

2004
RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, May 10, 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. John States, Congregational United Church of Christ.
3. All present recited the Pledge of Allegiance.

Mr. Snyder: Alright, 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 the Council Meeting: 4/26/04
Minutes of the Public Hearing: 4/26/04

Mrs. Kiesling moved and Mr. Peters 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

Community & Economic Development Committee: Refer to the minutes on file in the Council Office of the Community & Economic Development Committee meetings held April 26 and May 3, 2004.

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held May 3, 2004.

Ordinance, Rules & Claims Committee: Refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held May 3, 2004.

Personnel & Safety Committee: Refer to the minutes on file in the Council Office of the Personnel & Safety Committee meeting held May 3, 2004.

Street & Alley Committee: Refer to the minutes on file in the Council Office of the Street & Alley Committee meeting held May 3, 2004.

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held May 3, 2004.

Mrs. Kiesling moved and Mr. Peters seconded to approve the committee report minutes as presented.

Mr. Lane: Mr. President ...
Mr. Snyder: Sir.

Mr. Lane: Could I - we're going to need to amend the ones on 5/3, they all state that we were here and not at the Civic Center. So if we could approve them as amended.

Mr. Snyder: Yes sir, I think we can approve them as amended...

Mr. Lane: Just the ones on 5/3.

Mr. Snyder: Alright. The Clerk will note that and they will be changed. So thank you Mr. Lane. Then may I have a motion to approve the aforementioned committee reports, as amended, to show that we were in fact at the Civic Center and not here in Council Chambers.

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

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7. Recognition of Visitors

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

Dick Fano: 1382 Elmwood SW - North Canton. I got a couple things that's been bugging me about what's been going on here. September the 15th, 2003, I asked for a date on when 9th Street project was going to get done. Since then I had - I've asked a second time and I still haven't had a date. Now I know it's been passed, but I still don't have a date when it's going to be done. I was - last week I went to the special meeting for the Zimber Ditch. And it kind of stuck in my crawl a little bit because the Zimber Ditch is having priority over my situation. Going from the Zimber Ditch not being a problem of the City of North Canton to priority in one year doesn't set right with me. The reason I can say that the Zimber Ditch - there was two people in this administration that said that the Zimber Ditch was not the responsibility of the City of North Canton. Now I got a little bit of education from the two gentlemen that were at the meeting about these retention and detention. Okay, I asked awhile back why - everybody wants to know where the water is going to go from 9th Street - why the 7th Street basin and the 5th Street basin can't be dug deeper to take on more water? Now, I don't know if you have an answer for me or not, but I am just getting a little bit perturbed with North Canton because I've waited so long to have something done. The - your backflows - I don't want to hear about backflows. I just want to know when that street is going to get done.

Mr. Miller: Mr. President.

Mr. Snyder: Mr. Miller.

Mr. Miller: I believe I can answer that question at least ...inaudible... because again, council is going to have to vote on it in the funding, but right now it's under design. It's in the same step if you will - actually it's ahead of schedule as far as the Zimber Ditch because we have not yet hired anybody to design any of the projects along the Zimber Ditch. As far as the second question, increasing the size of either 7th or 5th Street retention basins or detention basins, at this point in time it's not going to make any difference to the folks upstream because the water has got to get there first. If it gets there and we notice - you know and that's one of the things we're looking at. Right now it's backing up at your property and it's backing up because there's two or three lines coming down. You've one coming down Cleveland or Cleveland - North Main, you've got another one coming across 9th and you've got another one feeding in and when they come all together that's where we believe the backup is coming - is coming up. We have I think 7 or 8 flow meters in to check that. On the sanitary sewer we are determining what needs to be done there and we are designing the project. So it's under design as we speak ... so ... and it will be under construction next summer provided council votes the funding for that project.

Mr. Fano: You come over there sometime when we have a strong rain and you watch the water. The water doesn't even go down that's on the top of the surface. There's no place for the water to go.

Mr. Miller: It's because the pipe isn't sized big enough to get it down stream to either one of those.

Mr. Fano: Then let's make the pipe bigger.

Mr. Miller: That's what we're getting designed sir. You can't just go in and put in a pipe and make it larger and hope that that works. You have to be able to go out and have some kind of engineering done so that you know it's going to work or at least you have a good idea that's it's going to work.

Mr. Fano: Again, on September the 15th Mr. Benekos said the budget comes up in November, October we're putting projects together. That should of been taken care of last year and money should of been appropriated for it this year. It should of been on the schedule to get done.

Mr. Miller: It's on the schedule to be engineered. And I've been here three months and ...

Mr. Fano: And next year something else will come up.

Mr. Miller: To my knowledge I don't know what else is going to come up that's going to knock that one out of the way. And again, council is the one who ultimately who will have to vote for the funding ...

Mr. Fano: I want you ...

Mr. Miller: and I will certainly go forward and request that funding.

Mr. Fano: I want you to understand one thing, I find the right building and the right piece of property, I'm out of this town as far as business is concerned. Thank you.

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Mr. Snyder: Thank you Mr. Fano. Is there anybody else in the audience wishing to speak to the council this evening? Mrs. Magel.

Kathy Magel: Mr. President. Kathy Magel. 1025 East Maple Street, North Canton. Jon, I can't help but notice you have a ear ... speaker. Did we do something to the sound system?

Mr. Snyder: Yes, that's a very good question. Thank you. In my first life I always wanted to be a traffic controller and honestly my ability is not ... so to pacify me they gave me - no actually we're testing this. The sound and the level has been measured and most of the people cannot hear us when we speak - simply for - by using ...inaudible... microphones. As you know, as a past council member, when we turn or move the actual voice does not pick up and the people in audience cannot hear. So we're testing this one to see. And I will ask if it does work better. And if does work, it's a very simple process. There's been and we seem to be watching our pennies, which we're supposed to do, and there's approximately \$14,000.00 was appropriated for a sound system, but by this it's right around a \$1,000.00 and it would eliminate - but I was going to ask if it is working a little better.

Mrs. Magel: Mr. President, you have no idea. I'm sitting clear in the back. I can hear everything. I heard the roll call from everyone of you. You know you're booming, I can hear everything you're saying. I was listening to your remarks. It's working. So ...

Mr. Snyder: So we'll all - hopefully, if it works, we'll all have one of these and...

Mrs. Magel: If this is a test, I'd like to give my input. It's a...

Mr. Snyder: That's very kind of you and I appreciate you bringing it up...

Mrs. Magel: Okay.

Mr. Snyder: And that's - thank you very much for those comments. Seeing - anyone else wishing to speak this evening? Seeing none...

OLD BUSINESS:

8. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 54-04. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Ordinance No. 54-04 - Third Reading

An ordinance accepting the application for the annexation of certain territory, known as The Orion Street Annexation, containing 0.6065 acre of land, more or less, in Plain Township to the City of North Canton.

Mr. Snyder: Chairman Kiesling.

Mrs. Kiesling: Yes, this is the final reading to accept the annexation of two homes up on Orion into the City of North Canton from Plain Township and welcome them in. That's it.

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

- Mrs. Kiesling moved and Mr. Peters seconded to **adopt the third reading** of Ordinance No. 54-04. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

9. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 55-04. All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 55-04 - Third Reading

Ordinance No. 55-04 establishing minimum qualifications for the position of Director of Economic Development as provided for by Ordinance No. 156-03, adopted by the Council of the City of North Canton on December 15, 2003.

Mr. Snyder: Chairman Kiesling.

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Mrs. Kiesling: Yes, this is the final reading for our Community and Economic Development Department Director increase - get - just adding a little qualifications to the original ordinance. And that's it.

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

Mrs. Kiesling moved and Mr. Peters seconded to **adopt the third reading** of Ordinance No. 55-04. All members present voting:

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

No: 0

10. Mrs. Kiesling moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 57-04. All members present voting:

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

Ordinance No. 57-04 - Third Reading

An ordinance amending Ordinance No. 50-03, Zoning Ordinance of the City of North Canton, to change the zoning district of the premises situated on the west side of Northfield Avenue S.E., being Lot Nos. 5668, 5669, 5670 and 5671 and known as house number 874, 1421, 1429 and 1437, from RMF-A, Residential Multi Family-A district to R-70, Residential Single Family district.

Mr. Snyder: Chairman Kiesling.

Mrs. Kiesling: Yes, this is the third reading for four homes on Northfield SE and one that sits on Easthill to change their zoning to R-70, which truly represents single family homes, which is what they are. And that's it.

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

Mrs. Kiesling moved and Mr. Peters seconded to **adopt the third reading** of Ordinance No. 57-04. All members present voting:

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

No: 0

11. Mr. Peters moved and Mrs. Kiesling seconded to **read by title only, third reading** of Ordinance No. 58-04. All members present voting:

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

No: 0

Ordinance No. 58-04 - Third Reading

An ordinance authorizing all actions necessary to effect a governmental natural gas aggregation program with opt-out provisions pursuant to Section 4929.26, Ohio Revised Code and Article 18.04, Ohio Constitution, directing the Stark County Board of Elections to submit a ballot question to the electors and authorizing the execution of an agreement with Buckeye Energy Services, Inc. for such purposes.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, this is the aggregation program with the opt-out. This is the one that will be going on the November ballot. And this is the third reading and I move that we adopt this.

Mr. Peters moved and Mrs. Kiesling seconded to **adopt the third reading** of Ordinance No. 58-04. All members present voting:

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

No: 0

12. Mr. Peters moved and Mr. Foltz seconded to **read by title only, third reading** of Resolution No. 59-04. All members present voting:

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

No: 0

Resolution No. 59-04 - Third Reading

Resolution No. 59-04 authorizing the submission of a request to the North Canton Planning Commission for consideration and subsequent recommendation to the North Canton City Council for an amendment to Section 1181.08 (b) (2) of Chapter 1181 of Ordinance No. 50-03, Zoning Ordinance of the City of North Canton, changing the number of votes required to overrule a Planning Commission "no" vote from six (6) to five (5).

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Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, this is the third reading of this resolution. Like Paul said, we want to -like to change the number of votes required to overrule a no vote from six to five. And we've got to send this to planning for their recommendation. So I move that we adopt the third reading.

Mr. Peters moved and Mr. Foltz seconded to **adopt the third reading** of Resolution No. 59-04.
All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

- 13. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 62-04. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Ordinance No. 62-04 - Third Reading

Ordinance No. 62-04 authorizing the Mayor of the City of North Canton, through the Board of Control, to execute a Warranty Deed, Temporary Right of Way Easement, Work Authorization for the relocation of a monitoring well and a donation letter to the Board of Stark of County Commissioners in conjunction with the construction of the roadway improvements associated with the relocation of the Dressler Road Bridge Project.

Mr. Snyder: Again, we are committed to this. We're widening that road. They're going to move our monitoring well. We've talked about that. It's pretty self-explanatory as they widen that out. Is there any questions on that? If not...

Mrs. Kiesling moved and Mr. Lane seconded to **adopt the third reading** of Ordinance No. 62-04.
All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

- 14. Mr. Sarbach moved and Mr. Foltz seconded to **read by title only, third reading** of Ordinance No. 63-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Ordinance No. 63-04 - Third Reading

Ordinance No. 63-04 authorizing the Director of Finance of the City of North Canton to make payment to Johnson, Angelo & Colaluca, L.L.C. in the amount of \$11,000.00, which represents the balance due for representation during labor negotiations.

Mr. Snyder: Again, the original amount of this bill was approximately thirteen thousand and some dollars and has been negotiated down to 11,000. However, I would respectfully request that the record read, the original appropriation request was 18,000 and we amended it for the additional 15 with a guarantee there would be no additional charge and then the additional charge of thirteen thousand some dollars, which we've asked to have negotiated down. And I feel we should pay it because legally we owe it. So we have much choice in the matter. So any questions on that? If not...

Mr. Foltz moved and Mr. Peters seconded to **adopt the third reading** of Ordinance No. 63-04.
All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz...

Mr. Snyder: May I have a motion to read by title only...

Mr. Foltz: Did you answer?

Mr. Snyder: third reading - excuse me...

Mr. Pusateri: You didn't get a vote from Mrs. Kiesling...

Mrs. Kiesling: I didn't answer.

Mr. Snyder: Oh I beg your pardon. Oh didn't you answer?

Mr. Sarbach: She's thinking...

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Mrs. Kiesling: I didn't. I'm just very disappointed.
Mr. Sarbach: As we all are.

Mrs. Kiesling: I know. I ...

Mr. Lane: Yea, get in line ...

Mr. Pusateri: I wasn't sure if I heard you or not.

Mr. Snyder: I apologize...

Mrs. Kiesling: No no. I'm - I think more from the report that came out today that stated we may not be responsible for it if things weren't done ...

Mr. Snyder: Member Kiesling, may I say, again, you know as you're pointing out, the administration did hire this firm.

Mrs. Kiesling: They certainly did.

Mr. Snyder: We're obligated, I think just ethically obligated to pay the bills of the city.

Mrs. Kiesling: Ethically, that's an interesting choice of words.

Mr. Snyder: But you know I mean in a matter of whether we want to - you know the amount of money that would - we would subject the city to litigate a small amount of money would not probably be in our best interest. And I would ask you at this point, as a member of my committee and as a responsible council person, to go along. Let's pay this up and in the future that's...

Mrs. Kiesling: He's choosing his words wisely.

Mr. Snyder: I'm trying to just to be careful what I say.

Mrs. Kiesling: Well isn't there a - oh, I shouldn't say it...

Mr. Snyder: And to be respectful to everybody that we do that and we pay it. And maybe the next time we will go to chairman of the personnel committee and seek that person's input into who we should or should not hire and - But Chairman Lindower, is there...

Mr. Lindower: Mr. Snyder and Mrs. Kiesling, I am aware of the paragraph that you're referring to in the report that we received today. I don't think that it's been finally determined exactly...

Mrs. Kiesling: No, I agree.

Mr. Lindower: if that's going to apply or not apply at this particular time. So I would like to ask that we move along and pay this debt.

Mrs. Kiesling: Well I will agree with all of you and I'll vote no.

Mr. Snyder: Okay. Madam Clerk, you have got that recorded and - thank you. Thank you Mrs. Kiesling.

Mrs. Kiesling: You're welcome.

15. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, third reading** of Ordinance No. 64-04. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Ordinance No. 64-04 - Third Reading

Ordinance No. 64-04 authorizing the Mayor of the City of North Canton to enter into an exclusive "Endorsement Agreement" on behalf of the City of North Canton with a sole preferred supplier for retail natural gas in order to secure the most advantageous pricing and purchasing terms for the City and/or its eligible residents and business entities who voluntarily choose to "opt-in" to an aggregated purchasing program.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, this is the rider to the one prior to this except with the opt-in. This will allow Administrator Miller to strike a price for the winter season. And I move that we adopt the third reading.

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Mr. Peters moved and Mr. Sarbach seconded to **adopt the third reading** of Ordinance No. 64-04.
All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

NEW BUSINESS:

16. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 72-04. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 72-04 - First Reading

Ordinance No. 72-04 adopting the City of North Canton's Policy on Sexual Harassment and harassment and declaring the same to be an emergency.

Mr. Snyder: Chairman Lindower.

Mr. Lindower: This is an update to the current harassment, sexual harassment policy the city has. On the recommendations of our insurance carriers, the policy needed to have some fine tuning. That's been done. I read that over as well as the other council members and I'd ask - I vote that that be adopted tonight on an emergency.

Mr. Lindower moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 72-04.
All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

Mrs. Kiesling moved and Mr. Lane seconded to **suspend the rules** for Ordinance No. 72-04. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 72-04. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Mr. Lindower: Mr. President.
Mr. Snyder: Sir.

Mr. Lindower: Can I make a comment in regards to that ordinance? I had the question asked of me if this was being put on an emergency and put on the agenda for tonight in view of the fact was there something pending in dealing with this particular ordinance. I'd like to state for the record there is not something pending that deals with this particular ordinance. Thank you.

Mr. Snyder: Point well taken sir. Alright...

17. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 73-04. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.

Ordinance No. 73-04 - First Reading

Ordinance No. 73-04 repealing Ordinance No. 56-04, adopted by North Canton City Council on April 19, 2004, and declaring the same to be an emergency.

Mr. Snyder: Chairman Kiesling.

Mrs. Kiesling: Yes, Ordinance 56-04 that was the Valley View CRA that we originally adopted and realized we shouldn't be amending the entire CRA of the city, we should be adopting a brand new one. So we are repealing the amended CRA and we already passed the brand new Valley View CRA. So this is just repealing the mistake we made.
Mr. Snyder: Okay.

Mr. Sarbach: So a yes vote repeals?
Mrs. Kiesling: A yes vote repeals 56-04.
Mr. Sarbach: Thank you.

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Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 73-04.
All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 73-04.
All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 73-04. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

18. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 74-04. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 74-04 - 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 resurfacing, repaving, replacement, repair and preventative maintenance of certain streets and alleys within the corporate limits of the City of North Canton and declaring the same to be an emergency.

Mr. Snyder: Chairman Lane.

Mr. Lane: These are the extra streets. We were all asked to submit a list to Administrator Miller and these are streets that are in - based on the combination of our input and the Administrator Miller's and Engineer Benekos in need of some repair. These are not streets that were already scheduled for this year or probably for next year. These are bits and pieces and an alley here and there and a block or two of a street here and there across the city. So this allows us to move ahead. I mean we'd also like it to be an emergency so they can get the bids out.

Mr. Snyder: Alright sir. Is that a motion?

Mr. Lane: Yes, please.

Mr. Lane moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 74-04.
All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

Mr. Lane moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 74-04. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Mr. Lane moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 74-04. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

19. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 75-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Ordinance No. 75-04 - First Reading

An ordinance approving the report of the Assessment Equalization Board on objections concerning the estimated special assessments for the improvement of certain properties in the City of North Canton by constructing and installing sanitary sewer lines, sanitary service lateral connections, catch basins, manholes and other necessary appurtenances, and declaring the same to be an emergency.

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Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Yea, this is a ... or an ordinance to accept the three member panel's assessment of the assessment. And they found everything to be in order. And we need to formally accept their findings. So I move we adopt the first reading Ordinance No. 75-04.

Mr. Sarbach moved and Mr. Peters seconded to adopt the first reading of Ordinance No. 75-04.

Mr. Snyder: Chairman Sarbach, if I may add...

Mr. Sarbach: Please.

Mr. Snyder: We were by a - according to Ohio Revised Code we must assign an Assessment Board because we will assess the property owners in the Gaslight Circle area in excess of \$7,500.00. We had representation from both the building trades, engineering and business sit and they did hear two complaints. And it was their finding that neither one of them - they were both without merit relative to the health, safety and welfare of the residents relative to sanitary sewer.

Mr. Sarbach: Thank you.

Mr. Snyder: Excuse me, yes, sanitary. Thank you sir. Is that a motion sir to adopt the first reading?

Mr. Sarbach: Yes, that is a motion to adopt the first reading of 75-04.

Mr. Snyder: Appreciate that.

All members present voting:

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

No: 0

Mr. Lane moved and Mr. Sarbach seconded to suspend the rules for Ordinance No. 75-04. 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. 75-04. All members present voting:

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

No: 0

20. Mr. Sarbach moved and Mrs. Kiesling seconded to read by title only, first reading of Ordinance No. 76-04. All members present voting:

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

No: 0

Ordinance No. 76-04 - First Reading

An ordinance determining to proceed with the improvement of certain properties in the City of North Canton by constructing and installing sanitary sewer lines, sanitary service lateral connections, catch basins, manholes and other necessary appurtenances, and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is the ordinance to proceed with what we discussed in the previous ordinance and to get the sanitary sewers installed at that location. And I move that we adopt the first reading of Ordinance 76-04.

Mr. Sarbach moved and Mr. Peters seconded to adopt the first reading of Ordinance No. 76-04.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to suspend the rules for Ordinance No. 76-04. 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 Ordinance No. 76-04. All members present voting:

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

No: 0

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DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, May 10, 2004

21. Mr. Sarbach moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 77-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Ordinance No. 77-04 - First Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into a contract for the East Maple Well Field Raw Waterline Project and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: As you know the first phase of this project was completed several years ago. This will be the second phase that will connect it to the treatment plant and access our well field on the East Maple area. And this is to the tune of 1.25 million dollars we have been ... we have budgeted out of a fund and I believe we're borrowing for this. And I move that we adopt the first ordinance of Ordinance No. 77-04.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 77-04.

Mr. Snyder: Okay. May I have a motion to suspend the rules of council for Ordinance No. ...

Mr. Peters: Jon...

Mr. Snyder: Oh, excuse me.

Mr. Peters: We got a roll.

Mr. Snyder: Oh, I beg your pardon. I was just moving along there. We were doing real good.

All members present voting:

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

No: 0

Mr. Lane moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 77-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 77-04. All members present voting:

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

No: 0

22. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 78-04. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Ordinance No. 78-04 - First Reading

An ordinance approving, confirming and accepting perpetual sanitary sewer easements on Valleydell St. NW necessary for the construction of the Gaslight/Edgewood Sanitary Sewer Extension project and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is - lets us access the pipes that we're going to be putting in the ground and the connections and accepting an easement. And I move that we adopt the first reading of Ordinance No. 78-04.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 78-04.

Mr. Snyder: May I have a - oh, excuse me, go ahead.

All members present voting:

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

No: 0

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Mr. Snyder: This microphone...

Mrs. Kiesling: You're cracking me up.

Mr. Sarbach: You need to slow down to warp speed Jon.

Mr. Snyder: Yea, see I'm moving along. I'm hearing those jet engines and I'm ready to go.

Mr. Foltz: You've got another plane ready to land Jon. You'd better get this one off the runway.

Mr. Snyder: I'm moving along here quickly. Next I'll have to have one of those little beanies with a propeller on it.

Mr. Foltz: Get you a screen.

Mr. Snyder: Did we suspend the rules yet on this? I forgot.

Mr. Sarbach: Now you're really lost.

Mr. Foltz: Mary Louise, Mary Louise...

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 78-04. All members present voting:

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

No: 0

Mr. Lane moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 78-04. All members present voting:

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

No: 0

Mr. Snyder: May I say it's very good to hear everybody laugh, it's been a long time since we've...

Mr. Foltz: What - oh, it doesn't work?

Mr. Snyder: So I did enjoy that, thank you.

Mr. Foltz: Oh, I'll do it.

Mr. Snyder: May I have a motion to read the first reading of Ordinance No. 79-04.

Mr. Sarbach: So moved...

Mr. Lindower: Go slow Jon ...

Mr. Sarbach: Yea, go slow.

Mr. Snyder: Read slow.

23. Mr. Foltz moved and Mr. Sarbach seconded to **read by title only, first reading** of Ordinance No. 79-04. All members present voting:

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

No: 0

Mr. Foltz: Thank you Mary Louise.

Ordinance No. 79-04 - First Reading

An ordinance authorizing the Chestnut Ridge Waterline Extension, located in part of the N.E., N.W., S.E. and S.W. Quarters of Section 32, Lake Township (T-12), Range-8, Stark County, Ohio, in accordance with plans and specifications approved by the North Canton City Engineer, and accepting any necessary easements associated with said waterline extension and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is a waterline extension for future outside rates on new homes. And I move that we adopt - this will be - the cost of this will be borne by the developer. And I move that we adopt the first reading of Ordinance 79-04.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 79-04. All members present voting:

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

No: 0

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Mrs. Kiesling moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 79-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 79-04. All members present voting:

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

No: 0

24. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 80-04. All members present voting:

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

No: 0

Ordinance No. 80-04 - First Reading

An ordinance amending Section 1. of Ordinance No. 22-97 for the purpose of increasing the residential user rate for sewer users of the sanitary sewer system of the City of North Canton.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Yes, Mr. Chairman I've had - we discussed this last week in Council of the Whole and I had some discussion and some heavy thought process into it since then. And due to Mr. Fano's problem and problems like that, we would - I would like to amend Ordinance No. 80-04 to read \$18.00 per month through the rest of 04, 05 and 06 unless a previous ordinance, I believe it was passed in 97, I don't have the number ...inaudible...

Mr. Snyder: 22-97.

Mr. Foltz: Yes.

Mr. Sarbach: 22-97 that allows the Finance Department to pass on any increases. So that amendment - that other ordinance isn't part of this one, it's already there. So my amendment is to have the rate go to \$18.00 for the rest of this year and through 05 and 06.

Mr. Snyder: Now maybe - to clarify that sir. You want to amend the existing Ordinance 22-97, to stay in force, but you want to immediately move the sewer rates from the present \$15.00 to \$18.00?

Mr. Sarbach: That's correct.

Mr. Snyder: Am I correct in my...

Mr. Sarbach: That's correct.

Mr. Snyder: That is your intention?

Mr. Sarbach: Originally we discussed going to 17, 18 and 19. I want to amend it to go to 18 for the rest of this year and remain there for 04 and 05, unless 22-97 causes it to go higher if we have - if we are charged more by the county.

Mr. Snyder: Okay.

Mr. Lane: Would that be June 1 or July 1? Or depending on the ...inaudible...

Mrs. Kiesling: Depending...

Mr. Snyder: You mean the adoption? Depending...

Mr. Sarbach: It won't be June 1 because we've got to - we're going to have three readings on it.

Mr. Snyder: Three readings and 30 days. So you're talking about 6 weeks, 10 weeks. So you're talking probably August 1st.

Mrs. Kiesling: August 1st ...

Mr. Snyder: And it won't be that, it will be about the - the earliest it could be or possibly 17th or 18th of August because we're on recess from about the 19th to the 19th so ... Right?

Mrs. Kiesling: Yea but we'll get our three - we'll get our three readings in before that.

Mr. Lane: Just planning my budget.

Mrs. Kiesling: Yea.

Mr. Foltz: Before summer session we should get our three readings.

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Mrs. Herr: Yea.
Mr. Snyder: Yea.

Mrs. Herr: Yea, the thirty days will be during the - during your break. So ...

Mr. Snyder: Yea during and then it will become effective. Mr. Foltz - oh, excuse me.

Mr. Sarbach: Is there a second to my motion?

Mr. Peters: I'll second.

Mr. Sarbach: Then I would like to - we need to vote on the amendment first, right?

Mr. Snyder: No, I think Mr. Foltz has a comment.

Mr. Sarbach: Okay, yes. Excuse me. Doug...

Mr. Foltz: Yea. Chairman Sarbach, were we going to raise the commercial rates now too? I'd like to just do it.

Mr. Sarbach: We're - I believe the Finance Department is going to look between now and next week at the percentage increase that this would reflect and factor that into the commercial rates that we'll have for the Council of the Whole meeting next week to discuss and will probably be in this ordinance also. So they'll all be taken care of with this ordinance. But we're going to give this one three readings and effectively give the commercial rates two readings. But they will reflect the same percentage increase as this is.

Mrs. Herr: I will let you know...

Mr. Sarbach: I would suspect - I would suspect they would reflect the same.

Mrs. Herr: That's what I was planning on and I will let you know. It will be in your packet for next Monday what those rates will be based upon the percentage.

Mr. Snyder: Well correct me if I'm not mistaken. Ordinance 22-97 does contain a mechanism to raise commercial rates.

Mr. Foltz: Right.

Mr. Snyder: So next reading you can adopt - re-amend 22-97 to reflect the commercial rates that you want to propose correctly. Does...

Mrs. Herr: Well 22 - 22-97 basically, we're going to be amending Section 1 which includes all rates. So if we're going to be amending the commercial rates I would suggest that we just amend this ordinance and amend the residential and commercial all together...

Mr. Snyder: At this same time, yes.

Mrs. Herr: Yea. And...

Mr. Snyder: So you'll just amend it again in two weeks.

Mrs. Herr: Exactly.

Mr. Snyder: Fine, that's fine. Sir.

Mr. Foltz: Just to follow up. I think, you know, we need some language in here so in the future if the county charges us additional monies to - we have to reflect that and charge it back to our users.

Mrs. Herr: It's going to be in there.

Mr. Foltz: And...

Mrs. Herr: It's a part of the original 22-97 ...

Mr. Foltz: Right.

Mrs. Herr: which is still in effect.

Mr. Snyder: I...

Mrs. Herr: So...

Mr. Foltz: And if we have to add and Mr. Pusateri, maybe you can do that, we'll just make the Finance Director responsible for that. So it's a clarification of when it comes, we know we're just going to pass it along. And there will be a notification process to council and the general public at the same time.

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Mr. Pusateri: Sure. Let me suggest that perhaps that we put both ordinances together and not have two ordinances. Inaudible...

Mr. Snyder: No, we're only going to have one, 22-97.

Mr. Pusateri: I mean one.

Mrs. Kiesling: Inaudible... you mean 22-97 and ...

Mr. Pusateri: We have 22-97 still out there that, if my understanding, my memory is correct, it authorizes the increase of rates according to what the increases are. Correct?

Mr. Miller: Yes, that's correct.

Mr. Pusateri: Why don't we just incorporate that language into this new ordinance, repeal 22-97. That way you have one ordinance to look at into the future so we don't forget that there are two. I mean simply it could be done easily by just taking that language and incorporating it into this one. Amend it that way and have one ordinance.

Mr. Sarbach: If the results are the same I think that would be fine.

Mr. Foltz: Yea.

Mrs. Herr: And we can – with the wording that Doug is talking about to make it more clear you know we can have it worded that stating that the Finance Director is authorized to pass on any increases from outside receptors to the users so that it specifically addresses you know whose responsibility it is to follow through with that.

Mr. Snyder: Well technically you have to put that language in. The charter says the mayor is responsible for the enforcement of all ordinances. You're not authorized under the charter to enforce an ordinance. It has to - so you'd have to put that language in and clear it to allow you to legally do that.

Mr. Pusateri: Oh we can work with the language, if that's what is wanted. And I do still suggest it be one ordinance as opposed to two.

Mr. Snyder: Yea, that's fine.

Mr. Pusateri: Just for simplicity. And we can talk about it Thursday when we put it together.

Mr. Sarbach: I think the amendment is germane to the rate and not to the mechanism. So I think the amended - the amendment would still stand. Is that correct?

Mrs. Herr: For the - which section are you talking about?

Mr. Sarbach: For the \$18.00 rate. For the \$18.00...

Mrs. Herr: Well a couple of people keep saying that this ordinance would repeal Ordinance 22-97. Basically just ...

Mr. Pusateri: Incorporate that language.

Mrs. Herr: Incorporate the rates as well as the language in there to pass along the outside increases and just incorporate all into one.

Mr. Pusateri: That's correct.

Mr. Sarbach: Okay, but we still need to vote on the amendment. Is that correct?

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

Mr. Sarbach: Alright.

Mrs. Kiesling: And then we'll need to repeal 22-97.

Mr. Pusateri: And incorporate that language into this ordinance and also bring this rate to \$18.00 flat rate for 2004, 2005 and 2006. Correct? Unless the rate increase...

Mrs. Kiesling: Unless there's a rate change.

Mr. Sarbach: Unless we get a rate increase.

Mr. Pusateri: Okay, I understand, I believe.

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Mr. Sarbach: You'd better, that's why you get the big bucks.

Mr. Pusateri: Okay, Mary Louise, now you've got to draft the ordinance.

Mrs. Kiesling: Mary Louise ...

Mr. Foltz: And Jon if, I may just...

Mrs. Herr: As long as she understands ...inaudible...

Mr. Pusateri: No, I'm just joking.

Mr. Snyder: Member Foltz.

Mr. Foltz: Just for the record. When we - when it was \$15.00 in February of 97, we had the ordinance passed at that time reflecting additional rates would be passed on. It didn't happen. So basically through the years we've - they've charged us an additional \$2.82. We're just passing those costs on to our residents basically, which we should of all along. So ...

Mr. Snyder: It's a straight passthrough.

Mr. Foltz: It's a straight user fee that we're charging, we're passing on to our users.

Mr. Snyder: That's right.

Mr. Pusateri: I'll have to look at it.

Mr. Foltz: That's all I had to say.

Mr. Snyder: No problem.

Mr. Lane: Would it be wise, on our future bills when this happens to perhaps list it as county sewer fee and then city sewer fee so people do know that we're not keeping that entire amount of money? Just ...inaudible...

Mrs. Herr: I'm sorry...

Mr. Lane: That we could list the fees separately as county sewer fee and then city sewer fee. So that people realize that when those go up that at that point in time ours might be \$3.00, the county's would go up another \$1.50, they would see that it's the county fee that went up and not the city fee.

Mrs. Herr: I would have to look into that to see ...inaudible... on our system.

Mr. Lane: It might be a little better clarification so people know that we're not keeping that entire \$18.00 every month or 15 now that goes into sewer projects. That we have to pay somebody to take our sewage. So ...inaudible...

Mr. Foltz: Do we have a motion and a second?

Mrs. Herr: I will check into that.

Mrs. Kiesling: Yea, where are we?

Mr. Snyder: Yes, we need to call the roll.

Mrs. Bittle: We have a motion and a second.

Mr. Snyder: Second - we need a roll.

All members present

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

No: 0

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

Mrs. Bittle: Excuse me...

Mr. Foltz: Inaudible...

Mrs. Kiesling: We can't suspend the rules.

Mr. Snyder: Did we do that already?

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Mrs. Bittle: We need to adopt as amended.

Mr. Sarbach: We need to...

Mrs. Bittle: That was just for the amendment.

Mr. Snyder: So now we've got to adopt as amended?

Mr. Sarbach: Yea, 80-04.

Mr. Pusateri: Too many ordinances for one meeting.

Mr. Snyder: That's right, it's too many going - or too many adoptions. May I adopt the Ordinance No. 81-...

Mr. Sarbach: 80, 80...

Mr. Snyder: 80-04, yea, as amended.

Mr. Foltz moved and Mr. Peters seconded to **adopt the first reading, as amended**, of Ordinance No. 80-04. All members present voting:

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

No: 0

Mr. Snyder: Now we got to suspend the rules, Madam Clerk...

Mr. Pusateri: Inaudible...

Mr. Sarbach: No, no we ...

Mr. Foltz: No, it's not on emergency Jon.

Mrs. Kiesling: We can't, it's not an emergency.

Mr. Snyder: Oh, we're set.

Mr. Sarbach: We can move on.

25. Mr. Sarbach moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 81-04. All members present voting:

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

No: 0

Ordinance No. 81-04 - 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 to enter into a contract for the Dressler Wells Raw Waterline project and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is part of the Dressler Road realignment and things that have to happen out there to make that work. We are an outside utility and since it's outside the city we need to relocated those raw waterlines. So the Dressler Well Field, which is still a very viable well field, can supply us with our drinking water. And so I move that we adopt the first reading of Ordinance No. 81-04. And this is to the tune of \$85,000.00 to make these changes.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 81-04.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 81-04.

All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 81-04. All members present voting:

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

No: 0

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Mr. Snyder: Before we continue on, we'll let the record reflect that pertaining to Ordinance No. 77-04, that the ordinance does contain the Fiscal Officer's Certificate authorizing the borrowings of 1.2 million dollars. Mr. Chairman, I apologize I did not include that in there for your edification, but...

Mr. Sarbach: Thank you.

- 26. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 82-04. All members present voting:
 Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
 No: 0

Ordinance No. 82-04 - First Reading

Ordinance No. 82-04 authorizing the Director of Law of the City of North Canton to prepare and have executed a temporary easement allowing the City of North Canton to enter onto private property; namely, the property of Fred S. and Kathleen D. King at 1213 Eastwood Circle SE, for the purpose of having an engineering review done of the dam across the West Branch of the Nimishillen Creek on the King's property and declaring the same to be an emergency.

Mr. Snyder: We've had some serious problems down there. As Councilman Lane would tell you, there is a bridge - a dam that runs across that West Branch that some of the neighbors want removed. However, prior to just going in there and removing it without due caution as to what the impact would be downstream, upstream they need an easement to cross Mr. King's property and to determine as to the nature of how invasive they want to be in removing that dam. Should it be just the two concrete pillars or the dam itself? And this will determine that and we've appropriated I think the funds to do ... or it's really a very small amounts within the limits of the Ohio Revised Code. So that will be done there. And they'll bring back to us any other necessary requests for funding.

Mr. Miller: Yes, this will be a very inexpensive, if you will, engineering study to determine what is the best path to take as far as the dam and head wall and it will be probably somewhere less than \$5,000.00.

Mr. Sarbach: This will just be personnel, not equipment, that will be using the easement. Is that correct? So...

Mr. Miller: This will just be a study so to speak to see what can be done in order to alleviate flooding in the future to the north of that dam.

Mr. Sarbach: But this easement, it gets the people there. It doesn't get equipment, it doesn't ...
Mr. Miller: No.

Mr. Sarbach: get anything so we don't have restore his property ...inaudible...

Mr. Miller: This is getting a comfort level with all the parties to at least get us...

Mr. Sarbach: Okay.

Mr. Miller: in to find out what can be done.

Mr. Sarbach: So they can't throw you off his property. That's what this is for, right?

Mr. Miller: That's right.

Mr. Sarbach: That's - okay, very good.

Mr. Lane: I do want too that Mr. King has been very cooperative on this. So...

Mr. Miller: Yes.

Mr. Lane: this is not something where we're going to drop this in his mailbox and run tomorrow.

Mr. Sarbach: Very good.

Mr. Lane: Where we'll be there and he knows it and he's trying to work with the residents upstream as well.

Mr. Sarbach: Thanks Doug.

Mr. Lane: Yea.

Mr. Snyder: Okay.

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Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 82-04. All members present voting:

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

No: 0

Mr. Lane moved and Mr. Sarbach seconded to **suspend the rules** for Ordinance No. 82-04. All members present voting:

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

No: 0

Mr. Lane moved and Mr. Sarbach seconded to **adopt under suspension of the rules** Ordinance No. 82-04. All members present voting:

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

No: 0

27. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 83-04. All members present voting:

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

No: 0

Ordinance No. 83-04 - First Reading

Ordinance No. 83-04 acknowledging the fair market value of a certain tract of land being 8.040 acres, also known as City of North Canton Outlot 318, to be donated and conveyed to the City of North Canton by Pottsdamer Platz, LLC, and declaring the same to be an emergency.

Mr. Snyder: This goes back a couple years. This is the - we're going to issue a donee letter to a Mr. Heiser stating that five of the acres are - have a value of 12,000 per acre and three of the acres have a value of \$200,000.00 an acre for an aggregate total of \$660,000.00. Mr. Heiser is required, by both the planning and council, to donate that land to the city for his change in his zoning from General Business A to General Business B, which he is willing to do. And this will allow him some relief to recover some of his costs through his tax deduction. It will also allow the City of North Canton to release Mr. Heiser's Letter of Credit, which he's pledged of \$95,000.00, that he's fulfilled his obligation and he meets all the requirements of our subdivision regulations relative to landscape and things that he's required to do into that. So is there any other questions on that? Okay ...

Mrs. Kiesling moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 83-04. All members present voting:

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

No: 0

Mr. Lane moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 83-04. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 83-04. All members present voting:

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

No: 0

28. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 84-04. All members present voting:

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

No: 0

Ordinance No. 84-04 - First Reading

An ordinance approving, confirming and accepting perpetual waterline easements necessary for the construction and maintenance of the raw waterlines from various well fields to the Water Treatment Plan and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Yes, this is the easements that will allow us to do what we did in the - what we passed in previous ordinances. It will access the raw waterlines and let us maintain those. I move that we adopt the first reading of Ordinance No. 84-04.

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Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 84-04. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 84-04. All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 84-04. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

29. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading** of Ordinance No. 85-04. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 85-04 - First Reading

Ordinance No. 85-04 authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into a consulting agreement for a comprehensive assessment of all facets of the City of North Canton telecommunication systems, including the phone system, cell phones, pagers, etc., at a cost not exceed \$11,497.00, and declaring the same to be an emergency.

Mr. Snyder: This - again, we felt that it should be in the fact of an ordinance. It will allow the mayor to enter into that contract. The company that will provide this service guarantees that the 11,497 we'll save that much in looking at our system and looking at the different tariffs and billing rates that we pay. And that's about it. Is there any questions on that? If not...

Mr. Peters moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 85-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 85-04. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

Mr. Peters moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 85-04. All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

30. Mr. Lane moved and Mr. Sarbach seconded to **read by title only, first reading** of Ordinance No. 86-04. All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

Ordinance No. 86-04 - First Reading

An ordinance providing for the issuance and sale of \$1,250,000 notes, in anticipation of the issuance of bonds, for the purpose of paying costs of improving and expanding the municipal waterworks system by constructing and installing water lines, together with all necessary appurtenances thereto, and declaring the same to be an emergency.

Mr. Snyder: As you know we did pass this through committee on the 15th of March. However, we were asked to hold it up as the Engineer was pinning down the actual costs a little closer. And my apologizes to Council and to Chairman Sarbach, I thought I forgot to read that into the first part, but I want you to understand and for the record, that this ordinance does contain the Certificate of the Fiscal Officer of the City of North Canton stating that we are in a position financially to borrow and issue notes for \$1,250,000.00. And that I think the language in that ordinance also contains, at the discretion, business discretion, of the Director of Finance, she can include other notes and reissue those accordingly. As you know, this is the second, I think, or third note we have on waterlines. So that information is all contained in that ordinance in front of you. And knowing that ...

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Mr. Peters moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 86-04. All members present voting:

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

No: 0

Mr. Lane moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 86-04. All members present voting:

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

No: 0

Mr. Peters moved and Mrs. Kiesling seconded to **adopt under suspension of the rules** Ordinance No. 86-04. All members present voting:

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

No: 0

REPORTS:

Mr. Snyder: Before we go to final call, a couple things I would like to bring to council's attention. One, as you know every year we or every couple years we approve that levy. We have both the Street Improvement Levy and the Storm Sewer Levy in place; it was expiring this year again. However, the legislature, in their infinite wisdom, has changed in the way we do things. And we now have to have a certificate from the County Auditor stating our intentions and - what will actually - what the levy would raise and they're both 1.0 mill levies. And presently through the trigger mechanism they have, they're collecting approximately .33 mills. So in the very near future and near future probably being next Monday evening, we will now decide do we want to renew the levy at - that has ratcheted itself down to .33 mills or do we want to put a replacement or do we want to - I think we can renew - can't renew at the one anymore can we. We have to go to - we can renew at one and start over again?

Mrs. Herr: We can do either replacement - keep at the one and do a replacement or we can just do a renewal and not do a replacement and just keep it at the .33 and ...

Mr. Snyder: Well the renewal would go back to the one where it originally was.

Mrs. Herr: Yea, no...

Mr. Snyder: And that...

Mrs. Herr: it's - you have to do a replacement to get it back to the one.

Mr. Snyder: One, right. And at presently - and I know we seem to be - we're spending you would think an inordinate amount of money and taxing the constituency an inordinate amount of money. However, both these levies, one being the storm sewer levy alone - and at the opening portion of our meeting tonight we've heard from a resident that has to have some relief - and this money, as it so states, is used strictly for storm sewer detention work and the improvement levy. And at present it's raising approximately \$117,000.00 each, that's at 33 percent. If we would elect, and I'm doing these numbers in my head, but if we'd elect to go back to a replacement of the one percent that I think was initially enacted in about 1966 or 1967, and I'm not positive of that, they would look to me to raise approximately three hundred and sixty some thousand dollars each. And that's a significant amount of money that you know is on the tax duplicate. It's - again the Homestead applies. So I would ask you to think about that in the next few days and that will appear on a committee probably next week for discussion. That's one item ...inaudible... And again, it's nice to see that the council is now becoming more proactive and addressing each matter individually as we wait instead of waiting, as we did in the past and believed that we could just continue to exist and nothing will happen. The other thing that's been brought to my attention, we've just created a new Valley View CRA and we have an existing CRA, as you know, we've amended. That it consists of two members of council - appointed by the Council, two members appointed by the Mayor and one appointed by the Planning Commission and two members appoint the other - those members appoint two additional members. However, we must establish a new panel for the Valley View CRA. It is the suggesting of the present Housing Officer, Mrs. Julie Herr, that we use the same council duly. However, that council has expired. So at the present time, if we even want to issue any CRA money or actual tax incentive work, we're prohibited because the council is longer in effect. So we need to appoint a new committee. And it is council's responsibility to appoint two members, be it from the council, which they are today, or something else. So I don't know that we need legislation more than an acclamation of voice to do that. And at presently and it was since the establishment, the council itself was made up of the President of Council and the Chairman of Economic - Community and Economic Development, a member of the Planning Commission, the Housing Officer, the Mayor has appointed normally in the past the Director of Administration and that in turn appoints two members of the - from the community ...inaudible... and then another member and then two members from the community. So it would be my suggestion, that if it's alright with council, that

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we continue that and appoint the President of Council and the Chairman of Economic Development to them - those committees; whomever they may be at any given time. And by voice acclamation those in favor signify by saying aye.

Council members: Aye.

Mr. Snyder: Those opposed same sign.

Council members: None

Mr. Snyder: And that will be done. And we'll - Mrs. Herr that you have that and you can move forward. Thank you.

Mr. Sarbach: Mr. Chairman, I'd like to make a comment.
Mr. Snyder: Sir.

Mr. Sarbach: Based on your result from your microphone survey...
Mr. Snyder: Yes sir.

Mr. Sarbach: If you decided to go that way, would you include a mute or a cough button somewhere in the apparatus? So we don't have to shed a headset in order to cough. So we could push a button and not disrupt a council meeting.

Mr. Snyder: Well I thought about that. But you know I thought prior to that I was going to send a letter six months prior to Christmas and maybe you'd get me one of these. I could use this...

Mr. Sarbach: I'll get you one of those.

Mr. Snyder: Stand out there and talk to people and...

Mr. Sarbach: But I get the mute button - I get the mute button.

Mr. Snyder: You'll get me one of these ...inaudible...
Mr. Sarbach: No, I think that can be part of it without a lot of extra expense and...

Mr. Snyder: Okay, I understand. That's pretty good because it would otherwise amplified.
Mr. Sarbach: Yea.

Mr. Snyder: Alright sir, that's a point well taken. Thank you. Director of Law any comments?
Mr. Pusateri: Not at this point, no. Thank you.

Mr. Snyder: Director of Finance.

Mrs. Herr: Yes, I just wanted to mention that I've given you all the estimated revenues for 2005 that's required by the Charter by May 15th. So just wanted to get that in the record. That's it.

Mr. Snyder: Thank you. Director of Administration.
Mr. Miller: Nothing this evening sir.

Mr. Snyder: Thank you. Mr. Mayor.
Mayor Rice: No report.

Mr. Snyder: Mr. Engineer.

Mr. Benekos: I just have one question. On Ordinance 76-04 for the Gaslight project, does that authorize us to advertise and receive bids because it doesn't state that specifically? It says to proceed with it.

Mr. Snyder: I think it was the spirit of that legislation. It's being directed by the law firm Squires, Sanders and Dempsey. I think we're following along. At that point now we can begin to - you can request permission to - I think that we fulfilled our obligation to them it didn't state in there.

Mrs. Bittle: I have those. I can show you the notes tomorrow what's the next step at ...inaudible...

Mr. Snyder: That possibly could do that.
Mr. Benekos: Okay.
Mrs. Bittle: I don't have it with me.

Mr. Benekos: Alright, I'll check with you tomorrow.

Mr. Snyder: If not sir, we could put it on the Council of the Whole Monday and pass it for you accordingly.
Mr. Benekos: Okay.

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Mr. Snyder: Because I'm sure you want to get started in the next couple of weeks or...
Mr. Benekos: Correct.

Mr. Snyder: Okay?
Mr. Benekos: Thank you.

Mr. Snyder: You're welcome. Madam Clerk.
Mrs. Bittle: No report.

REPORTS - COUNCIL:

Mr. Snyder: Member Foltz.

Mr. Foltz: Just to make everyone aware, Rose Lane was getting paved this afternoon. So I was very pleased with that. Even though it's not in the ward I do travel that street on occasion and it was badly needed. Talking to Engineer Benekos and looking outside I think around the Witwer area and also hopefully, I didn't go that way, the Portage, Pittsburg area, we're getting our traffic lines down for crosswalks and you know turn lanes and so forth which is great. And then also some landscaping is being done on some of the projects in my ward. It's nice to see things move along, especially when the weather breaks. So I want to compliment the Engineer on that. Sometimes we're quick to, you know, get - read him the riot act so to speak. But it's nice to compliment him too when things are going the right way. So I just wanted to pass that information along.

Mr. Snyder: Thank you sir. Member Lindower.

Mr. Lindower: I don't want to pick on Mr. Benekos, but I'm going to ask him about another intersection. There's some more painting that needs to be done right in front of your office over here. Inaudible... you know work that intersection at Ream and West Maple that's ...inaudible... I think the stop bars are the key thing over there.

Mr. Benekos: It was painted today.

Mr. Lindower: Was it really?
Mr. Benekos: Yes.

Mr. Lindower: I'll have to pay attention when I leave. Thank you.

Mr. Snyder: Thank you sir. Member Lane.
Mr. Lane: No report.

Mr. Snyder: Member Kiesling.
Mrs. Kiesling: No report.

Mr. Snyder: Member Peters.

Mr. Peters: Yea, I have two things. First of all, on the 9th Street, Orchard, Overland project, as of April 13th it said the design contract is to be awarded. So the design is done?

Mr. Miller: The design is being awarded that means that the engineering firm will begin work on the design. That's been awarded to...
Mr. Benekos: CTI.
Mr. Miller: CTI.

Mr. Peters: CTI, okay. Any idea about how long that would take?

Mr. Miller: Probably about 6 to 8 months to complete design.

Mr. Benekos: We can even done by - we're hoping to have it done by the end of the year so we know what the budget will be to put in for next year.

Mr. Miller: We will know before the end of the year what the budget amount is. And we may not have the final...
Mr. Benekos: Correct.

Mr. Miller: final ready to go out, but we will have an estimate so that we can put that in the budget at that point.

Mr. Peters. Okay. I just wanted to follow up in reference to what Mr. Fano said earlier.

Mr. Miller: I understand.

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Mr. Peters: Second and lastly, in regards to the report we got from Mr. Forchione, if I could defer to the Law Director, what is council's next move with this?

Mr. Pusateri: Well my understanding - I was - I started reading this report today about 4:00 and asked by Mrs. Kiesling to inform council on what steps it would need take to remove the Mayor from his position, according to the charter. So I've done some work in that period of time. And I will start by saying that when I give you these opinions this is - some of this is subject change because I think the charter is not definitely clear on the steps that are taken, but it certainly does follow recognized statutes enough that I could give you a preliminary opinion on what steps need to be taken. But the - but first of all the way I've kind structured this quickly was to discuss the procedural aspects first. And if you look at the Charter in Section 5.06. Removal from Office, it states that the office of an elective officer of the municipality shall be declared vacant by Resolution of Council. So the first thing is that it is the City Council's determination to declare an office to be vacant. The question is how is that procedure followed? The procedure is that first there would be charges filed against the particular elected officer. And charges would actually look like a complaint that you would see in a civil law suit, it would be numbered and say here are the charges against the Mayor of North Canton. And you would just enumerate those in paragraph form just like you would do complaints in civil - in a civil action. Now those charges have to be filed with and given to the Mayor, according to this section in the Charter, 15 days in advance of any public hearing. So the next thing is a public hearing. So the charges are filed first, with the Mayor. And for those charges to be filed, by the way, there needs to be a resolution and/or ordinance by or just an ordinance by Council authorizing those charges to be put together and drafted and then there's a hearing. Now, I hate to use the word hearing because it really is like a trial. I mean the hearing is synonymous to a trial in this case because in this particular case then the roles are that Council would be acting as the judge and jury of - at the evidence coming in at that trial/hearing. The Law Director, my position, it puts me in an awkward position, but it puts me in the position of the prosecutor. The Mayor of course would be the one that would be responding to the charges and he would have - be allowed to have counsel, an attorney, and then there would be witnesses and it would just go just like a trial. I would present evidence as to those charges and then the Mayor and his attorney get to cross examine those witnesses, just like a trial. And evidence is taken and the President of Council would be presiding officer of that hearing/trial. Then there's a question and our charter doesn't actually state that there is subpoena power, but I don't know how there could be a hearing or a trial of this sort without subpoena power. Subpoena power of Council to subpoena witnesses and also the Mayor his ability to subpoena witnesses. Because if you can't compel testimony under oath it's pretty much senseless in going forward. And like I said, in the charter it doesn't specifically allow for subpoenaing witnesses, but if you look at the state statute for the removal of elected officers it does allow for subpoena power and I got to think that there's got to be subpoena power in this process as well. Then, I mean the next - that was - so that was procedural issues I just shared with the council. The next issue is there merit to going forward with some kind of removal process? Now I've got to say that I just read Frank Forchione's report for the first time about 4:00 and I've only read it once and not have read the attachments, but am semi-aware of some of the attachments to this report, but most of them I'm not aware of, but reading what I read in his report it certainly appears that there you know it would warrant such a hearing or trial. Council could make that determination if it so wished. Now ultimately I want to emphasize that it's council's job to be the one to make the factual determination and the determination as to whether or not the evidence that would be presented at this hearing/trial would be enough to meet the standard for removal, which would require - if you look at the section in the charter - one section - that section I just closed the book on, it would be paragraph 5 if you look at that section is the only one or paragraph 5 and 6 perhaps, where I think are the only ones that could be alleged against the mayor. And that's 5 is guilty of gross misconduct, misfeasance, malfeasance and nonfeasance in office and paragraph 6 is violation of the Oath of Office. And somewhere in this mess I have the Oath of Office that I had Mary Louise dig up for me today. And if you look at the Oath of Office the oath is to abide by the ordinances and resolutions of the City of North Canton, etc. Now just to conclude in my statements I have just a general statement. I want to emphasize this is an enormous undertaking. This is not something that would be easy. I prepare for trials all the time. I have trials that are much bigger than this, much smaller than this. But if this were to happen it would be a lot more rapid. And if you look at Frank Forchione's opinion there are 25 witnesses and this is only a portion of the documents I believe that he relied on. I'm sure there would be other witnesses as well. In order to prepare a trial of this sort I would have to organize those witnesses, talk to them beforehand, make sure they're subpoenaed and make - you know to organize it enough so they could be presented at council to elicit information from. And then they would be subject to cross examination by the attorney, by ... Mr. Mayor. And I can't see this happening in one day. It would take, I would think, off the top of my head, three days of taking testimony. I just know from trying a number of cases before jurors and this is not jury so it's a little bit - be a little bit quicker, but in order to have due process to make sure the evidence is presented in an organized fashion and the Mayor has an opportunity to sufficiently defend himself, there would be a certain level of slow speed to have to go through to give him an opportunity to cross examination of the witnesses properly. So I cannot see it happening in a day - I'm talking a full day. I would say three days just off the top of my head, that's if things go as planned. I mean there can be all kinds of hurdles in between the issuing of the charges and the actual hearing/trial that could perhaps slow it down. But just because I said 15 days after charges

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are filed I do not think that would be enough time to prepare for this. It would probably be at best midsummer, first of August, before this could happen, I mean at best. And another issue too that I've still been pondering a little bit and I have not done complete research and I don't think there's an actual definite answer I can give to you, but one of the legal questions that has been in the back of my mind is a lot of these allegations are from a past administration. He was elected and sworn in I think, January 1st or December 1st - December 1st, right?

Mr. Lindower: December 1st.

Mr. Pusateri: December 1st. I'm not sure if any of these facts or allegations from anything after December 1st if that poses some kind of problem in proceeding with this, I'm not sure. And that may be a legal question that may have to be hammered out before we go forward on that. I don't know, I'm just trying to share with council as many of the ideas and thoughts that can develop with this stage ... this quickly. But that's a legal question that may have to be resolved. But just to end, once again, it is an enormous undertaking, it would take a great deal of time and money to prosecute, but if it's council's wishes to do so I would certainly meet my obligations.

Mr. Lane: Do you have an estimate of time or money?

Mr. Pusateri: I really don't. It's - cause it's - this is one thing - it's a good question. To emphasis a point that I've been involved in a couple removals before in other areas before, but you can't anticipate even begin to anticipate what's going to happen. I'm just laying it out what I think is the basic general structure of how it should happen, but I don't think ever happens that way. So it - it's hard to say.

Mr. Lane: So getting back to the beginning...

Mr. Pusateri: But it is litigation by the way.

Mr. Lane: Right.

Mr. Pusateri: This is something that will consume a great deal of my time for the next two or three months. It wouldn't be something that ... as my regular legal service to the city. That's it.

Mr. Peters: So if we were to proceed charges would have to be filed within - in an ordinance form?

Mr. Pusateri: It would be - Yes, an ordinance that council would authorize me to prepare these charges, which would look like - if you've seen a civil complaint you have an opening introductory paragraph and then you enumerate and itemize the charges. It's a little more explicit - a little more detailed than a general civil complaint so that they have - then they would have sufficient notice to exactly what charges are being alleged of them so he could respond accordingly. Now once again this is - I mean all this is - my experience is that I just set out the normal plan how this works and we'll see if it actually would work out that way. But...

Mr. Snyder: I have a couple questions. Number one, does that Oath of Office refer to the Charter in any manner?

Mr. Pusateri: Inaudible...

Mr. Lane: They all do.

Mrs. Kiesling: All the ordinances. So...

Mr. Pusateri: Yea, it doesn't state specifically the charter, but it's just kind of odd. The ordinances and resolutions of the City of North Canton and faithfully and honestly and partially discharge the duties; it doesn't say explicitly the charter if you want to look at it there.

Mr. Snyder: This is for the council. This is...

Mr. Pusateri: I think that...

Mr. Snyder: Is this the same one the mayor takes?

Mr. Pusateri: the mayor uses the same one though.

Mr. Snyder: And my second question. Is there administrative relief provided in that to him or it's just simply the rule of council is it?

Mr. Pusateri: What do you mean appeal right, appellate rights?

Mr. Snyder: Any appellate rights or initially any administrative rights to ...

Mr. Pusateri: Well I - in other words...

Mr. Snyder: common pleas level. I don't think any. I think it's simply.

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Mr. Pusateri: It says here in the charter that a - let me find the exact words here. The decision of council, after compliance with this section shall be final. Now my understanding, this is something I didn't research today, but just from my general understanding, is that it would be subject to review by an appellate court and it may be - probably a court of common pleas that would look to make sure that the procedure was followed correctly, one and two, that any decision just wasn't arbitrary or purely political. That there would have to be facts enough to meet the burden that council would have to meet that could be reviewed. In other words it wouldn't be a day ... review...

Mr. Snyder: Alright.

Mr. Pusateri: A complete assessment of what council did, it would just be an exam. This is - like I said this is just off of my memory, exam of what council did to make sure they followed the procedure and they considered sufficient facts to meet the standard that they need to meet...

Mr. Snyder: Okay.

Mr. Pusateri: council to meet.

Mr. Lane: Paul, and it's five votes for removal. But prior to that point is it just a simple majority? Is it four or is it five for everything?

Mr. Pusateri: For the filing of the charges? Yea, I would think four. I don't see where it would need five in this Charter. But it is five members of council for the removal, yes. Any other questions.

Mrs. Kiesling: So the next step would be to put in on for committee next week at a committee - personnel and safety or...

Mr. Peters: Yea, which committee would that be?

Mr. Pusateri: I would think personnel and safety and I think personnel.

Mrs. Kiesling: And then it would need three readings and ...

Mr. Pusateri: No, I would ask council to do it by emergency to move this thing along. I can't imagine...

Mrs. Kiesling: Well what if we don't have six votes?

Mr. Pusateri: Then we'll have to pass it by readings if that's what council decides to do. But I would certainly suggest if it can be to do by emergency, not to prolong this. I mean try to get through this as fast as we can and see what we can do. But I think that it can be a justification for an emergency ordinance. Any other questions? That's all I got.

Mr. Snyder: Mr. Sarbach.

Mr. Sarbach: No report.

Mr. Snyder: I have nothing.

FINAL CALL FOR NEW BUSINESS:

Mr. Snyder: Gee, I lost my ...inaudible... I have the final call for new business. Mr. Osborne.

Chuck Osborne: 307 Fairview Street - North Canton, Ohio. I'm sorry to - I hadn't planned on coming up to speak tonight. But I'm kind of mislead on some of the ... legislation. I'm disappointed that you're going ahead and paying on this Johnson and Angelo, considering the conduct that's been reported in the investigation of the mayor. And I believe that should be delayed until a lot of these issues are disposed of. And that's all I'll say on that. Your decision to move ahead with the East Maple Street well field I just cannot understand. Why would you - when you have a choice of going in this direction for three million gallons a day of water and this direction for ten million gallons a day of water. You've already got 1.2 million dollars invested in a waterline that's practically all the way down to Oster as it. You've got three hundred invested in the one going out to East Maple. And then you always have the risk of dewatering a lot wells out there at East Maple. So I'm very disappointed in where you're moving on that. The sewer issue really floors me and I really feel it's fiscal incompetence. I haven't done a whole lot of research because I sit here and listen to some of the information that's been batted around. When the county is charging all of their customers \$19.00 per resident, what the hell makes North Canton so special? As I said on council here about a year and a half ago, is this the land of oz. Does economic reality not mean anything in this town? In 1997 you raised sewer rates 42 percent, almost 43 percent. You went from \$10.15 - \$10.50 for residential user to 15 dollars even. If you went ahead and raised it to the full \$19.00 now that's about a 27 percent increase. You see problems like Mr. Fano keeps bringing to council, I don't know where you're going to take care of these issues besides continuing to borrow. By the way, I don't know what our total

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indebtedness is going to be. I thank you Mrs. Herr for giving me some information the other day, but frankly I - I've just not had - picked it up. But we've got to be up ...inaudible... count thirteen and a half, fourteen million dollars with the continuing indebtedness. We keep borrowing for this new additional 1.25 million...

Mrs. Herr: That's water.

Mr. Foltz: That's water.

Mrs. Herr: Sewer has no debt.

Mr. Osborne: And I understand - I understand that, but the city is...

Mrs. Herr: The sewer debt...

Mr. Osborne: the city is obligated for the debt ... stands behind this. This city it's all that's going to do for the next 10 or 15, 20 is tread water trying to meet its payment on all of its debt because you continue to feel badly about charging for your services. We've got major sanitary and storm water sewer problems, we have declining employment over here with Hoover, you continue to give tax abatements. What are you going to do about a year from now when Hoover wants to leverage the city and say hey you're giving tax abatements out like it's candy, we'll hang around another few years if you give us a tax abatement. I'll tell you, you're setting this city up for financial ruin. And then as far as this water tank that you want to add, I think you should find out where the breakdown in the process occurred with this South Main water tank and go after who is responsible for the reason that tank does not meet every need that this city designed and built it for. And if you get repayment for the loss of all that money - I understand we owe a million dollars left on that water tank...

Mrs. Herr: No, seven hundred and some thousand - 700,000.

Mr. Osborne: Well Mr. Snyder told me a million dollars.

Mrs. Herr: That was the original, but we paid some of that.

Mr. Osborne: Inaudible... original 1.2 million.

Mrs. Herr: I'm down a million.

Mr. Osborne: Well at any rate we're going to be making payments on a facility that has minimal value now, far from what it was designed for. And until you get compensation for who mis-engineered that and why council, with a 7-0 vote, put a water storage tank in hole. Water does not run uphill. And as we all know water storage tanks are usually put on high ground and in addition they're elevated on high ground. And you put a million dollar, since I'm corrected here, facility in a hole that will not do its job, has created operational problems for this city. I think you should try and recoup those loses before you build any more water storage tanks. Thank you.

Mr. Snyder: Thank you. I just would like to say as the chairman of finance, I would like to for the record, Mr. Osborne, I will tell you that fiscally we watch and Mrs. Herr will collaborate with what I say, weekly I check. Most of that debt that the city does have right now is relative to water product. And it does not affect the borrowing ability of the city or a bond rating. The city itself is about 2.6 or 2.7 million dollars in actual debt for other than water. And we borrow that money through the EPA, which does not impact our borrowing ability. However, I'm not justifying our borrowing. However, I just want to make it clear that does not put us quite in the same light as it would as a private citizen. However, we authorized last week a very comprehensive study of water rates and they will come back to us and then unfortunately it will be several months till they do come back. And they'll be studied by an engineering firm, people from the accounting standpoint will take them apart and they will present to us a number that we will begin to charge the residents of the City of North Canton and outside the city that will reflect our ability to retire that debt. Water is paid with water revenue. It has to be that way, it's just set up that way. And Director Miller and Mrs. Herr, Director Herr, will have that. And again, we could have generated something in house, but here's two problems: Number one, time constraint. And number two, when we go to the public and we try to show them the amount of money that we're going to charge them, it is without question that this is raised by an outside independent. And again, there are no ties to the city, there are no - nothing, they're not tied to anybody in the administration, it's simply a crunching of a number and that number will tell us what our rate has to be to retire that debt within the 20 year parameter. And ultimately the moves we've made to enhance our system over the last - well aggressively over the three and a half years will come out into those rates. And I'm sure when that's available we'll get it to you. But your points raised are well taken. Anyone else? Mrs. Magel...

Kathy Magel: Same address, I haven't moved. Jon, that's working.

Mr. Snyder: Thank you.

Mrs. Magel: At least from my speaker. Maybe we should be having people - but everyone - also I think maybe you should...

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Mr. Snyder: Let other people use it?

Mrs. Magel: you know pass it around.

Mr. Snyder: Absolutely.

Mrs. Magel: before the - okay. Second thing, there's been some discussion here tonight about a report. That report has been - being distributed in the back in the audience. Now whether I've read the same report Mr. Pusateri did, perhaps not. Perhaps if we did we've come to very different conclusions. The one that I have even Mr. Forchione did not feel that there was enough there for removal from office. So I don't know where the ...inaudible... came. But just for the record, tonight's discussion was so one sided I just wanted to say, that in my opinion, I don't see where this merits this. Now I thought it was a very good discussion we had and I understand where you're coming from you want an emergency, but it needs six votes. But if we have four votes and it's a very expensive, long drawn out process and in the end we need five votes, we may be spending the city's money for a moot point. Now the charter is very near and dear to me and I think everyone needs to follow the charter, not just the administration. And if we're going to have this kind of behavior for conflict of interest, there's going to be some other discussions that's going to come up.

Mrs. Kiesling: Mrs. Magel, are those threats or ...

Mrs. Magel: Facts.

Mrs. Kiesling: Interesting. And I'd like to make a comment to the amount of money we may or may not spend. We aren't the ones who are - allegedly violated the charter, Mr. Mayor did. He is the one who is spending tax payer money, not us.

Mrs. Magel: I'm just saying if you're going ahead just plan ahead. Maybe you'd better check and see if you have five votes that's all I'm asking, plan ahead.

Mrs. Kiesling: Good advice.

Mr. Snyder: Well that defeats the purpose of a hearing. I mean that's almost illegal to quasi ...

Mrs. Magel: I understand what you're saying.

Mr. Snyder: determine a verdict before the man is even given the opportunity ...

Mrs. Magel: But it's almost criminal to spend our money when it's not going to happen.

Mr. Snyder: Well Mrs. Magel I appreciate it. But you know the Mayor is entitled to - if he is affronted with charges, he's entitled constitutionally, charter wise and just by due process the right to defend himself. You cannot say to somebody are you ready to convict him before you even hear the evidence. That particular - Mr. Forchione provided to us what we asked him and them some. I don't believe he was directed to give us his personal opinion. He did offer his personal opinion, but we did not ask for his opinion. We asked if there were any violations of the charter or any violations of the State of Ohio or its revised code. He's provided violations of the revised code, he's provided possible conflicts in the charter and that's why we'll have a hearing to determine that. If they decide...

Mrs. Magel: He's - Ohio Revised Code?

Mr. Snyder: I think election law. I think there was a citing there - there was a direct violation of election law.

Mrs. Magel: Then we don't have the same report.

Mrs. Kiesling: No, he didn't come right out and say it, but if you - if you know election law...

Mr. Snyder: No, but it is. I mean - I think 3917 of the revised code of the Ohio Election Law will point that out to you. But that's - I'm not making assumption. We - if you're going determine that you're going to bring the mayor up on charges, that's for us to determine as the elected official and we can't determine by polling if we have five affirmative or...

Mrs. Magel: I understand. I'm only here because ...

Mr. Snyder: Yea.

Mrs. Magel: it was as if that report concluded ...

Mr. Snyder: No...

Mrs. Magel: the next step was needed...

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Mr. Pusateri: If I can speak Mr. President...
Mr. Snyder: Please.

Mr. Pusateri: to Mrs. Magel's concerns. I don't think and if I did say it was interrupted incorrectly or if I misspoke that I believe that there is substantial evidence - enough evidence at this point for removal I've misspoke. I didn't mean - what the report says to me is that there is reason for council, if they so choose, to move forward on the removal process to do so. I mean I think in legal terms it meets something like a probable cause determination there's - the original item council received some months ago I didn't see anything on it's face and felt that it was lacking of a lot of detail and of course and then this one is not that case. I think there's enough to afford - I don't know what evidence or testimony would come out. If there is a hearing, I do know from experience that you can never guess or know what comes out when people are under oath in a hearing trial setting. I'm always surprised. So it's - I was just saying the report has enough to move - take that move - make that move if council chooses to do so.

Mrs. Magel: Okay.

Mr. Pusateri: Understanding that I think that you have a valid points. And I said it's an enormous undertaking...

Mrs. Magel: Yes.

Mr. Pusateri: of time and money.

Mrs. Magel: Yes.

Mr. Pusateri: and effort and employees. I don't disagree. So it there needs to be a cost benefit analysis done to make the determination if it's wise to do so.

Mrs. Magel: Okay, so now then...

Mr. Pusateri: that's the determination of council to make.

Mrs. Magel: The next thing it's ...

Mr. Pusateri: It's not my determination.

Mrs. Magel: Monday, you'll talk about it next Monday?

Mr. Pusateri: I believe that's the idea, if council so chooses.

Mrs. Magel: Okay. Well I just wanted to make it that it was so odd that it was one sided, you know.

Mr. Pusateri: I don't think I was one sided. I was just trying to establish and set out what the procedure was to do it - to move forward. I wasn't trying to - and if that was understood by you as that, I apologize if I misspoke.

Mrs. Magel: Maybe you don't need those microphones. Make them so we can't hear it. Jon, is there an appurtenance with those microphones? That has one of those touch button screens so you can know what the next...

Mr. Snyder: My technical ability is limited to getting this around my head. Anything beyond on that I have to ...

Mrs. Magel: Okay.

Mr. Snyder: as you know me. I'm embarrassed ...

Mr. Foltz: Jon, one last...

Mr. Snyder: Mr. Foltz.

Mr. Foltz: Jon, one last - Jon, I haven't even read yet. So I - that's why I haven't commented.

Mr. Snyder: Not a problem.

Mr. Foltz: To me this is all premature. I don't see how you digest this. I just got this at 6:00 when I came to council earlier. I got into discussions about some other matters here. So that's my statement at this point.

Mr. Snyder: I appreciate that.

Mr. Foltz: I don't have all day to review this and come to a conclusion at any point...

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Mr. Snyder: I appreciate that.

Mr. Foltz: There has to be something here for me though. That's all I want to say.

Mr. Snyder: Inaudible... I appreciate it.

Mr. Foltz: Alright.

Mr. Snyder: Any other comments? If not, I'll entertain a motion to adjourn.

ADJOURN:

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

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

No: 0

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL