

RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON

REGULAR Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, November 14, 2005 7:00 p.m. 20 05

CALL TO ORDER:

1. The meeting was called to order at 7:00 p.m. by President of Council Jon Snyder.
2. The opening prayer was delivered by Rev. Don Rice, St. Luke Community.
3. All present recited the Pledge of Allegiance.

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

ROLL CALL:

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

5. Consideration:

Consideration of the Minutes of the Council Meeting: October 24, 2005

Consideration of the Minutes of the Public Hearing: November 7, 2005

Consideration of the Financial Statement as presented: October, 2005

Mr. Snyder: May I have a motion to consider the committee minutes of the Council meeting of October 24, 2005 and minutes of the public hearing of November 7, 2005 and consideration of the financial statements as presented, October, 2005?

Mr. Sarbach moved and Mr. Peters seconded to approve the minutes of the Council meeting, the minutes of the public hearing and the financial statement, as presented.

All members voting present:

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

No: 0

6. Committee Reports:

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held November 7, 2005.

Ordinance, Rules & Claims Committee: Refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held November 7, 2005.

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held November 7, 2005.

Mr. Sarbach moved and Mr. Lane seconded to accept the committee reports as presented.

All members voting present:

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

No: 0

7. Voice Vote – Appointment of Assistant Clerk of Council

Mr. Snyder: At this time I would like to have everybody consider the appointment of the Assistant Clerk. I'd like to read into the record, so it's understood, that this has been an ongoing thing with the blessing of Chairman Lindower's committee of personnel and safety. That our other clerk did leave us on the 9th day of September. The job was posted pursuant to our labor agreements. The first ad ran in The Repository on the 11th day of September. And we interviewed some 23 people, consummating and completing the interviews on the 24th day of October. And after deciding on the person and the background checks, the job was offered on the 28th day of October to Mrs. Laurie Cousino. And Mrs. Cousino is with us tonight. She is sitting here with her husband, Gail, in the front row. And at this time I would like a motion of the Council to appoint Miss Cousino to the position of Assistant Clerk of the Council.

Mrs. Kiesling moved and Mr. Peters seconded to appoint Laurie Cousino to the position of Assistant Clerk of Council. All members present voting:

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

No: 0

Mr. Snyder: Thank you. Welcome, Laurie.

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Mr. Sarbach: Did you bring your pen with you? You can set up here if you want.

8. Discussion of Health Care Proposals; Robert W. Fisher, Sky Insurance Company

Mr. Snyder: For the ... Mr. Fisher is with us tonight from Sky Insurance. So we're going to come out around the – our agenda just a little bit so that he can present to us a couple of things. As you know, our insurance is due to go to Board of Control and be renewed the first day of December of this year. I think for another what, two year period it is or?

Mrs. Herr: One year.

Mr. Snyder: One year period.

Mrs. Herr: Life insurance is two years.

Mr. Snyder: We did – like last year was two years.

Mrs. Herr: Life insurance is two years, health is one.

Mr. Snyder: And we need – he is going to give us – so we do need to give our directions to which way we decide to go. We presented – he will show us on both sides which way. We do have a tendency to save, I believe, some sixty thousand dollars versus the other. Mr. Fisher, welcome, good to see you again.

Mr. Fisher: Thank you. As you are aware, we do go out to bid every year for the City's health, dental, vision, prescription and life insurance coverages. And this year we actually only received three bids. We received one from the incumbent carrier, AultCare; one from American Benefits Management, who had the plan previously; and one from a public entity consortium that goes by the name OME-RESA, and that is a fully funded consortium arrangement that pools the claim liability of schools and public entities throughout Ohio. We generally go through, first of all, a review of the history of the plan over the last three years. And the good news is that in the year 2005 year-to-date through August, the health care, health, dental, vision, and prescription claims are down 15 percent from where they were last year. We've had a couple of difficult years the last couple of years. In 2005, we've begun to see a little bit of a turnaround there. We always request proposals for a three-year period. We haven't had the ability over the last few years to contract for a three-year period, but we do have good proposals for a one-year period to consider. We do not, this year, have the option to consider where the employees could be given a choice between two different benefit plans that use two different networks. Prescription claims are up only two percent over the last year, which is extremely good given the current sixteen percent prescription drug inflation. Dental and vision claims have remained relatively constant over the last couple of years. We are looking right now at a total cost for the plan through August of this year – September of this year of \$700.00 per employee per month, which is – compares to \$714.00 per employee per month the year before and \$745.00 the year before that. Your proposal from AultCare represents a – about a – oh, let's see, about a two hundred dollar a year increase in administrative fees; a ten thousand dollar increase in specific stop loss coverage, for an overall increase in cost of ten thousand six hundred dollars over current. The American Benefits' proposal represents an increase in fixed costs of about fifty thousand dollars over current. We did also look at higher reinsurance limits. And without going through the numbers, I'll tell you that it's – it just doesn't make sense for the City to consider assuming a little bit more risk. Your current cost projected to 2006 will amount to approximately a million one in health care costs for 2006. The OME-RESA proposal that I mentioned that was funded consortium arrangement, projected a cost of a million three. So we eliminated that one as an option due to the fact that it was significantly above. So my recommendation to the City at this point is, as it has been the last couple of years, you have a choice between staying with AultCare at a relatively minor increase in cost, or knowing that within the Stark County community employees have certain relationships that favor AultCare hos – AultCare – Aultman Hospital, I'm sorry, or Mercy Medical Center. You could make a ... change to American Benefits Management again and use the Medical Mutual of Ohio network, that would bring Mercy Medical Center into the plan. But again, that would involve a change of provider relationships from those people who enjoy the Aultman network. But in order to do that would cost the City an additional forty thousand over the Aultman and AultCare proposal. So my recommendation to you would be to accept AultCare for another year. And go through the bid process again next October or September, October as we did this year. We also went out to bid for life insurance, and we actually only received one bid for life insurance. It was the current life insurance carrier, Sun Life of Canada, represented by Leonard Insurance. Their rate currently is 28 cents for life insurance and two cents for accidental death – I'm sorry, three cents. And that rate is going up to 32 cents for life and three cents for AD and D. Which is a

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very modest increase after coming off a two year rate guarantee. I believe it's very fair, even though there weren't any other bids. I would recommend you accept that one from Sun Life also.

Mr. Snyder: And those proposals are all within keeping us in line with our contractual obligations to the bargaining units...

Mr. Fisher: That's correct.

Mr. Snyder: That we provide the proper health care, with that first ten percent being by out of pocket out of the employee. Correct?

Mr. Fisher: That's correct. And I should mention that the plan changes that were made with the collective bargaining agreement last year, I believe, had a significant impact on keeping your health care costs down this year.

Mr. Snyder: And is there anything that – obviously there's not much we can do ... under the contractual obligations, but is there anything we can be doing as a city on the utilization portion to bring our costs down that we could be looking at?

Mr. Fisher: I think you've made some good inroads to this point. I think at the end of this collective bargaining agreement you need to take another look at adjusting your benefit plan design to put the employees in a position where they're participating more. And your dental and vision costs, I'm not sure why, are significantly higher than average. I think the vision plan you have a unique laser vision benefit for the patrolmen. And the dental, I don't really have a good explanation for why those costs are up, but they don't make up a significant portion of your overall expense. But those two areas probably will necessitate some looking into.

Mr. Snyder: Okay. So then may I – we're to understand that in your professional opinion in your advisory capacity, you're advising us to stay with AultCare and move forward with AultCare.

Mr. Fisher: That's correct.

Mr. Snyder: My only question, I'm surprised somewhat that McKinley Life, is a wholly owned subsidiary of AultCare, did not want our life insurance?

Mr. Fisher: No, actually they don't write life insurance.

Mr. Snyder: Oh, don't they?

Mr. Fisher: No. They offer health insurance and reinsurance. They don't underwrite life insurance.

Mr. Snyder: I thought they did just by their name. Any questions of Mr. Fisher?

Mr. Sarbach: I have a question for Julie. Do we have any problems with our present provider answering claims and so forth? Being responsive to the employees when they have issues?

Mrs. Herr: Well, you know, AultCare is set up differently than what – or the situation they had when you were with American Benefits. American Benefits, not only were they obviously physically closer to us that people could just stop by there, but they had one central claims person that pretty much knew most of the employees and was very familiar. Whereas with AultCare, it is larger and so those duties are spread out among several people. And you know, I think there have been some bumps in the road from when we first switched over. But I think that those things are getting better. Is it perfect? No. I mean, do I still have complaints? Do we still have issues that we have to deal with? Yes, we do. But, you know, we work through those. And I get involved and make sure that it is, you know, it is completed to, you know, satisfaction of the employee or not, depending upon what the situation is. But they are, you know, that we do get all those situations satisfied.

Mr. Sarbach: American Benefits wasn't perfect either, were they?

Mrs. Herr: I...

Mr. Sarbach: You wasn't here.

Mrs. Herr: I was only here for a half a year with that...

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Mr. Sarbach: Okay.

Mrs. Herr: So I can't say. But I'm sure there were problems with them too. But...

Mr. Lane: But there's no ongoing thing hanging out there anywhere that you're aware of that...

Mrs. Herr: Not that I'm aware of.

Mr. Lane: that has not been resolved?

Mrs. Herr: No. But I mean, again, I don't hear from everybody. I usually just hear from the people that have issues. But I know there's a lot of people that are happy with AultCare and with the networks. But, you know, again, there could be things that people are saying that I'm not aware of. But for the ones that do come to me, I make sure that everything does get resolved.

Mr. Sarbach: Thank you. Do you need a decision on this tonight?

Mr. Snyder: Well we need a ... I believe Mr. Pusateri we need a voice vote to carry to the Board of Control as our recommendation. Is that correct?

Mrs. Herr: That's usually how – excuse me Paul.

Mr. Snyder: Yea, that's how we've done it – that's how we've done it in the past. We give ...inaudible...

Mr. Sarbach: We don't pass an ordinance in the past? We didn't pass an ordinance in the past?

Mrs. Herr: There's – no the legislation where it authorizes the seeking proposals, it says "upon--

Mr. Pusateri: Alright, alright.

Mrs. Herr: approval by Council, basically.

Mr. Pusateri: Then yea – and just a voice vote to send it to Board of Control.

Mr. Snyder: A motion, and a second, and a voice vote to...

Mr. Pusateri: To send it to Board of Control.

Mr. Foltz: Jon, did ...

Mr. Snyder: Sir.

Mr. Foltz: Mr. Fisher, you provided a report, did you not?

Mr. Fisher: Yes I did.

Mr. Foltz: Is there any way we could get a copy of that?

Mr. Snyder: I believe ...inaudible...

Mrs. Kiesling: We had one last week.

Mrs. Herr: I did give you...

Mr. Lane: We had one a couple of weeks ago.

Mr. Snyder: You did have one in there, yea.

Mrs. Kiesling: Couple of weeks ago or last week.

Mr. Foltz: Oh, it has been a couple of weeks. So, okay.

Mr. Lane: I think in essence it was exactly what you said tonight, right?

Mrs. Kiesling: Right, exactly.

Mrs. Herr: I do have a copy here. I can, you know, I can make more copies, but I...

Mr. Foltz: Okay.

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Mrs. Kiesling: Quick question for Paul. I think I abstained last year. Do I need to abstain? I work for Aultman, but I don't work for AultCare.

Mr. Pusateri: I don't think you technically have to abstain, no. But I mean it certainly doesn't harm or hurt in any way that you abstain. I mean abstention goes with the majority.

Mrs. Kiesling: Right.

Mr. Pusateri: So...

Mrs. Kiesling: Alright.

Mr. Sarbach: Do you need a motion then, Mr. President?

Mr. Snyder: Please, I'd like to ...

Mr. Sarbach: I move that we continue with AultCare at the minimal increase that was mentioned by Mr. Fisher.

Mr. Sarbach moved and Mr. Peters seconded to continue with AultCare as the City's health care provider.

Mr. Snyder: Please call the roll. Thank you Mr. Fisher, appreciate your ...inaudible...

Mr. Peters: Thank you Mr. Fisher.

All members present voting:

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

No: 0

Abstain: Kiesling

9. Recognition of Visitors

Mr. Snyder: Thank you. At this time, is there anyone in the audience wishing to speak to the Council? If so, please step forward, state your name and address for the record.

Tom Silverthorn: I live at the corner of Lipton and Hallum, 1283. I've been in North Canton for 11 years. And I have a small issue with some ordinances ... that have no teeth in them. Namely, the trash one which was presented in the North Canton flyer or whatever that is called. We have people that totally ignore that. I've been bending Jon's ear on a pretty regular basis about it. They put their trash out, and if they don't pick it up, they keep it there. Or they put their trash can out, and it stays out. I moved from a bad section of Canton that deteriorated; and I came to North Canton not expecting to get into this kind of a situation again. The people just do not give a damn. Pardon my French. But they park their cars in their yards. Jon told me that there's an ordinance against that, unless you have specific parking area designated for such. I know when I moved in, I needed that space. I had a guy backhoe, landscaping, shrubs, the whole smear, everything kosher. But people that aren't held accountable to a minimum standard for their house derogates or deteriorates the whole neighborhood. And I know the ordinances are there, but and they were just meant to do something, but with no teeth in it. I mean do you go up to the door, you say hey, put your trash away. Okay, next week the same crap over and over again. One particular house, I'd like to give Jon a copy of the thing before I leave, if I may. Now some of these are not in your jurisdiction or your ward, but on my way to work I see other areas and other sites, and I don't know whose ward they are, but I, you know, I'd say shame on you but somebody should be doing something about it. The one -- and the rubbish is absolutely terrible at this 1313. I made that the number one list. They've had called the police for fights, they've had their trash laying out front as we speak. Did you go past the other day Jon and look?

Mr. Snyder: Yes sir. In fact I have pictures of all of it.

Mr. Silverthorn: If you've got pictures ... laying out across the street, I don't know. But these people at 1313, supposedly the owner is an absentee landlord. He's a lawyer. Which I really don't give a darn if he's God. The idea is nobody is taking care of this dump. And as I say, I keep my property up. I wish Chris would have been here. Chris has a real big issue with that shoebox down on corner that was thrown up there the other day, especially the holes. If you've been past there, the corner of Maplecrest and Lipton, the slab house put there on a lot that's smaller than mine. I don't know where their variance came from for that, but it's pretty sad that we're doing stuff like that. That's pretty much it. Those are my issues is basically people parking their cars in their yards and the rubbish ordinance. And any

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ordinance with no teeth might as well not even be on the book as far as I'm concerned. But they are on the books, so I wish you could do something to get some teeth in it. So that's...

Mr. Snyder: Mr. Silverthorn, I will tell you sir, pursuant to our conversation, which you and I, as you've said, have had many of them, I did meet with Mr. Hemminger...

Mr. Silverthorn: Good.

Mr. Snyder: And on the one property at 1313, it is the husband and wife that own that are both attorneys and parents of the gentleman who...

Mr. Silverthorn: Lived there.

Mr. Snyder: lived there. I noticed now yesterday, when I went by again, he was scraping the house finally. He waited until November.

Mr. Silverthorn: Oh yea...

Mr. Snyder: But a...

Mr. Silverthorn: There's still a bag of trash laying out front.

Mr. Snyder: Yea, and they're ...

Mr. Silverthorn: I mean, hello!

Mr. Snyder: He's a – at that particular place is now again - he's going to send a certified letter. Across the street, at 1317...

Mr. Silverthorn: Yep.

Mr. Snyder: That van will ticketed ...inaudible...

Mr. Silverthorn: I believe it's - they're renters...

Mr. Snyder: Right.

Mr. Silverthorn: But I don't care if they're renters or not.

Mr. Snyder: Right.

Mr. Silverthorn: If you're the landlord, keep after it.

Mr. Snyder: And those two ... we can address pretty quickly. The property that you referred to with the – Mr. Hemminger and I will, not to defend him, because he's capable of doing that on his own, he had talked to the people about that wood. They told them that that wood was brought in for firewood, but that's been some time ago.

Mr. Silverthorn: Hello, yea.

Mr. Snyder: So he felt that the time is long past ...

Mr. Silverthorn: And it's not even stacked.

Mr. Snyder: Right.

Mr. Silverthorn: It's just laying there rotting away.

Mr. Snyder: Right and that's – at this point it has to be addressed.

Mr. Silverthorn: I wouldn't use rotten wood in a fireplace.

Mr. Snyder: As well as the property to west of that where the little houses in the plastic, and the war has long been over for maybe 35 years or ...

Mr. Silverthorn: Oh, yea. And a lot of my neighbors down there are older people. You know, God bless them. We had one lady next door that she had a stroke but didn't know it. They found her two days later, the police come to break into her house. And that's the kind of people we try to look

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after. But then you got these bozos moving in that don't give a damn about their property and it's sad; it really is.

Mr. Sarbach: Some of them got elected to Council.

Mr. Snyder: It's unfortunate. And you know that's – when we get out of balance on rental on rental property versus single family ownership that's what we get.

Mr. Sarbach: Inaudible...

Mr. Snyder: So we work diligently, the Council and administration, to keep our balance. You know, try to get it down to the 10 percent level and hopefully eventually we get there. But...

Mr. Silverthorn: And there's nothing wrong with rentals.

Mr. Snyder: No.

Mr. Silverthorn: As long as ...

Mr. Snyder: But they have to be responsible.

Mr. Silverthorn: long as the landlord keeps his pulse on the situation. I mean...

Mr. Snyder: So we will...

Mr. Silverthorn: I mean that's sad.

Mr. Snyder: It is. And I appreciate - in looking at that it's a blighted little area. It's aesthetically not very pleasant at all.

Mr. Silverthorn: I have a few more copies that I'll leave with you ...inaudible...

Mr. Snyder: Please ... because everybody could see it.

Mr. Silverthorn: I'll see that.

Mr. Snyder: And I will forward ...

Mr. Silverthorn: Yea, I have about three or four more copies. I just ...

Mr. Snyder: I'll make sure Mr. Hemminger gets that. But...

Mr. Silverthorn: make airplanes with them or something.

Mr. Snyder: He is making a concentrated effort, hopefully here this month, to address those situations that...

Mr. Silverthorn: You know people weren't there at 1313 when I moved in 11 years ago. It was, I think, the guy that owns the Congoleum place on North Main, up there before you get to Rite Aid, floor covering, Fosnaughts. And he did a nice job. But ever since these kids – I said something a little bit different than kids to Jon, but then that was between us, I won't say it in here, not after Pledge of Allegiance and everything, you know, I have some manners. But ever since they've moved in, they've been nothing but grief, nothing but grief, constantly. And I know the old people down on the corner. They just don't want to make waves. You know some of these kids can get pretty, pretty nasty. I know they've – we've had little shouting matches with them as they go past with their music busting our eardrums.

Mr. Snyder: Yea, well Mrs. – Mr. & Mrs. Day that you're referring to ...

Mr. Silverthorn: On the corner...

Mr. Snyder: Been there for 54 years.

Mr. Silverthorn: Nice people.

Mr. Snyder: Very nice people. And...

Mr. Silverthorn: And their property is immaculate. I mean it's gorgeous. But I'll get you a few of those things. That's all I wanted to complain about for tonight. But I'll find something else later.

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Mr. Snyder: I appreciate you coming.

Mr. Foltz: Thank you sir.

Mr. Sarbach: Thank you Tom.

Mr. Snyder: Anyone else wishing to speak to us this evening? Please step forward, state your name and address for the record. Alright, seeing none...

OLD BUSINESS

10. Mr. Lane moved and Mrs. Kiesling seconded to **read by title only, third reading** of Ordinance No. 203-05. All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 203-05 – 3rd Reading

An ordinance accepting the application for the annexation of certain territory, known as the B.P./East Maple Annexation, containing 0.765 acres of land, more or less, and also known as being part of the Northeast Quarter of Section 16, Township 11 (Plain Township), Range 8, Stark County, Ohio, to the City of North Canton.

Mr. Snyder: Chairman Kiesling.

Mrs. Kiesling: Yes, just as it says, it's the third reading accepting the annexation, the north B.P./East Maple Annexation. Any questions? I motion we accept.

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt the third reading** of Ordinance No. 203-05. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

11. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, second reading** of Ordinance No. 204-05. All members present voting:
Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
No: 0

Ordinance No. 204-05 – 2nd Reading

An ordinance authorizing the Director of Administration of the City of North Canton to advertise and receive bids according to specifications now on file in the office of Director of Administration for the cleaning of five sludge lagoons and one wash water lagoon at the North Canton Water Treatment Plant; and for the Mayor of the City of North Canton to be authorized, through the Board of Control, to enter into a contract for the same.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is an ongoing activity at plant in order to provide that quality water to our residents. It – I think we had budgeted a \$150,000.00. I don't know that we're going to need that much every year. It depends on what the water plant superintendent deems necessary that we need to get cleaned out and an efficient time and place to do it. This was budgeted and is funded through the increased rate structure that we have. Which is good to what, 2009 to cover these things – 2008 or 09, I believe. So with that I move that we adopt the second reading of Ordinance 204-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the second reading** of Ordinance No. 204-05. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz.
No: 0

NEW BUSINESS:

12. Mr. Sarbach moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 205-05. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

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Ordinance No. 205-05 – 1st Reading

An ordinance authorizing the Director of Administration of the City of North Canton, Ohio, to advertise and receive bids according to specifications now on file in the office of the Director of Administration for a three (3) year franchise agreement for sanitation and recycling for North Canton residents, commencing July 1, 2006 and ending June 30, 2009, with an option to extend said franchise agreement for an additional two (2) year period.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This will allow the administration to advertise and receive bids for the garbage or rubbish franchise contract. I understand we're in – presently in negotiations with our current provider for a price – an extension price for that three-year period. But if we need to change, we need to have this in effect so that the administration can go out for bids and advertise and receive bids from other vendors if this one doesn't work out. So we need to give the administration that lead way. And hopefully we'll do this with an eye on recycling and hopefully more recycling. But that's not always possible due to the vendors there. But that's what this is all about. Any questions on the – on this ordinance? So I move we authorize the first reading of Ordinance 205-05.

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 205-05. All members present voting:

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

No: 0

13. Mr. Lane moved and Mr. Sarbach seconded to **read by title only, first reading** of Ordinance No. 206-05. All members present voting:

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

No: 0

Ordinance No. 206-05 – 1st Reading

Ordinance No. 206-05 authorizing participation in the Ohio Department of Transportation contracts for the purchase of machinery, materials, supplies or other articles which the Department has entered into pursuant to Ohio Revised Code Section 5513.01(B).

Mr. Snyder: This is pretty self-explanatory. We've gone to an ordinance format, which will allow us to continue to do it yearly. Presently we've done this the last two times under resolution, which the Ohio Revised Code expires every two years. So this will eliminate the redundancy of coming back every two years and forming a new resolution. This will empower the Board of Control to purchase, if the price is right, the department contracts as such as we do on the state bid list. And I think it's proved to be beneficial in the past, saved us some money on some equipment that we bought. So that's--

Mr. Sarbach: This doesn't authorize the expenditure of funds, it authorizes them to use that ...inaudible...

Mr. Snyder: It uses the mechanism to purchase, right.

Mr. Sarbach: Inaudible...

Mr. Snyder: And under the old way, it was by resolution and those expired every two years. So rather than clog the system with redundant ordinance or resolutions, we're putting it in the form of an ordinance which empowers the Board of Control, if that's the better deal, to purchase from them. You'll still see the actual line item, either be it budgetary or whatever it is, it still comes through Council. Only authorizing the Board of Control to purchase that. It doesn't circumvent any check and balance or anybody. You'll still see it. It just allows them that right to go there without competitive bid.

Mr. Sarbach: Mr. Chairman, I move we adopt the first reading of Ordinance No. 206-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 206-05. All members present voting:

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

No: 0

14. Mr. Peters moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 207-05. All members present voting:

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

No: 0

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COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, November 14, 2005 7:00 p.m. 2005

Ordinance No. 207-05 – 1st Reading

Ordinance No. 207-05 amending Land Use Category (d) of Section 1137.03 SCHEDULE OF PERMITTED USES of Chapter 1137 Business District Regulations of Ordinance No. 50-03, Zoning Ordinance of the City of North Canton, by the addition of a similar use category to (d)(17) as conditional use in GB-A, General Business A District and a permitted use in GB-B, General Business B District.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, thank you. Just as it reads, conditional use in GB-A, permitted use in GB-B. That is pet services such as grooming, boarding, daycare. And we had a public hearing last week in regards to this, and nobody spoke for or against. So unless anybody else has anything to add, I move that we accept the first reading of 207-05.

Mr. Peters moved and Mr. Sarbach seconded to **adopt the first reading** of Ordinance No. 207-05.

Mr. Snyder: One question there.

Mr. Peters: Yea.

Mr. Snyder: That present grooming service operates under a conditional use? That's in a GB-A district, isn't it? Or are they operating just as a grandfather ...

Mr. Lane: The one next door to this one?

Mr. Snyder: Yea.

Mrs. Kiesling: The one on Main Street?

Mr. Snyder: Yea.

Mr. Peters: I'm not sure.

Mrs. Kiesling: Beside the carpet place?

Mr. Snyder: Yea, that's in a G...

Mr. Peters: GB...

Mr. Snyder: That's a General Business A district.

Mr. Peters: Yea.

Mr. Snyder: That's not a GB-B district.

Mrs. Kiesling: Not ...inaudible...

Mr. Snyder: So they're operating outside of the zoning ordinance, right?

Mrs. Kiesling: It looks that way.

Mr. Peters: Conditional – it will be a conditional use.

Mr. Snyder: Once they apply.

Mrs. Kiesling: Right.

Mr. Peters: Yea.

Mr. Peters: That's for the future Council to decide.

Mr. Snyder: I just wondered how that was operating in there. Okay.

All members present voting:

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

No: 0

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REPORTS:

Mr. Snyder: Director of Law, any report?

Mr. Pusateri: Just quickly, I prepared a memo, of course with Gail's help, concerning moral claims. I don't know if you received that or not. I mean Gail and I are in the process of calling other municipalities at Council's request to see how they handle it. But I just gave you some basic information about the Supreme Court case that authorized moral claims, but how it also limited moral claims. And then also in that memo I gave you an example of a release that I already have people complete if Council decides to give a moral claim. But it would be the same release I would use if the case would be settled as a normal process, you know. Then I also, at the end of that memo, I give you the steps that would be followed if the moral claim ordinances were repealed. So that gives you some idea of what direction it would go. And once again, Gail and I are still in the process of contacting municipalities. We made the mistake of trying them last Friday and found out that most of them were closed. So I'll keep you informed. And if you have any questions, as say in the memo, you're more than welcome to call me any time.

Mr. Sarbach: Just to reiterate, our moral claim policy is in under Rules of Council. It's not under an ordinance format at present?

Mr. Pusateri: Okay.

Mr. Sarbach: Is that correct?

Mr. Pusateri: That is right. Thank you.

Mr. Snyder: Thank you sir. Director of Finance.

Mrs. Herr: No report.

Mr. Snyder: Director of Administration.

Mr. Miller: Just one request this evening. We've got three segments of roadway that we haven't made a final decision on that Law Director Pusateri has talked about being common law dedicated. Those three segments being a piece of Pacific that's off of Meadowlane; Bonnett, between Lee High or Fair Oaks; and – can't think of the address that goes to the east...

Mrs. Kiesling: Lynhurst. Does it go down to the circle?

Mr. Miller: About there. And then there's a small piece of Fairhart also that has a house on it that is, in essence, we believe common law dedicated. Since there is rumor of snow this week, I don't want to put anybody in a position of either continuing what we've done in the past and getting them somehow in a predicament or stopping what we've done in the past and getting us all in a predicament. So I guess what I'm asking Council to do is, at least for the time being, until the Law Director works out what the final solution is or final determination is on those three segments of road, that continue as we have. For example, in the case of Pacific, for the last 23, 24 years; in the case of Bonnett, probably almost as long; and continue to do what we've done until a final determination is made and have that on the record here with Council, maybe a voice vote, so that folks are protected.

Mr. Snyder: Good point. Well, is a – Mr. Lane, as chairman of streets, do you have any problem with that?

Mr. Lane: No, I don't have any problem at all.

Mr. Snyder: I think we almost ...

Mr. Lane: I think it would be a prudent move.

Mr. Snyder: Yea, I think those people would be calling up if we let them set there and their street didn't get plowed. Sir, do you want to make a motion to do so or would you – for a voice vote to continue as is until a determined ...

Mr. Miller: A final determination is made by the Law Department.

Mr. Lane: Status quo is status quo...

Mr. Snyder: final determination. I think that may be a ...inaudible...

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Mr. Lane: Yea, I'm not sure if I – I wasn't taking notes, so I'm not sure of the exact wording. But I think – Gail, can you figure out what we're going to take the voice vote on?

Mrs. Kalpac: Yes.

Mr. Lane: You'll be alright with that. So it ...inaudible... I would make that move please.

Mr. Lane moved and Mrs. Kiesling seconded to allow the City to continue to maintain Pacific, Bonnett and Fairhart until a final determination can be made by the Law Department.

Mr. Peters: Yea.

Mr. Snyder: Okay...

Mr. Pusateri: I... go ahead, I'm sorry.

Mr. Snyder: Go ahead, you can...

Mrs. Kiesling: No, go ahead Paul ...

Mr. Pusateri: No, I was just going to say that at some point the City will have to dedicate those roadways, just a formal dedication. I mean the idea of common law dedication is more of a defense. Like for instance, let's say someone tried to block one of those roads saying it wasn't properly dedicated to the City. We could run down to court with a restraining order saying there's a common law dedication. It's been public right-of-way for years, and the anticipation of being a public right-of-way requires that it remain open. But once again, that's a defense if that would – if an obstruction came down. But I think we need to go through and actually dedicate those right-of-ways formerly.

Mr. Lane: What kind of a time table would that take?

Mr. Pusateri: It's a standard dedication.

Mrs. Kiesling: You can say it out loud.

Mr. Pusateri: I don't have it at the top of my head, but it takes some time. You have to go through Planning Commission I believe. Right, Jim?

Mrs. Kiesling: Inaudible...

Mr. Benekos: On a road that is being used it doesn't need to go to the Planning Commission.

Mr. Pusateri: Okay, I'd have to look at that. So we can expedite it.

Mr. Lane: Okay, just some time soon.

Mr. Pusateri: Sure. Yea, we can start that process.

Mrs. Kiesling: Inaudible...

Mr. Pusateri: As soon as we can.

Mr. Lindower: Under that common law. would that cover the City as a defense in case of a liability also? Or at least it would be a defense, right?

Mr. Pusateri: Yes, I mean there have been cases for instance, I've seen where someone makes a claim against a city because of improper maintenance of a roadway...

Mr. Lindower: Or damage.

Mr. Pusateri: And sure, or damages, and they sue the city and the city tries to take the position that it's not a roadway. And courts have determined that this common law dedication has held cities liable. So, in other words that's another good reason to go ahead and remove the snow because that is a public right-of-way. Thank you, that's a good point.

Mrs. Kiesling: Gail, I'm going to remove my second. I'm going to abstain.

Mrs. Kalpac: Okay.

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Mrs. Kiesling: Somebody else needs to second.

Mr. Peters: I'll second that.

Mr. Snyder: Alright, we have a motion and a second. Any other discussion? The Clerk can call the roll.

All members present voting:

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

No: 0

Abstain: Kiesling.

Mr. Snyder: Thank you. Any other comments of Director Miller or... excuse me, I'm sorry...

Mr. Miller: No, that's enough for one night.

Mr. Snyder: Alright, I appreciate it. Mr. Mayor, do you have anything?

Mayor Rice: No report.

Mr. Snyder: Mr. Engineer.

Mr. Benekos: No report.

Mr. Snyder: Madam Clerk.

Mrs. Kalpac: No report.

REPORTS – COUNCIL:

Mr. Snyder: Member Foltz.

Mr. Foltz: No report.

Mr. Snyder: Member Lindower.

Mr. Lindower: I'd like to welcome our new Assistant Clerk of Council onboard. It's going to be nice to have someone here to work with Gail. She's a fantastic person to work with. And other than that, I have no report.

Mr. Snyder: Thank you very much. Member Lane.

Mr. Lane: It's something we were discussing before we came out and I just – I want to throw it out here for anybody else that might be getting some calls and maybe get a read from Paul or from Mike. And I have had a few calls over the weekend from people just shoving their leaves out into the curbs waiting for a street sweeper to come by eventually. And I'm – from what I understand that it is illegal.

Mr. Miller: Ah, yes.

Mr. Lindower: Yes it is.

Mr. Lane: What are the ramifications if somebody does that and doesn't go out to pick them up?

Mr. Snyder: There's an ordinance in our City that prohibits snow, grass, leaves, any yard debris crossing the public right-of-way.

Mr. Lane: I think there was some confusion because some cities do...

Mr. Snyder: There's a fine, I think. It's either fifty or...

Mr. Pusateri: Yea, let me see if I can find ...inaudible...

Mr. Miller: That is an area that needs some strengthening as far as that ordinance is concerned and the similar one with snow. Because we do have, in the winter time, people pushing snow across the street...

Mr. Snyder: Right.

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Mr. Miller: Creating ridges that create problems not only for passers by but also for the snow plows. Because if you hit that ridge or if it gets iced up, you know, that can affect a snow plow, and, if not, scare the heck out of the driver, maybe cause some problems as far as going off or break a plow or one of the blades on the bottom. So that's probably something that we ought to look strengthening up in the future.

Mr. Lane: Well certainly for the winter we could put something in the City newsletter. But for the fall, that's pretty well past. So I'm assuming we're all going to get those kind of calls, that's the reason I brought it up. So...

Mr. Snyder: Well you have people with snow plows that take from one side of the street and shove it in the neighbor's front yard. I mean then there's gravel and road debris and everything else and that person has to clean it in the spring. That's not very courteous.

Mr. Pusateri: And I'm not finding it right away but...

Mr. Snyder: Alright, we'll find it.

Mr. Lane: I'll refer to you.

Mr. Miller: Well thank you.

Mr. Lane: Not a problem.

Mr. Snyder: Member Kiesling.

Mrs. Kiesling: No report.

Mr. Snyder: Member Peters.

Mr. Peters: I have no report. I just – I have a question for Paul. On that thing that you put out for the moral claim. The process, if the moral claim was to be taken out of the Rules of Council, would it still include the release?

Mr. Pusateri: Oh absolutely. Sure.

Mr. Peters: Okay.

Mr. Pusateri: Absolutely. That's – and I say I think it's the last step...

Mr. Peters: Okay ...inaudible... item 6, I just saw that. Okay.

Mr. Pusateri: I'd bring it to Council for approval. I mean we're not a city like the size of Canton where we have a bunch of claims. I still think that it's wise that Council know every claim that's being ...

Mr. Peters: Exactly.

Mr. Pusateri: you know, settled as opposed to ... I mean ...inaudible... Council will decide to authorize the Law Department with a certain amount. And think it's wise that Council is aware of the claims that are being settled. We don't have that many, you know.

Mr. Peters: Yea. Well looking at the process here, I like the way it's laid out and the fact that you bring the administrator in or City employees who are ...

Mr. Pusateri: No, that's ...inaudible... absolutely, sure.

Mr. Peters: familiar with it and then bring it to Council at the end.

Mr. Pusateri: Yea. Well, thank you.

Mr. Peters: Yea, that's it. That's all I have.

Mr. Snyder: Mr. Sarbach.

Mr. Sarbach: No report. But I'd like to formally welcome Laurie onboard with the City. I hope you find this a very pleasant place to work. And I did – I was not part of the interview process, but I everybody did a fine job and happy to have you with us, Laurie. That's all I have.

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Mrs. Cousino: Thank you.

Mr. Sarbach: That's all I have.

Mr. Snyder: Okay, I have nothing ...inaudible...

FINAL CALL FOR NEW BUSINESS:

Mr. Snyder: Is there anyone in the audience wishing to speak to the Council on final call?
Mr. Osborne.

Chuck Osborne: My name is Chuck Osborne. 307 Fairview Street SE, North Canton, Ohio. I don't have any specific prepared comments. But upon hearing that there's a recommendation and affirmation by all of Council that you're going to continue to spend City dollars to maintain private property and then to rectify this and you're going to dedicate a street. I'm specifically familiar with Pacific, which I spoke on here a few months earlier. This is a street that doesn't meet our subdivision requirements for width of street. Nor will it ever meet it, because there is not enough room to widen the street and make it meet minimum City requirements. And I think you're setting a very poor precedent here when you're going to accommodate situations like this just to rectify and cover over past mistakes. When like I mentioned earlier, there are other residents in this City, specifically Sherbrook Circle, how you can continue to deny them. Just - they simply wanted some assistance with snow removal services. But since that's not a dedicated street, you've refused them. And there's been other situations. So this is wrong. You just seem to bend the rules. We have nothing in place that it serves as a guideline that we stick with. And like the gentleman mentioned earlier, our ordinances don't really stand for anything, because you just make up the rules as you go. I'm not ...inaudible... the residents on Pacific nor am I - resident ...inaudible... the resident that just lives around the corner from me. But you have laws and you have rules which we all go by, and we all know that taxpayer dollars are expended given and based on those rules. And we all know where we stand. And I just think you're setting up a precedent. And somebody, I would think, could come and sue the City and say if you're going to give City services to this private drive and then dedicate it as a public right-of-way, when it doesn't meet any of our requirements, you're going to be on thin ice. I've looked up the Common Law Dedication. But like said, it doesn't meet the City's subdivision requirements for street width, Pacific, nor will it ever. And it just boggles me that you just make up the rule as you go. Thank you.

Mr. Sarbach: I think we're wise to take the advice of our registered attorney on this matter. And I think we'll continue that way until such time we change the precedent and dedicate the street or stop the plans. So...

Mr. Snyder: Okay, anybody else wish to speak to us this evening? Any other members of Council, the administration? If not, may I have a motion to adjourn the meeting?

Mr. Lane moved and Mr. Peters seconded to adjourn the regular Council meeting. All members present voting:

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

No: 0

The meeting adjourned at 7:42 p.m.


PRESIDENT OF COUNCIL

ATTEST:


CLERK OF COUNCIL