

# RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, November 28, 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. Monsignor Jay Clark, St. Paul Catholic Church
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 Mayor's Court Receipts for October, 2005.

Mr. Snyder: May I have a motion to consider the Mayor's Court Receipts for October, 2005?

Ms. Kiesling moved and Mr. Lane seconded to approve the Mayor's Court Receipts for October, 2005.

All members voting present:

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

No: 0

6. Committee Reports:

**Finance & Property Committee:** Refer to the minutes on file in the Council Office of the Finance & Property Executive Committee Session meeting held November 21, 2005.

**Ordinance, Rules & Claims Committee:** Refer to the minutes of on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held November 21, 2005.

**Personnel and Safety Committee:** Refer to the minutes on file in the Council Office of the Personnel and Safety Committee meeting held November 21, 2005.

**Streets and Alleys Committee:** Refer to the minutes on file in the Council Office of the Personnel and Safety Committee meeting held November 21, 2005.

**Water, Sewer & Rubbish:** Refer to the minutes on file in the Council Office of the Water, Sewer and Rubbish Committee meeting held November 21, 2005.

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

All members voting present:

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

No: 0

7. 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.

Chuck Osborne: My name is Chuck Osborne. 307 Fairview Street, S.E., North Canton, Ohio. Last Monday night, November 21, 2005, I sat in this chamber as a spectator to observe the action of the North Canton City Council. As you know – as you all know, this body is charged with ensuring that tax payer dollars are spent wisely. As a citizen and taxpayer of this City, I observe that this Council and the administration apparently feel that the funds supporting expenditures authorized by this body represent little more than monopoly money instead of taxpayer dollars. In last week's Council of the Whole Meeting, City Administrator Michael Miller provided the details regarding the purpose of Ordinance 213-05, which, and I quote, authorizes the City to enter into an amended agreement – a change order – in the amount of a reduction of \$100,000.00 for the South Main Street – Everhard Road project. Mr. Miller explained that the contractor had found a better way to construct a retaining wall that was to be built in the course of the bridge and roadway project and that this better way had resulted in a reduction in construction cost on the project of \$200,000.00. Mr. Miller continued with his explanation by saying that the savings on the project would be split with the contractor. My first question, as I sat in the audience, was

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why split the reduction and the cost of the project with the contractor? Furthermore, I was dismayed that not one Council member had the same question. I have learned that the details behind the savings come from the fact that the contractor has proposed building a retaining wall in a less conservative manner and specified in the original engineering design. More specifically, the contractor is now being allowed to reduce the depth of the retaining wall by five (5) feet. The engineering design firm for the project was CT Consultants. Did CT Consultants over-design the project? I might interject here that we paid CT Consultants \$200,000.00 for the engineering design for this project. The reduction in the depth of the retaining wall simplifies the project for the contractor. Do the less conservative engineering requirements for the construction of the retaining wall do anything for the taxpayer? Shouldn't a reduction in the complexity and cost of a project that amounts to \$200,000.00 be returned to the taxpayers? Apparently, someone in government believes that taxpayer dollars should be handed out to contractors in circumstances like these, and to make it more powerful, the bureaucrats call this "value engineering." To take a phrase from commentator Paul Harvey, the rest of the story is that North Canton tax payers overpaid for a project by \$200,000.00. The good news is that \$100,000.00 of that amount is being returned to the taxpayer. The bad news is that another \$100,000.00 is being forfeited to the contractor for finding an engineering firm willing to reduce the required specifications for the project. That information was not told to the readers of The Repository, in their story titled "South Main Bridge Repair Project to Start In April" reported on Tuesday, November 22, 2005. The losses to North Canton taxpayers at this meeting did not stop with the giveaway of \$100,000.00 to a contractor who was able to convince another engineering firm that the original design of the project was overbuilt. City Administrator Michael Miller enumerated a situation at the City Water Treatment Plant in which a delivery of chemicals to the plant was incorrectly offloaded and mixed with other chemicals. The resulting hazardous mixture had to be properly disposed of by a contractor at a cost of \$32,000.00. If there was no culpability on the part of the City for this error, as Mr. Miller detailed, why is this Council allowing taxpayer dollars – funds to pay for the expenses of cleanup and disposal? At this point in the Council meeting, Council had spent \$132,000.00 of taxpayer dollars, and the taxpayer had received absolutely nothing in return. So much for ensuring that taxpayer dollars are spent wisely. There appears to be no checks or balances on the spending of City government with this Council. The jaw dropper for me at last week's meeting was when this Council refused to return a \$75.00 deposit to the surviving family members of an elderly lady who had reserved the Civic Center for a December 26, 2005 birthday celebration/reunion and who had unfortunately passed away before the planned family gathering. With the exception of Mr. Lindower, who orders that the deposit be refunded, the decision by the rest of Council is truly heartless. This family, their relatives, their friends and everyone they talk to for the rest of their lives, will know the story of their request for consideration in their time of great loss, and the cold denial North Canton City Council offered them in return. Every time this family tells this story, they will relive this memory. City leaders in North Canton are heartless, and they have no concern for their citizens. That refusal to accommodate this grieved family is certainly a testament to that fact. This is not a good way to promote the City of North Canton. This Council did not show any concern during the meeting that \$132,000.00 of taxpayer dollars was expended during the course of this meeting, and in return, taxpayers received nothing. And, yet, at the end of this Council meeting when it came to a very minor sum of \$75.00, that actually did not originate from taxpayer funds, this Council scrutinized it with great concern. How can this be? The attitude that has pervaded this Council body for many years that money grows on the Dogwood trees here in North Canton is about to end, and soon everyone will wonder where did all the money go. Also, at the same meeting during the discussion to refund the \$75.00 deposit, Council member Keisling said that, to her knowledge, this had never been done. I recall when I was on Council, we had a young lady who was left as a bride-to-be at the altar, and she had to cancel her reception at the Civic Center. And I do believe this Council refunded their deposit. Now maybe you were concerned at that time that this person would still be walking the earth and would tell on you if you didn't do it. But in this case, since this lady has passed away, maybe you feel safer that nobody is going to be telling on you. Thank you.

Mr. Snyder: Not to begin a rebuttal, but I believe that by Revised Code, we are required to split that money with the contractor; are we not?

Mr. Miller: O.D.O.T. Regulations require that if we accept it – we've got two choices –

Mr. Snyder: To deny it, yeah.

Mr. Miller: We can tell them to build it as we originally specked, in which case we get nothing. Or, we can allow the value engineering process to go forward through O.D.O.T., in which case they've approved the change order in addition to our engineer, and we get to split the savings with the contractor. Those are the two choices.

Mr. Snyder. Right. It's not arbitrary at all.

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Mr. Miller: So, we get \$100,000.00 or we get nothing, and we get it built the way it was originally specked.

Mr. Snyder: Please, sir. There is no rebuttal on this. Thank you. You've spoke. Please sit down.

Mr. Lane: I do want to point out, too, Jon, that never came out of Committee for us to vote on --

Ms. Kiesling: Right.

Mr. Lane: -- About the \$75.00.

Ms. Kiesling: And I voted for it (inaudible) ...committee.

Mr. Lane: I just wanted to set the record straight; that's all.

Ms. Kiesling: Exactly. You are quite correct.

Mr. Snyder: And then relative to the \$32,000.00, I believe that the City contracted with SunPro, and we're obligated for that money; am I not correct on that?

Mr. Miller: We're obligated with SunPro. The Law Director is pursuing a claim against the delivery company. At no point have I said that we have no culpability, and I'd rather not speak on that publicly, because the Law Director is going to have to pursue a claim. And if we admit publicly that we have some culpability, it's going to be that much more difficult for them to pursue it.

Mr. Snyder: All right, sir. Thank you for that. Anybody else wish to speak to Council this evening? Please step forward and state your name and address.

Mr. Schilstra: Ken Schilstra. 601 Linwood. I don't know if any of you saw in the newspaper, the airport wanting to clear habitat for deer. They want to cut 30-some acres of treed land -- water absorbing properties. And I hold in my hand a draft environmental assessment for the Zimber Ditch Storm Water Project A and B which we found today, but it was actually made available for public review on October 13<sup>th</sup> and had a 30-day comment period which appears to have expired, so no one is aware, that I know of, and have been able to make a comment about it. One of the most -- I'll just read one sentence from it just to give you an idea. This is from the Army Corp, the Huntington District, who is doing the Zimber studies. In fact, the current 25-year storm now approximates or exceeds the FEMA 100-year flood. Okay? I think we're in the close -- that we're getting close to being sitting ducks here, because we have lost that much of -- due to building and lack of maintenance. Airport here wants -- and I'm not, we don't, I'm not sure. I haven't been able to determine just which way the flow goes. But they want to cut 33 wooded acres on the northwest side of the property to apparently reduce deer habitat. And on top of this, they think there were about 20 deer there at some time, and it's now down to a handful, which they, apparently, don't feel that they can shoot very well. They've already thinned them once, why not take the rest out? Ah, cutting -- And they also want to fill in two wetlands -- 4-1/2 acres of that, and I think if memory serves us right, we learned what happened by the loss of wetlands in a hurricane event down in Louisiana. And 14 -- fill in 1,400 feet of an unnamed tributary of the Nimishillen Creek. And they call for filling this wetland with 4,000 cubic yards of material. I'll just hand this sheet to you so you -- They plan to have a meeting, public meeting, by the EPA at 6:00 p.m. on December 7<sup>th</sup> at the Green Library. Like I said, I'm not sure which way the water flows, but if it ends up in the Nimishillen, it comes down and ends up in Mr. Lane's neighborhood, as I remember. So, he's got some interest in that, even if the Zimber doesn't have interest in it. So, I will pass that on. I think we have some concerns that we're past the point of having an opportunity to delay on. Okay, they're filling -- another issue that we seem to be having -- and thank you for the letter that went out to the people who live along the Zimber Ditch. I have seen people who, prior to this, had thrown their leaves, litter, yard waste, just over and into the stream. However, we seem to still have some people that choose to feel that this doesn't apply to them and have chosen to just pile their leaf, litter and so forth. Mr. Miller has had an opportunity to have one of the City officials have a discussion with him, and he responded to that discussion from the fact that he took all the tree trimmings and so on and branches and stuff that he'd piled up down there, and cut them up and actually removed them from the property. I'm not sure where they went, but they didn't get thrown into the ditch that I know of. So -- but he's continuing to do this, so I hate to say it, there ought to be a law, but we need to address, somehow, this issue.

Mr. Snyder: That's what those pictures are (inaudible).

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Mr. Sarbach: At the time, I'd just comment on the airport situation. It's on the northwest corner. I think if you drive up there – if you go up Lauby Road from Mt. Pleasant, you'll see a multi-million dollar water retention area that the airport put in several years ago. And that helps our situation here in North Canton – it controls that.

Mr. Schilstra: But it doesn't address that issue on cutting, because that's on the other side of the airport.

Mr. Sarbach: I haven't finished. Would you like me to wait for you to finish, and I'll try again?

Mr. Schilstra: Okay. Finish.

Mr. Sarbach: Okay, if you go up Poplar Road, you'll see that if you drive around the other side.

Mr. Schilstra: Yeah, that's been there for about four or five years now.

Mr. Sarbach: That's correct. That's correct.

Mr. Schilstra: And now, also, we're building a new – as I think – hotel there? And I haven't seen any plans on retention for that water runoff yet.

Mr. Sarbach: Well, you need to check with Green, because that's in their territory. We don't have the authority on that. But they need to retain the water on that area – on the site. I believe that's a state law; is it not? Jim, do they need to retain water on that development on the site according to state law – for the development where their hotel is at? I see they're building bases up there, but I'm sure they're engineered.

Mr. Benekos: That would be up to Green what they require.

Mr. Sarbach: All right.

Mr. Schilstra: Because that sits on the tributary to Zimber.

Mr. Benekos: I believe so.

Mr. Sarbach: Also, with the removal of trees, that has been static for several years. There have been multiple aircraft, deer and coyote. It's a habitat for coyotes – I've been up in that area at night. You wouldn't believe these are in a major regional airport, and you hear the noises coming out of those woods. So, those animals also roam on the runways after dark, and there's aircraft landing – commercial flights – that you or your wife and your family could be on. I think they're doing a good thing. They extended the height of the fences to keep deer from migrating through the area, and they are removing the wildlife in the area. It's not a wildlife sanctuary. It's a regional airport. And they're treating it as such.

Mr. Schilstra: Okay addressing that. Two (2) deer-plane collisions in a two-year period – 2003 to 2004. It's not much of a volume –

Mr. Sarbach: There were multiple –

Mr. Schilstra: May I finish? And the collisions were with small planes, which is what they're concerned with. And if they think, you know, if they're down to half a dozen deer. I guess, and they put up higher fences to keep them out, so why can't we purge the area? That's just—

Mr. Sarbach: Beyond your comprehension; is that what you're saying?

Mr. Schilstra: No, it's beyond the sense of practicality. Thank you.

Mr. Snyder: Thank you, Ken. I appreciate your comments. Anybody else in the audience wishing to speak this evening? I see none. May I have a motion to read by title only the third reading of Ordinance Number 204-05.

## OLD BUSINESS

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

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## Ordinance No. 204-05 – Third 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 the Director of Administration for the cleaning of five (5) sludge lagoons and one (1) 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 that ongoing thing. We need to clean the lime and the sludge out of those basins. This is a budgeted item, and this will allow the administration to keep that and be operating properly. I move that we adopt the third reading of Ordinance 204-05.

Mr. Sarbach moved and Mr. Lane seconded to **adopt the third reading** of Ordinance No. 204-05. All members present voting:

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

No: 0

9. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, second reading** of Ordinance No. 205-05. All members present voting:

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

No: 0

## Ordinance No. 205-05 – Second Reading

An ordinance authorizing the Director of Administration to the City of North Canton, Ohio, to advertise and receive bids according to the 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: Yes, this gives the administration the opportunity to be a little bit proactive. This isn't due until the middle of next year, but it allows us to go out for bids in the event that the present contractor does not want to extend. And I would hope that the new administration would keep an eye to recycling. I think that's the case for both administrations, and with that I'd like to move we adopt the second reading of Ordinance No. 205-05.

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

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

No: 0

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

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

No: 0

## Ordinance No. 206-05 – Second Reading

An ordinance 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 just – we used to pass this on a resolution every two years, and when we continue to buy machinery, materials for the state bidding process, so, consequently, we're going to put it in the form of an ordinance allowing them to continue to do that until the Council gave it unnecessary judicial. Is there any question on it? If not, may I entertain a motion to adopt the second reading of Ordinance 206-05.

Mr. Kiesling moved and Mr. Lane seconded to **adopt the second reading** of Ordinance No. 206-05. All members present voting:

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

No: 0

11. Mr. Peters moved and Mr. Sarbach seconded to **read by title only the second reading** of Ordinance No. 207-05. All members present voting:

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

No: 0

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## Ordinance No. 207-05 – Second Reading

An ordinance amending Land Use Category D of Section 1137.03 Schedule of Permitted Uses of Chapter 1137, Business District Regulations of Ordinance Number 50-05 Zoning Ordinance of the City of North Canton, by the addition of a similar use category to D-17 as a conditional use in GBA – General Business – A District, and a permitted use in GBB – General Business B District.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, thank you. This – the use to be conditional in GBA and permitted in GBB would, for example, be a pet grooming business, and this is the second reading. I move that we adopt the second reading of Ordinance 207-05.

Mr. Peters moved and Ms. Kiesling seconded to **adopt the second reading** of Ordinance 207-05. All members present voting:

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

No: 0

## NEW BUSINESS:

12. Mr. Sarbach moved and Mr. Peters seconded to **read by title only first reading** of Resolution 208-05. All members present voting:

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

No: 0

## Resolution No. 208-05 – First Reading

A resolution accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor and declaring the same to be an emergency.

Mr. Snyder: We are required to certify the inside millage that we charge the residents. Those are due there by the 19<sup>th</sup> of December. So, consequently, time is of the essence to pass this. I am giving you a copy of what the actual yield would be on the levies – storm, sewer and street, ambulance and fire. If there are no questions, may I have a motion to adopt the first reading of Resolution 208-05.

Ms. Kiesling moved and Mr. Peters seconded to **adopt the first reading** of Resolution No. 208-05. All members present voting:

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

No: 0

Mr. Snyder: Can I have a motion to suspend the Rules for Resolution No. 208-05.

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Resolution No. 288-05. All members present voting:

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

No: 0

Mr. Snyder: Can I have a motion to adopt under the suspension of the rules – Resolution No. 208-05.

Mr. Peters moved and Ms. Kiesling seconded to **adopt under the suspension of the rules**.

All members present voting:

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

No: 0

13. Mr. Sarbach moved and Mr. Foltz seconded to **ready by title only the first reading** of Ordinance No. 209-05. All members present voting:

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

No: 0

## Ordinance No. 209-05 – First Reading

An ordinance authorizing the Director of Administration of the City of North Canton to advertise and receive bids for the purchase of victim extraction equipment and jaws of life equipment for use by the Fire/EMS Department of the City of North Canton 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 and declaring the same to be an emergency.

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Mr. Snyder: The Fire Department was successful in obtaining \$38,000.00 and some dollars in the form of a grant. We have authorized \$1,900.00 to put to that to purchase this equipment. There is an emergency situation existing, as they need to go to bid prior to the 27<sup>th</sup> day of December of this year. The \$1,900.00 we placed in the '06 budget. So, there will be no amendment to Appendix A, and barring any questions, can I have a motion to adopt the first reading of Ordinance No. 209-05.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 209-05. All members present voting:

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

No: 0

Mr. Lane moved and Ms. Kiesling seconded to **suspend the rules** for Ordinance No. 209-05. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under the suspension of the rules** Ordinance No. 209-05. All members present voting:

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

No: 0

14. Mr. Sarbach moved and Mr. Peters seconded to **read by title only the first reading** of Ordinance No. 210-05. All members present voting:

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

No: 0

## Ordinance No. 210-05 – First Reading

An ordinance amending Section 935 specifically 935.02 connection charge other than by assessment of the Codified Ordinances of the City of North Canton, Ohio, and repealing any and all legislation inconsistent herewith.

Mr. Snyder: Chairman Peters?

Mr. Peters: Yes, this just changes what we had before. I think Mike would – the biggest change is Section 4 and 5; correct?

Mr. Miller: Basically, what this does – it changes it from a flat fee to a fee that's figured on a case-by-case basis, depending on the project, and then adds an inflation factor so that if people don't pay that – what we call a fair share fee in this case – up front, as it's billed, or at the time it's billed, that they – if they want to hook in later on, that cost goes up by the rate of inflation. This helps us from the point of view of the Water Department in that all water extensions will be paid for eventually, or should be paid for eventually, by the people that live along it and benefit from it.

Mr. Peters: Right. And that fee is recalculated every six (6) months; correct?

Mr. Miller: It's recalculated every twelve (12) months. After six months after completion, it goes up by ten percent (10%). That way it encourages people to hook up right up front, then each year following that, I think February 1<sup>st</sup>, if I recall correctly, it's indexed by the rate of inflation. So, if rate of inflation goes up 2.3 – whatever that cost is per front foot – goes up 2.3 percent as well.

Mr. Sarbach: Is that initial formula for actual cost or the biggest part of the actual cost of the extension?

Mr. Miller: That's the biggest part of the actual cost. That's the 8-inch line, if you will. If it's a distribution line, let's say it's a Mt. Pleasant line that we have to have a 16-inch or 20-inch on in order to be able to feed tower 2, we would pick up the cost between the 8-inch and the 16-inch the same as we would do for a developer. That one we carry, but the 8-inch costs would then be passed on to whoever lives along Mt. Pleasant at the cost of the project at the time – an 8-inch pipe and the cost to actually have it installed.

Mr. Peters: Everybody got that?

Mr. Sarbach: Okay. I think we had a fee of – what this is replacing is a \$2.50 per foot that we established back in 90 –

Mr. Miller: \$10.00. 1995.

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Mr. Sarbach: 1995? Okay. I thought it was before then. Okay. That will bring it up to date – and keeping it up to date by using a formula rather than a fee for a fixed amount.

Mr. Peters moved and Mr. Foltz seconded to **adopt the first reading** of Ordinance No. 210.05. All members present voting:

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

No: 0

15. Ms. Kiesling moved and Mr. Sarbach seconded to **read by title only the first reading** of Ordinance No. 211-05. All members present voting:

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

No: 0

### **Ordinance No. 211-05 – First Reading**

An ordinance amending the current City Vehicle Use Policy and repealing any and all legislation inconsistent herewith.

Mr. Snyder: Chairman Lindower?

Mr. Lindower: Yes, this ordinance is an amendment to the Vehicle Use Policy currently in effect. Mr. Miller, Mr. Pusateri and Chief Grimes have put a lot of time and effort into upgrading and updating that policy. I think we've all read it. I feel that it's badly needed at this particular time with today's society with all the litigation that comes up and so forth. So I would ask that we pass the first reading on this Ordinance No. 211-05.

Mr. Lindower moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 211-05. All members present voting:

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

No: 0

16. Ms. Kiesling moved and Mr. Sarbach seconded to **read by title only the first reading** of Ordinance No. 212-05. All members present voting:

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

No: 0

### **Ordinance No. 212-05 – First Reading**

An ordinance amending Ordinance No. 155-03, Collective Bargaining Agreement between the City of North Canton and the North Canton Professional Firefighter and Paramedic Association, IAFF Local 3489, by the addition of Article 30-A, Residency.

Mr. Snyder: Chairman Lindower?

Mr. Lindower: Yes, here again, Ordinance 212-05, again, is to bring the Collective Bargaining Agreement in alignment with the agreement made by the firefighters and paramedics, during the last administration and the negotiations to permit them to have a non-residency clause in their contract. I stated before, I don't agree with it; however, I do agree to the fact that – and due to the fact that it has been put into the contract – we need to honor that contract, and I would ask that we do pass the first reading of 212-05.

Mr. Lindower moved and Mr. Sarbach seconded to **adopt the first reading** of Ordinance No. 212-05. All members present voting:

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

No: 0

17. Mr. Lane moved and Mr. Sarbach seconded to **read by title only the first reading** of Ordinance No. 213-05. All members present voting:

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

No: 0

### **Ordinance No. 213-05 – First Reading**

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into an amended agreement change order in the amount of a reduction of \$100,000.00 for the South Main Street/Everhard Road Project and declaring the same to be an emergency.

Mr. Snyder: Chairman Lane?



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Mr. Lane: We discussed this at length earlier. Mike, do you have anything else you want to add?

Mr. Miller: No. Basically this is a contract that we have entered into with Central Allied through a bid. O.D.O.T. controls the process, because they are supplying eighty percent (80%) of the money; therefore, we're playing by their rules. Their rules have value engineering in it in that the contractor can go to O.D.O.T. and our engineer and propose changes in the specifications. And as long as it meets their specifications, and they feel it meets the safety standards – O.D.O.T. and our engineer – then a change order can be approved, and they get to keep half of whatever the savings are. In this case, the savings are projected to be \$200,000.00. We get to keep \$100,000.00. The alternative would be to have no change order approved and that we would pay the original amount, and that would basically increase our local share, so to speak, by 80% of \$100,000.00, or \$80,000.00. So, we're saving ourselves money by doing this. The project has been deemed to be safe by O.D.O.T., their engineers and our engineers, so I would recommend that we go forward with this change order. Engineer Benekos, anything to add to that?

Mr. Benekos: No.

Mr. Snyder: I have but one previous question, if I may. Let me understand this. I understand the first part of it, but now you're telling me should we – if we would not elect to adopt this as presented, we would owe an additional \$80,000.00 to O.D.O.T. because we didn't – say we might – we would just –

Mr. Miller: We would owe the original amount – it would – the original amount of the contract. The original amount –

Mr. Snyder: We would not get the 100, and we would just –

Mr. Miller: We would not get the 100. We would have to come up with the local share of that.

Mr. Snyder: Okay. I misunderstood. I apologize. Thank you.

Mr. Lane: That's fine. Any other questions? Comments? Concerns?

Mr. Lane moved and Mr. Sarbach seconded to **adopt the first reading of Ordinance No. 213-05**. All members present voting:

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

No: 0

Mr. Lane moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 213-05. All members present voting:

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

No: 0

Mr. Snyder: Since time is of the essence, and we want to get this started, hopefully April 1, I'd like to adopt under the Suspension of the Rules Ordinance No. 213-05.

Mr. Foltz moved and Ms. Kiesling seconded to **adopt under the rules of suspension of the rules** Ordinance No. 213-05. All members voting:

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

No: 0

18. Mr. Sarbach moved and Mr. Peters seconded to **read by title only the first reading of Ordinance No. 214-05**. All members present voting:

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

No: 0

### Ordinance No. 214-05 – First Reading

An ordinance authorizing the Director of Finance of the City of North Canton to make payment in the amount not to exceed \$31,962.83 to SunPro, Inc. for services performed relating to cleanup and disposal of chemicals at the Water Treatment Plant and declaring the same to be an emergency.

Mr. Snyder: Chairman Sarbach?

Mr. Sarbach: This is a bill that we incurred back in April, I believe it was.

Mr. Miller: A little later than April, I believe.

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Mr. Sarbach: Well, the event happened in April, so it was May or June.

Mr. Miller: I think the bill came out in June or July, so it was about a month or two before that.

Mr. Sarbach: Five months – five or six months. Okay. What this will do is pay – we have contracted to clean up some waste material. We won't speak to the events leading up to that on advice of attorney. I guess most attorneys – or all attorneys and most paralegals know not to speak to those things, so we won't do that.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading** of Ordinance No. 214-05. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **suspend the rules** for Ordinance No. 214-05. All members present voting:

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

No: 0

Mr. Sarbach moved and Mr. Peters seconded to **adopt under the suspension of rules** Ordinance No. 214-05. All members present voting:

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

No: 0

## REPORTS

Mr. Snyder: Director of Law, any report?

Mr. Pusateri: I have no report, sir. Thank you.

Mr. Snyder: Director of Finance.

Ms. Herr: No report.

Mr. Snyder: Director of Administration.

Mr. Miller: I do have a report. Actually, this format is probably easier than having Kim and Pat type a lot of letters, so I'm going to go on the record, basically, to remind Council of some things that are outstanding that need to be considered for the next Council as well. We do have seven (7) labor contracts that expire in August of 2006. Obviously, that's something that needs to be – everybody needs to be aware of. Beside an ordinance, Eric and I have done some preliminary work on looking at that, but it needs revision. There is – coming up this June, two (2) years left on the grandfather period where all the nonconforming signs would have to be taken out. There is a bid opening on December 2<sup>nd</sup> at 11:00 a.m. for Dogwood Pool spray ground. Also on December 2<sup>nd</sup>, a response is due from Republic in regards to whether or not they wish – or under what terms they wish – to extend the contract for the two-year period of time. There are five (5) different annexations that need to be paid attention to. BP East Maple is working its way through. Metro – the oral arguments are tomorrow in the Fifth District Court of Appeals. Chambers-Pittsburgh – the appeal has been withdrawn. That just happened late last week, so the clock starts ticking on that one again. There is a Seran-Heatherwood annexation of two folks. There is a 100% of the signatures that is available to be filed. I wanted to wait for the new administration to come in so there was – that would be seamless. The Dells – there are signatures already obtained. There are more signatures needed to be obtained, and we may need to reduce the annexation and size, particularly on East Maple. There are some signatures on East Maple that aren't forthcoming at this point. Aqua – the purchase of the customers and the switch is set to occur on December 5<sup>th</sup>, so Council and/or the administration will want to monitor that very closely. The tower – we've been approached for co-location of a cellular antenna. Right now our zoning rules and regulations prohibit that. It would depend on the appearance, but that would, potentially, bring some income into the City. The valve on Waywood, which would start the contract with Aqua in purchasing water, has been installed. They are waiting for AEP to hook the electric up to that one; so that's ready to go. The legislation for returning the NRAC Grant for the Crowder purchase for \$180,000.00 – the effective date of that legislation is December 5<sup>th</sup>, so I won't be here to write that letter. Obviously, somebody needs to monitor that as well. North Canton Preserve – We're working on the bridge design. We probably would want to re-zone Avenida purchase to park and institution. And we do need to amend the agreement with Stark County to extend the trail from our preserve property across Avenida to Marquardt, and eventually hook it up with the Sanctuary Trail that's being built. There is Canton-Vernon Avenue legislation that Paul is aware of that, I believe, Paul will bring it back to Council. And on the employee handbook issues, we've worked

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through most of the issues that have been presented to us by our insurance agency. They gave us a report in 2003 that asked for some changes. There are still two (2), I don't want to say major, but two things that need to be accomplished: One is, we need to revamp job descriptions; and we need to revamp our – and institute again an evaluation process. That one has been stagnant for some time. With that, I want to thank everybody on Council for the last 22 months, roughly. It has been a pleasure working with all of you, as well as working with Paul and Julie. And I want to thank the Mayor for the opportunity to be here for the 22 months. It's been a pleasure working for North Canton. (applause).

Mr. Snyder: Mr. Mayor, do you have anything at this time?

Mayor Rice: I just – also I would just briefly like to thank the residents of North Canton for allowing me to serve in the City for, I guess, since '83 – off and on. I wish the City of North Canton nothing but the best in the future and stand willing to contribute in any way I possibly can. And, also, actually I was going to thank – that was very telling of Mike with his litany of things, that just summarizes how on top of things Mike is. And I truly – I sit here, and we can talk all night about thanking certain people, and I don't want to go on and on, but the one person I do want to make special thanks to is Mike and my administrative staff in my office for their great work. This guy, as I am sure most people here on this Council would agree, and the people in the public that have been coming to the meetings and paying attention, is truly the most talented and knowledgeable administrator I have ever seen in my life – let alone work with – had the pleasure to work with. So, the City will certainly miss Mike and his professionalism. He's done an awful lot in the last two years for the City of North Canton. So, I personally want to thank Mike and my staff, as well as the citizens of North Canton for the last numerous years, but the last four and a half here as Mayor. So, I wish everybody and the City well. Thank you, Michael.

Mr. Miller: Thank you. (applause).

Mr. Snyder: Mr. Engineer.

Mr. Benekos: No report.

Mr. Snyder: Madam Clerk.

Ms. Kalpac: No report.

Mr. Snyder: Chairman Foltz.

Mr. Foltz: Yes, a few comments. Mike, I've worked with you for, I think, 13 years now. And I'm sorry to see you leave.

Mr. Miller: Fourteen.

Mr. Foltz: Fourteen, is it? So, you're one up on my on how long we many years we've known each other. So, I got to know you in Canton. I supported you as Tom's pick for Administrator here 22 months ago, and I think you've done a wonderful job in that short period of time, and you're going to be missed. I don't know too many people that have the professionalism you do to give us a punch list of what to look for as far as coming into next year's budget. And it just shows us the kind of class individual you are, and I wish you well. And I'm sure you'll land on your feet. So the best of luck to you. Tom, I'll miss seeing you up here Monday nights. I think you've done a great job as a mayor. You've done a lot of programming here that – whether the public knows it or not – "Imagine North Canton" – the different programs you developed for recycling. And those are just a few to touch on, but we went through some rough times here with the Hoover situation, and you were always at the forefront to see what they needed and provided leadership through the whole process, so I appreciate your years of service here. I know you're still a resident – Mike, too – so, hopefully you can get involved down the road through some committees or something to help us with your experience. Rest of Council, I appreciate your years of service, too. I mean, it's not an easy thing to be elected to office and sit in these chairs. Until you do, then you – until you do, you don't really realize what

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you have to go through and decisions you have to make. So, I wish everybody here the best of luck in the future. Good job.

Mr. Snyder: Chairman Lindower.

Mr. Lindower: Yes. I, too, would, excuse me, like to thank the Mayor and Mr. Miller and the rest of the administration – Mr. Benekos, Julie, Paul, everyone. The time – the term that I have served on Council for a total of four years now – it got a little rough and bumpy once in a while, but we all managed to work through things and to become civil again and handle the problems that came about. I'm not running – obviously I didn't run for Council again for the next two years. I'm going to step aside and watch, and I'm going to let some other people have a chance for Ward 2. However, I do want to thank the folks that did vote for me in Ward 2. It's not to say that I won't come back again in two more years and give it another run, but at this particular time, I'm going to take a break. I will be trying to keep in touch with what's going on, particular in the City, here. And I do offer my assistance to anybody who would desire to have me have any kind of input with them due to the fact that I've got 35 years of experience with the City government prior to being on Council. I still feel that that's been a valuable asset to me, and I am willing to share that with anybody that needs it. Thank you very much.

Mr. Snyder: Mr. Lane.

Mr. Lane: Council, colleagues, I do want to wish you well. Public service is a lot harder, I think, than some people think that is looking from the outside. I echo some of Doug's comments, and I think everybody up here has worked very, very hard. Most importantly, I want to thank you for your support on helping projects in Ward 3. It's very, very important, and I think if you go back through the records, you're going to find the number of issues that we were a lot more together on than the ones that got, I guess, reported more than the others. But we all work very, very well as a team, I think, on 99.99% of the matters, and particularly the ones involving Ward 3, and I do appreciate your help on that. And to the Mayor and to Mike, I appreciate not only your service, but also your friendship, and I'm going to miss you guys, and thanks for playing it straight with me for 22 months in your case, and longer than that in Tom's, so don't be strangers, anybody, please. Keep in touch. I appreciate it very, very much.

Mr. Snyder: Chairman Kiesling.

Ms. Kiesling: Yes, I'd just like to say I've had a great 4-1/2 years. It's been a lot of fun. I think I've learned something new almost every day, thanks to a lot of you all up here, especially to Gail – and probably Mary Louise for the first two years – and Julie and Paul. I've learned a lot. I plan on sticking around and keeping my nose in it. I wish everybody luck up here. It's going to be a tough few years, I think. I think the experience that Mike brought to the table is going to be missed, but I think we'll move on. So, good luck to everybody.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, thanks, Jon. Just basically what everyone else said. I would like to thank, in particular, Gail. She has been a huge help. And I was a short-timer up her, and Julie and Paul, Michael – you guys – your expertise and your professionalism has been – it's been nice to have that to fall back on, and it's just been a pleasure, you know, to serve the community that I have grown up in, and I plan on dying here. So –

Mr. Sarbach: Not soon.

Ms. Kiesling: Not soon.

Mr. Peters: Not soon.

Mr. Sarbach: You don't get your deposit back.

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Mr. Peters: But what I would – I would like to make a few comments. Throughout the course of this term, and this has been my only term, this Council – you know, we have been accused of bickering and not getting along. I think we've disagreed on a few things. But like Dave said, we've worked through it. We've mended fences when they needed to be mended, and it's been a pleasure working with all of you. And your professionalism – words can't describe. That's it.

Mr. Snyder: Thank you, sir. Chairman Sarbach.

Mr. Sarbach: Yes. I'd like to echo my colleagues' opinions. I share those, also, with Mike in administration. And I would just like to add that has, indeed, been an honor and a pleasure to serve on this Council for the better part of 14 years, starting in 1991, as a Ward 2 councilman for eight years and concluding this Wednesday as a one-term at-large councilman. Despite what the disciples of a certain political machine had been spinning lately, this Council is one of, if not the most, honorable group of citizens that I have had the privilege to serve with. I thank you all for your honest debate and your ability to disagree without being disagreeable. I have also had the privilege of serving with our last three mayors, our last three police chiefs and our last three law directors. Along with this Council, I have had the pleasure of serving with Councilman Jim Maag, John Boyajian, Paul Blohm, Daryl Revoldt, Tim Watkins, Gary Wechter, Don Wiley and Chris Thomas. I'll take a little bit from everybody, because they're all great people. And North Canton, in 1991, all you needed to do to be elected was to have a sincere desire to serve and be able to paint up a few dozen signs and enjoy talking to people. Our constituency has changed over the last decade. Today candidates are slandered through fliers, venomous letters to the editor and malicious eleventh hour mailings to unsuspecting voters. This a cost to serve I am not prepared to pay. I'm proud I've been a part of this – been a part of the conception and implementation of the Main Street improvement project that replaces aging infrastructure, as well as give our City an attractive new look. I can only hope that the future administration can revitalize that project. I feel fortunate to have been a part of the legislative body that modernized and expanded our City's water treatment plant and increased its capacity by over 50%, in part, by establishing a great structure that will keep that facility viable into the next decade without Council intervention. I have seen our safety forces grow, and I've gotten to know the dedicated professionals who serve on them. I'm sure some of these relationships will be further cultivated as I move on to other venues. I look forward to the newest Council members fulfilling their campaign promises of working harmoniously with the Mayor as well as fulfilling their obligation to our City Charter. As I depart this body, I pass on the unofficial title of most senior sitting councilman to Doug Foltz. My thanks, again, to all who have offered kind words of support and encouragement. May God bless you all and our beautiful city. Thank you.

Mr. Snyder: Thank you. Mayor Rice, I appreciate the years I've served with you. You've – you and I have had our differences, but we've always respected each other, and I wish you Godspeed and good luck. And as your elected official, you can call me any time. (Inaudible). Indeed, Mr. Miller, I say the same (inaudible). One of my constituents evidently answered. But it's been a real pleasure. You've been very good to my Ward and me, as the President of Council, and I thank you for that. To my parting colleagues: Mr. Lindower, I've come to respect quite a bit. He's quite a gentleman. And I thank you for your wisdom and the things that we've talked about, and I will say, sir, I've really grown to respect you. And I do appreciate all your services. Mrs. Kiesling, I've had a lot of good times with you, and I know you will be around again, so this will not be the last. And Mr. Peters and Mrs. Sarbach, it's truly been a pleasure to serve these past years as your President of Council, and I thank you all. And I wish everybody good luck and Godspeed.

## FINAL CALL FOR NEW BUSINESS

Mr. Snyder: Is there anybody in the audience wishing to speak for last call?

Ms. Burnett: I'm Suzanne Burnett, and I live at 710 Pierce Avenue in North Canton. And I want to speak as a concerned citizen who has quite regularly attended your meetings. They have not always been harmonious, but they have always been interesting. And I commend you for being concerned citizens and willing to take the risks to go out on the

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limb to make mistakes; and when you do, you admit them. And, unfortunately, not everybody who runs for office can win. And sometimes the people we vote for win, and sometimes they don't. And it's better to have – oh, I can't quote anything right any more – forget that. Whatever I was going to say, just, just know that lots of people who don't have what it takes to come to meetings, do read about what you do, and do appreciate what you've done. North Canton is a wonderful spot to live. We are truly blessed, and thank you for being good caretakers.

Mr. Snyder: Thank you for your kind comments. Mr. Repace.

Mr. Repace: I'm Jim Repace. I'm up here speaking as President of the Union, which represents the employees of The Hoover Company. I just want to publicly thank you, Mayor Rice, for your commitment of helping the Union. You've been so involved from the very first day that I called you and told you that we may be running into some problems down the road. You've been involved, you've worked hand-in-hand with me, you've been there when I've needed you. Mike, you've been there also. Any time I've called, and when I've needed you. We've written many letters, you've been involved in putting meetings together. We've got a lot of irons in the fire right now that I'm still going to follow up on. And I know you'd want me to do that. Both of you have offered any help, even, you know, in the future, that you could possibly give me. I appreciate that. We're not going to give up with The Hoover Company. Yeah, we just got knocked back a couple feet, but you know what? We don't quit. I never quit. You know I'm a fighter at heart. We'll continue on to fight this fight to save this company. We'll follow up on some of the things that you've started for us, actually, Mayor. And I just appreciate what both of you gentlemen have done for myself and for the members of our Local and for this community. I appreciate it and I thank you very much.

Mr. Snyder: Thank you, sir. Anybody else wishing to speak? Call of the Council. Seeing none, may I have a motion to adjourn?

Mr. Peters moved and Mr. Lane seconded to adjourn the meeting.

All members present voting:

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

No: 0

The meeting adjourned at 8:03 p.m.



PRESIDENT OF COUNCIL

ATTEST:



CLERK OF COUNCIL