally or in writing, a contribution, subscription or payment from a candidate for nomination or election. That's a mine field when you start select - accepting donations from your employees. And I do have credible evidence. There will have to be an investigation for this person to come forward under sworn testimony. So to start slicing through these allegations and just say well there's nothing here and there's nothing there, it will take somebody with taking depositions or getting testimony to figure out that information. Now as far as Item No. 1 on the allegation, you have an ongoing vendor doing work for the city and exceeding legislative limits. On two occasions and all during this billing period, that just continually escalates past the first legislative approval, past the second legislative approval and there's still an outstanding bill, these people making contributions to the city. And I asked, could these excessive charges that have been billed to the city have any connection to a campaign contribution that came from this vendor. Are you just going to blow that off? Item 2, all these city employees are being solicited for donations. It's clearly against Ohio code. You can't even wink at them and say hey can you give me a donation. Item 3, again it's going to take an investigation from ... source to document all this. Collection of campaign funds right here at City Hall. Distribution of fund raising tickets right here at City Hall. Soliciting of city employees - oh, my fund raiser is this coming Wednesday, don't forget. Utilizing city space, city employees, city phones to promote a campaign, those allegations are criminal. This is far beyond violating our little simple charter which says did you have a conflict of interest, direct or indirect. And you don't have to go anywhere, you seven people could say you know that's not too kosher. Allegation No. 4, when that was investigated and we all know about that, by Columbus and the local prosecutor, but that was all evaluated based on did this violate criminal law in the State of Ohio. I don't know why none of us woke up and said wait a minute here, what about our own City Charter. Because you were very quick to come after me and you voted quicker than I can snap my fingers that we're going to ... investigate Chuck Osborne and all you had was here say information. Now I gave you two letters from an attorney hired by Mayor Rice attempting to get a piece of property that was promised to this city in exchange for the zoning for Mullinax - eight acres. And it's unfortunate when that property was divided up over there a portion of it extended literally half of it into Tom Rice's backyard. And why when he moved into that property 21 years ago he didn't say can I negotiate cause this is half of my backyard that's not even mine. What did he do? He waited till he got his 21 years and after he knew that this eight acres was promised to the city and should of already been deeded to the city, it's past due, it's three years past due being deeded to the city, cause Mr. Dick Heiser is contractually obligated to deed those eight acres to this city. And Mr. - Mayor Rice knows that you can't do adverse possession against public property. So he was trying to grab it, his little portion of it, before it became public property. Why didn't he come before this body and say I'd like to negotiate a price and slice off this small portion to give me a full backyard. Without the knowledge of anybody in the city, any elected official, he did not want to offer a fair price for this little slice of property, which increased his acreage of lot over here by a third. He was trying to take this without due compensation to the city - the citizens of this city, because it was their eight acres at that point. Mr. Heiser agreed to give those eight acres in return for the zoning, General Business-B, out there on Whipple. Those two letters alone are a violation of this city's charter big time. And I can't believe nobody here wants to standup and say let's look at this. If this was Washington or the State House in Columbus, nobody would block an investigation to clear or prove this. And Mr. Lindower, you're sitting there slicing through this like well there's really not much here. I'm disappointed the way this is going and I can see this is going to fall apart.

Mr. Lindower: Are you saying...

Mr. Osborne: Inaudible...

Mr. Lindower: Chuck, are you saying those are criminal accusations?

Mr. Osborne: No, I'm not saying that. I'm saying this ...inaudible...all four allegations ...inaudible... did it or did it not represent a direct or indirect violation of conflict of interest of our charter. None of this has ever been elevated in terms of our charter.

Mr. Lindower: Hasn't the Ethics Commission already reviewed that information and said that there was nothing to it?

Mr. Osborne: That's according to state code, Ohio Revised Code. They don't give a rat's hinny about our charter.

Mr. Lindower: Let me ask you this...

Mr. Osborne: We're here to safeguard and represent our home rule, our City Charter. That's all you should be worried about.

Mr. Lindower: Well you mentioned criminal violation awhile ago.

Mr. Osborne: No, Mr. Foltz did.

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Mr. Lindower: No, you did.

Mr. Osborne: He was ..inaudible... through there...

Mr. Lindower: You said that's an absolute criminal violation and I don't remember what it's about.

Mr. Osborne: I didn't say absolute criminal violation.

Mr. Lindower: Well you did mention.

Mr. Osborne: That's absolute violation of our City Charter.

Mr. Lindower: And my statement to you is if in fact that's true, you as a citizen have got a right to go down to the Prosecutor's Office and file those charges yourself. Why do you...

Mr. Osborne: We've been down that road, but politics ... into play. I've heard ...inaudible...

Mr. Lindower: Inaudible... you're not a politician any more, you go down there now and do it.

Mr. Osborne: You're supposed to charge and evaluate this - doesn't this - was this a direct or indirect violation of our conflict of interest law?

Mr. Sarbach: Mr. Osborne.

Mr. Osborne: And nobody can evaluate that. You can't go down to Canton, you can't go to Columbus. All they can do is gather the evidence and say here's what we discovered. And you seven people say, well goodness is this very kosher? Was this an open public transaction Mr. ... or Rice trying to slice off a piece of this property before the city got their hands on it? That's a direct conflict of interest of the North Canton City Charter. And I'll tell you, if you start gathering some evidence you're going to find more.

Mr. Sarbach: Mr. Osborne.

Mr. Osborne: The individual who has given me this information will swear to it under oath. But you're going to drag this out now. So Item 4 is proven just by those two letters alone. There's no investigation required there. I guarantee you if anybody up here would of tried it and anybody got the wind of it they would say what the hell are you doing. You want something for nothing?

Mr. Sarbach: Mr. Osborne.

Mr. Osborne: Yes.

Mr. Sarbach: This body tonight has voted to take this to the next level based on your letter and now we're going to get...

Mr. Osborne: I guess you're going to have to have two more readings.

Mr. Sarbach: May I finish my statement please?

Mr. Osborne: I'm sorry.

Mr. Sarbach: We have voted to take to this to the next level. In the next ... weeks I expect that we're going to get more - someone will get more information on this and I would hope that part of that information or that documentation would be a letter of explanation and/or denial by Mr. Rice.

Mr. Osborne: There's no way you could deny what he was attempting to do here.

Mr. Sarbach: I said explanation and/or denial. We have not received that yet either. No one to my knowledge has received that. We have taken this...

Mr. Osborne: But aren't you going to have to read this two more times?

Mrs. Kiesling: Yes.

Mr. Sarbach: We have taken this to the next step based on your allegations and I think ...inaudible... let the process ...inaudible...

Mr. Osborne: I happen to disagree with you. You've got two more readings, right?

Mrs. Kiesling: That's all we can do with five votes Chuck.

Mr. Osborne: So this will go on for another month.

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Mrs. Kiesling: No, we're going to have a special meeting next Monday before the committee meeting. Oh you were gone...

Mr. Osborne: Well like I said Item 4 is proven with those two letters. Each one of you got those letters. It says either give me that property or I'm going to take you to court. Unbeknownst to the city, citizens of this city, he was trying to get some property that was promised in exchange for the zoning. I mean how more flagrant and direct violation of conflict of interest is that? Thank you.

Mr. Snyder: Thank you Mr. Osborne.

Mr. Foltz: Jon, just one clarification so I know. When the public speaks at the end of the meeting is it new business or just anything that we can just rehash over and over again?

Mr. Snyder: Well I think we went over this and ...

Mr. Foltz: Just clarify this in my mind.

Mr. Snyder: Well originally, Member Foltz, is I did state new business. However, I was overruled by four members of council saying they would prefer that somebody has the right to speak again after the meeting.

Mr. Foltz: Okay, so it doesn't matter about what topic and how long and everything else.

Mr. Snyder: No, unfortunately sir, not unless we change it.

Mr. Foltz: Just a clarification.

Mr. Snyder: That's alright.

Mr. Foltz: I had no problem with Mr. Osborne coming up here if that's really what we all agreed to. Okay. Thank you.

Mr. Snyder: Mam...

Carolyn Mross: 301 Mississippi Street SE. Don't all people up here have microphones?

Mr. Foltz: Yes.

Ms. Mross: Would you kindly use them and not mumble. I sit in the front. I haven't been told by any physician that I need a hearing aid and I cannot hear you either due to air conditioning, people fumbling papers, all of us, we all do and we sit there and we talk down into our paper and nobody can hear you.

Mr. Sarbach: When we talk down mam our microphones are on our lapels, at least mine is.

Ms. Mross: It's not working.

Mr. Sarbach: May I suggest you sit under one of those four speakers you might be able to hear better.

Ms. Mross: Where?

Mr. Sarbach: Those things - those four items hanging down in the ...

Ms. Mross: I am, ... here.

Mr. Snyder: Mam, to answer your question and be very honest with you, we know there's a problem - we've had a problem since the building was built. With this type of ceiling the sound goes into the ceiling and you know we have appropriated funds to look at it. However, we've not gotten that far yet, but we will. And I understand because we do hear periodically about people who attend on a regular basis that they cannot hear properly.

Ms. Mross: I've been attending on a regular ...

Mr. Snyder: I know that.

Ms. Mross: a fairly regular basis ...

Mr. Snyder: I know that.

Ms. Mross: and I've waited this long and I finally decided enough is enough.

Mr. Snyder: Well we see if we can expedite that a little bit for you. But your point is well taken, I appreciate it.

Ms. Mross: Thank you.

Mr. Foltz: President Snyder, I think if you talk into the mic - you can hear me now.

Ms. Mross: Inaudible...

Mr. Foltz: You probably can hear me without the mic because I've got a big mouth, but there's a difference if you talk into the mic. Correct? Okay.

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Held Monday, March 8, 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 Rev. Eli Klingensmith, Zion United Church of Christ.
- 3. All present recited the Pledge of Allegiance.

Mr. Snyder: Madam Clerk, please call the roll.

ROLL CALL:

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

- 5. Consideration

Minutes of Council Meeting: 2/23/04
Minutes of Public Hearing: 3/1/04

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

- 6. Committee Reports

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held March 1, 2004.

Personnel & Safety Committee: Refer to the minutes on file in the Council Office of the Personnel & Safety Committee meeting held March 1, 2004.

Street & Alley Committee: Refer to the minutes on file in the Council Office of the Street & Alley Committee meeting held March 1, 2004.

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held March 1, 2004.

Executive Session (Finance & Property): Refer to the minutes on file in the Council Office of the Executive Session (Finance & Property Committee) meeting held February 23, 2004.

Executive Session (Personnel & Safety): Refer to the minutes on file in the Council Office of the Executive Session (Personnel & Safety Committee) meeting held March 1, 2004.

Mr. Lane moved and Mr. Sarbach seconded to approve the committee report minutes and executive session minutes as presented. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

- 7. Recognition of Visitors

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

Chuck Osborne: My name is Chuck Osborne, 307 Fairview Street SE - North Canton, Ohio. I feel compelled to address the comments we made in last week's Council of the Whole meeting by two members of this body regarding their reluctance to move ahead with an investigation of Mayor Tom Rice. First, I would like to point out that it is your duty first and foremost to ensure that the conduct of city business is handled in an open and trustworthy fashion. When there are allegations that jeopardize the public's trust in the process of government it is imperative that steps be taken in an expeditious and timely manner to restore the public's trust in their government and their elected officials. Second, the comments in the press from Mayor Tom Rice that the allegations I have made are politically motivated are simply untrue. If my intentions were politically motivated, I would have acted before the election not after the election. If you want to know what a politically motivated attack on a public official looks like, just go back to October of 2002 when here say evidence was presented to this body. Some council members, who are still sitting on this council today, with no hesitation, voted to immediately initiate a full blown investigation. It was a witch hunt for any possible misconduct

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Mr. Snyder: Mr. Navarra, you have something to say sir.

Ray Bissett: 1025 Linwood Avenue SW. Mr. Snyder, the open house we had up at Arrowhead or the Fairways in North Canton last week...

Mr. Snyder: Yes sir.

Mr. Bissett: or the ... before last, could you elaborate on and you pipe in too Miss Kiesling...

Mrs. Kiesling: I was there.

Mr. Bissett: as far as the information that you had told me that the government and commissioners were going to put money...

Mr. Snyder: We've applied for grant, yes sir.

Mr. Bissett: to buying up our property down there.

Mr. Snyder: We have identified, I believe, Director Miller, as 24 homes. Is that correct?

Mr. Miller: That's correct.

Mr. Snyder: We've identified 24 potential homes in the Linwood - let me ...inaudible... Glendale, Lucille area.

Mr. Bissett: Glendale, Lucille area?

Mr. Miller: They're all on Lucille and Furbay, right?

Mr. Snyder: Linwood, Glenwood, Lucille area that are potential ...

Mr. Bissett: That's on the north side of Glenwood only.

Mr. Snyder: They all ...inaudible... Mr. Miller, would you kindly bring us to speed on that. He'll give you the...

Mr. Miller: The addresses are - there's 1, 2, 3, 4, 5, 6 on Lucille; 12 on Furbay and 6 on Glenwood that were approved by FEMA.

Mr. Bissett: On the north side of Glenwood or...

Mr. Snyder: I don't know what - what are the numbers on ...

Mr. Lindower: It's all north side...

Mrs. Kiesling: Yea.

Mr. Miller: Four on Glendale, 2 on Glenwood - 1103, 1107, 1115, 1125 Glendale; 1035, 1045 Glenwood. and then Furbay obviously is the north side, Lucille is obviously the north side.

Mr. Bissett: Will you give me the ones on Linwood again? Do you have...

Mr. Miller: There are none on Linwood that were approved by FEMA.

Mr. Bissett: None on Linwood.

Mr. Snyder: I thought there were some on Linwood.

Mr. Miller: None that I have here on this list.

Mr. Benekos: The application was only for those 24.

Mr. Snyder: You're on the south side.

Mr. Bissett: Right, I'm on the south side of the Linwood. As far as that water came up to the back walls of our house I can't believe we're not included in that - be in a flood zone area.

Mr. Snyder: Well sir I can't answer to that ...inaudible... that grant. I can say on a positive note and Director Miller and the Engineer will affirm that to you, a couple things that they - we're 25 or 30 percent into the study of the actual of culverts. There is a potential of additional retention basins that are subject right to your property right there that will hold hopefully or will be designed to hold that water coming up out of the creek and they're working on that at present. And what we hope to do, as I told you there that Sunday, sometime within the next couple months to hold another meeting such as we had and bring you totally up to speed - come up here and put you right in as best a comfort zone as we can put you in and let you know exactly where we're at. But there's progress really being made, as slow as it is it's really moving pretty well.

Mr. Bissett: Very slow...

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Mr. Snyder: Yea I agree and it is a very very slow process. But I can get the exact information and get it to you here in the next couple days where we're at if that'd help you a little bit.

Mr. Bissett: I'd appreciate that.

Mr. Snyder: I'll gladly - I'll either have the Clerk mail it down to you or I'll come down and bring it myself.

Mr. Bissett: Okay.

Mr. Snyder: But I do appreciate your continued interest and we'll do it. Thanks sir. Mr. Navarra, you wanted to speak sir.

Nick Navarra: Appreciate it. My name is Nick Navarra. And I really didn't intend to say anything until I heard this and so maybe as a citizen's point of view I'd like to be real brief. First of all and I don't know the law, trust me - first of all I think that Chuck Osborne - did he leave?

Mrs. Kiesling: No, he's sitting out there.

Mr. Snyder: I think he's out there.

Mr. Navarra: That Chuck's letter probably should of been not addressed to City Council, it probably should of gone to the Director of Law. And I would of thought that maybe City Council should of referred it to you, my thoughts, and then you would of given them a recommendation. Inaudible... and I never read the letter, but based on what I hear, if you have to determine to take action against somebody based on that, you're going to go crazy. I mean I could come here and accuse - send a letter on the council people and accuse anybody of anything and you're going to have to hire a special - somebody to look into it because I guess Paul, and I trust that's true, represents both parts. The second thing I heard him say that there was something criminal done. If that's the case, he should just go straight to the Attorney General. I think he's putting you in a very bad position as a council. I don't think that you stand - sit here as a judge. He didn't give you any background, it's just here say. And it might be very true, I don't - I don't know. I'm a friend of a couple of you people and I know Tom real well and so forth. But it just seems like the process is messed up and it gives the city - it looks bad on the community. If it had gone to the Law Director it wouldn't of been out here for the whole world to discuss. You would of made a decision, I guess you would of advised them what to do or what his choices were or what avenues he would have. Is that kind of ... what I'm thinking?

Mr. Pusateri: Well a...

Mr. Navarra: Well I won't debate. My last point is, if there's something criminal I think you should go to the State Attorney General and I think you should support it. What I've heard is just a bunch of da, da, da, da. May all be true, may all be false, but certainly I wouldn't be too excited about taking any action on it. Just an opinion.

Mr. Snyder: Thank you sir.

Mr. Navarra: You know what the say Jon about everybody, about people...

Mr. Snyder: They all have an opinion. That's correct.

Mr. Navarra: Thank you.

Mr. Snyder: Any final comments? Any final comments from the council? May I have a motion to adjourn the meeting?

Mr. Foltz: Jon...

Unidentified: Michael wants...

Mr. Snyder: Oh, I beg your - Mr. Sahadi, I apologize I didn't see you rise. I thought you were in Guadalajara.

Michael Sahadi: No, it was Guatemala.

Mr. Snyder: Inaudible...

Mr. Sahadi: My name is Michael Sahadi. I live at 104 Walsh Avenue SE. Many of you heard me before up here on several occasions. I did not come to talk tonight, I came here to hear what the legislation was all about. I'm not here to dispute what other citizens are saying. I went through a long ordeal over the Mullinax property, it cost me a great deal of money. When I say a great deal of money my client and I went over seven figures, when I say a great deal of money. Now I don't know how many people here want to spend that kind of money and I get very emotional about this because I'm still paying for it. I went to the state and I sat down with the State of Ohio Department of Ethics; I filed that claim, not Chuck Osborne, I want to make that very clear, and I sat down with those people on many sessions. Yes, Chuck Osborne was there, but I want to be made very clear about what took place. The State of Ohio only has a finite amount of money and they don't take it very lightly when there is a claim or an

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accusation. They bring it in front of a board, that board determines whether there's probable cause to go forward. They found probably cause. They came up here and they spent the time, money and energy to investigate and they did find something and they referred it to the Prosecutor. And Mr. Forchione and I sat down and he says Michael I can't help you on this we're beyond the statute. And I asked him, I said what do you mean beyond the statute? The State of Ohio, he says, had they brought it to him sooner he could of acted upon it. That alone my friends is a reason for you to consider what the state couldn't do. That very nature of the fact that it was beyond, according to Mr. Forchione, the time frame in which to prosecute something. I did not make this story up, I sat down with him personally. As a citizen each of you should be inflamed over the idea that somebody interfered on a private matter. Now I want to relate something on a parallel. There is a car wash down the street, it doesn't effect me, it's too far from my house, but that car wash happened to find its way in somebody else's backyard. There's not a 22 foot mound that was ... put up between that car wash and those condos behind there. The Fredericksburg it's called?

Unidentified(speaking from audience): Fredericksburg Court.

Mr. Sahadi: Okay. There wasn't - there's a light - no one mitigated the lights. The Mayor sat there - in fact Mr. Boyajian, the Mayor and Jon and I sat in a room back here with the people from Mullinax, Mr. Heiser, the consulting engineering firm and I believe Mr. Benekos, if I'm correct, and we tried to iron out the issues. They lowered the light stance, they did a lot of things. This is private property. There's 300 foot from their backyard crossing that Zimber Ditch right there before Mullinax starts. My client went beyond the call of duty and put a retaining wall up out of his own pocket to make that property, because he owned the property, to make that property look better. And if I can recall, I'm the last person to bring in - how many jobs is that Mr. Snyder, a 100 new jobs?

Mr. Snyder: I believe the payroll is like a million four.

Mr. Sahadi: Okay. This isn't a Swenson, this isn't a part time car wash, these are full time jobs that came in here and we were put through the wringer for months. Mr. Foltz, I'm not here to argue with you, but how many years on council were you?

Mr. Foltz: Eight.

Mr. Sahadi: Eight, so you were here during that period of time.

Mr. Foltz: Yes I was.

Mr. Sahadi: Okay. We went through a living hell trying to get that dealership up, literally because of one man, because of one man who wanted a mound so high. I don't know of anyplace else here in the city where the privacy mound has to be over 15 feet high. And where is it written in the city code that we had to have it? You should be ashamed of yourselves.

Unidentified (speaking from audience): No, you ought to be ashamed of yourself for ruining the lives of the people who live along there.

Mr. Sahadi: That property...

Unidentified: Inaudible... behind there...

Mr. Sahadi: Sir, that property is properly zoned...

Unidentified: Inaudible... it might be behind his property ...inaudible...

Mr. Snyder: Gentlemen, wait a minute...

Mr. Sahadi: That property was properly zoned ...inaudible... retention basin...

Mr. Snyder: Gentlemen - Mr. Sahadi, you have to address the council sir. We don't want to - we don't - you know kindly bring your remarks to a close.

Mr. Sahadi: But when it comes to an investigation, where's my loss mitigated? Where's my loss mitigated? We had it properly zoned, you all passed it. If you didn't want it passed, okay, you should of turned it down. That's all I have to say. I'm - if you're going to investigate it, investigate it properly. I spent a lot of time and money and energy, okay, just to recoup money and it's going to be a long time before I recoup any of my money on this deal. That's all I have to say. Thank you.

Mr. Snyder: Thank you. Any - is that it, anybody else? If not may I have a motion to adjourn?

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ADJOURN:

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

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

No: 0

The meeting adjourned at 9:12 p.m.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL