

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, October 11, 7:00 p.m. 20 04

CALL TO ORDER:

- 1. The meeting was called to order at 7:00 p.m. by President of Council Jon Snyder.
- 2. The opening prayer was delivered by Council Member Greg Sarbach.
- 3. All present recited the Pledge of Allegiance.

ROLL CALL:

- 4. The following members of council responded to roll call: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz. 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. Voice Vote – Appointment of Amy L. Geier as Assistant Clerk of Council

Mr. Snyder: You know we've now hired and will begin next Monday, I believe the 18th of the month, Assistant Clerk of Council Amy Geier. Who can't be with us, she's on vacation; however, she'll be here next Monday evening, correct? We would like, for the record, a motion and an affirmative vote to do so.

Mrs. Kiesling moved and Mr. Peters seconded to appoint Amy L. Geier to the position of Assistant Clerk of Council (effective October 18, 2004). All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

- 6. Committee Reports

Mr. Snyder: May I have a motion to adopt as presented committee minutes of Community & Economic Development, 10/04/04; Finance & Property, 10/04/04; Ordinance, Rules & Claims, 10/04/04; Street & Alley, 10/04/04; Water, Sewer & Rubbish, 10/04/04.

Community & Economic Development Committee: Refer to the minutes on file in the Council Office of the Community & Economic Development Committee meeting held October 4, 2004.

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held October 4, 2004.

Ordinance, Rules & Claims Committee: Refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held October 4, 2004.

Street & Alley Committee: Refer to the minutes on file in the Council Office of the Street & Alley Committee meeting held October 4, 2004.

Water, Sewer & Rubbish Committee: Refer to the minutes on file in the Council Office of the Water, Sewer & Rubbish Committee meeting held October 4, 2004.

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

- 7. Recognition of Visitors

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

Ms. Baughman: Mariam Baughman, 320 Weber Avenue. I have concerns about Ordinance 139-04. Concerning the widths of sidewalks and streets and first I have questions for Mr. Benekos. What is the purpose to decrease the width?

Mr. Benekos: There are several reasons. One, to reduce runoff. One, to increase the green space between the street and sidewalk in that area then you could locate the sanitary sewers and the waterlines there without putting them under the pavement. Reduce our cost in the future when we go to maintain the street and resurface the street.

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Mrs. Baughman: Ok. So they, you want to reduce them from 30 to 24?

Mr. Benekos: Correct. That's what we discussed last week.

Mrs. Baughman: Now are all streets currently in North Canton 30 foot wide?

Mr. Benekos: No.

Mrs. Baughman: But that's what the current subdivision regulation is?

Mr. Benekos: That's correct.

Mrs. Baughman: Ok. Now if it's decreased at 24 wide does that include the part that's at the very edge of the street where the storm sewer outlets are?

Mr. Benekos: The gutter, correct.

Mrs. Baughman: Ok. So in reality the street would be, cause I measured it today, and that's about a foot, so in reality then the street would be 22 feet wide.

Mr. Benekos: Well actually it's a 2 foot gutter plate is what is typically used today. So it would be two 10 foot asphalt lanes, 2 foot gutter plate and then the curb behind that.

Mrs. Baughman: So you're telling me that the actual street would then be 20 feet?

Mr. Benekos: Asphalt, correct. To the width of the gutter.

Mrs. Baughman: Ok. And that's the part where the cars would be driving on?

Mr. Benekos: Correct.

Mrs. Baughman: Ok. Well I measured my car today with the mirrors it's 7 foot. I also found out the width of a UPS truck, 8.5 feet. So I have to redo my calculations. So my car and a UPS truck coming toward each other would be 15.5. And I figured around 22 feet so I have to subtract this now. So that leaves 4.5 feet. Either in the middle or on either side. This is 3 feet, so another 4.5, that's not very much room to the edge of the street and also in the middle. Especially when the mirrors in my car cost about \$150 each. With streets that narrow there couldn't possibly be any off street parking.

Mr. Benekos: According to...

Mrs. Baughman: Then it would be a one way street.

Mr. Benekos: fire code, parking would be permitted on one side of the street.

Mrs. Baughman: Ok, so if somebody was having a party and they had all of their relatives there had they had ten families and they had ten cars and then you're going to put two in the driveway and you're going to have eight car along the street and then somebody else comes in to travel down the street and somebody else is coming this way and then somebody's gotta stop cause there's only going to be room for one car. Ok, so now we have I'm coming this way and UPS truck's going that way and you have 4. feet to divide between each side and then we have a kid on a bike. Because there's an ordinance in this City that you can't bicycles on sidewalks. I see it very dangerous to reduce the width of our streets. Ok, now my next question is for a setback, where does the setback start?

Mr. Benekos: At the right away line.

Mrs. Baughman: What's a right away.

Mr. Benekos: The property line, the right away of the subdivision streets are now 50 feet.

Mr. Snyder: It would be behind a sidewalk.

Mr. Benekos: Correct.

Mr. Snyder: The right away would include what people either refer to some call it a devil strip, some call it a utility strip, including the sidewalk. Right behind the sidewalk toward the home is where the right away begins.

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Mrs. Baughman: So is that the edge of the street?

Mr. Snyder: No mam.

Mr. Benekos: No, that's behind the sidewalk.

Mr. Snyder: It would be probably 3 feet plus additional 4 feet. 7 or 8 feet off the curb line alone before the right away begins. That's where the setback begins. It would be between 7 and 9 feet behind the road.

Mrs. Baughman: Ok, so shortening the width of the street is...

Mr. Snyder: Does not change the setback.

Mrs. Baughman: Does not change the setback.

Mr. Benekos: Mariam, I believe Council has some questions on this also. I believe their set to table this. I'm going to bring some, a display in next week and show what different widths and how that'll affect the right away and so forth.

Mrs. Baughman: Ok. There is a private street at the end of Woodside right before you get to the car wash. There's maybe five, six condos.

Mr. Snyder: On Fredricksburg.

Mrs. Baughman: Right.

Mr. Sarbach: Also one off called Sherbrook.

Mrs. Baughman: Ok, that short width street, that's ok because there's so few condos back there. But if you have a long street and you're going to have short little width street, that's where I would see that all the problems would come in. So I would hope that North Canton does not change the subdivision regulations because of big cars. What if a fire truck or ambulance had to go down that street. Thank you.

Mr. Snyder: You're comments are well taken. I believe Chairman Peters will be requesting that you table this. Anyone else wishing to speak? Mam step forward, state your name and address.

Ms. Collins: Hi, my name is Cheryl Collins. I live at 153 Bonnett Street, SW. I'm here along with a few of our neighbors to represent Bonnett Street. We've lived on Bonnett since January of 1986 and we've had a problem with rust in our water pretty much the entire time. I brought a little sample of two weeks ago out of my washing machine. I've ruined many, many white uniforms. Clothes throughout the years. Within a year of living here, I called the Water Department. Within fifteen minutes they brought me a big bag of Rover and told me that we have a problem. I used that, because I need to have my white uniforms but it destroys the fabric, takes colors out of the fabrics that I'm trying to whiten up. Like I said, it comes and goes. Two weeks ago I couldn't do laundry for an entire week because my water was rusty everyday. It's doesn't, it's not always this bad. I do have, I've set other bottles of water down and a little bit will settle on the bottom but that's what we drink on a daily basis from our house. We canvassed our neighbors. I put a letter in everybody's mailbox to see how many of us have the problem. Many of them called me back. They have put in water softeners since living there. We were told when we moved in in '86 we don't need water softeners because the water is soft enough that you were softening it again. We don't feel that we should need to buy a water softener just to filter out the rust in our water. So I'm just here, along with some of our neighbors, to express that we do have a problem. We've had a problem for a long time. Back when Daryl Revoldt was our councilman, I was complaining of this water. He told me then that Bonnett Street was one of the worst in the City. That it needed major overhaul for the water system yet we're pushed back every single year. I just wanted you to know. Thank you.

Inaudible

Ms. McCarty: Theresa McCarty, 281 Bonnett Street. I completely concur with everything that Cheryl, my neighbor, said. I've ruined many clothes of my daughter's that have pink lace with a white shirt to try to get it white. I have to put that stuff in it and the whites now grey. But I also, a concern I have is if and when the problems going to be fixed, is it going to be just the water pipes fixed and not the curbs and sewers. So it would be my request to make sure it's done together so it's not wasting our money to do one and not the other at the same time.

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Mr. Snyder: Ya know, historically that brings a very good point. Historically, they are tandem. We do the waterline and the complete infrastructure, curbs and street repair. First of all, we'll apologize because we had had you at a high priority, or at least, and I'll be very honest with you, Mrs. Kiesling reminds me of that as well as to the Mayor and Administration weekly about where we're at on that. I represent your ward and I'm well aware of that. However, that's normally the way we do it because it is the most practical way to do it. Sometimes, though, in fact in the 4th Ward, we went ahead and fixed the waterline and put a, what would you call it for better terminology, a large patch through the side of the street for about a year, year and a half till we had, till the street actually came to the situation where we could do the curb and gutter infrastructure. We've done that. It's normally, what we don't do is do the street then come back and tear it up and do the waterline. Which is totally impractical. But now there's been a couple times where we had a severe waterline problem and not having enough capital money to do the complete street. We fixed the waterline and then somewhere in the eighteen month basis came back and put the street. Although the street is in definite need or repair. That and James both. The infrastructure, ya know, is starting to deteriorate. Again, it's very easy to say we're going to put you on the top of the list. But, again, that list is very large and I don't want to publicly say that until, the budget is being made and where we're going to end up it's not easy this year. It's going to be a very difficult year for us but.

Ms. McCarty: We appreciate that and I trust that you'll make the right decisions. I just felt the need to...

Mr. Snyder: There's no question. It would be very foolish to go ahead and do the street and then tear it up and fix the waterline. But, ya know, sometimes, and I will promise you this, I can publicly tell you this, Mrs. Kiesling and myself will work with the cooperation, I'm sure of the Mayor, to what we can address first the waterline. Which is more important. I realize, I don't travel that street every day like you do but that would be our priority and then come back. But we will do everything, and I promise you and Mrs. Kiesling will concur, that you're voice will be taken to the Administration and again, that's just not the final word. They word in tandem with us to try the very best we can because that is a problem in our City. We're looking at it, we're looking at water rates to see what we can do and that is the number one priority of the Administration to address your waterlines and hopefully we're able to do it.

Ms. McCarty: Well thank you.

Mr. Snyder: And we will keep you informed but we do appreciate, really, for you to come and speak to us because if we don't know, we know, but it's always good to know what our constituency wants to know.

Ms. McCarty: It's sad, one last thing, to have a little two year old saying "Mommy, it's yucky" when I fill our tub with water. "Yucky water." Thank you.

Mr. Snyder: She's smart.

Mrs. Kiesling: I was going to thank my neighbors on Bonnett for coming up tonight. I appreciate it. I'm done.

Mr. Osborne: My name's Chuck Osborne, 307 Fairview Street, SE, North Canton, Ohio. City Council's decision at last Monday's Council of the Whole Meeting to permanently suspend the hearings regarding the possible removal of Mayor Tom Rice has shown me that although we are a community governed and protected by laws, those laws and the protections they provide us are worth little more than the paper they are printed on when individuals fail to live by those laws. I am referring to you Tom Rice, the individual charged with violating the public's trust and the Charter of the City of North Canton as well as to the members of this City council who have failed to uphold the charter they have sworn to protect. Tom Rice, you have been investigated on three occasions in the last two years and the conclusion of each of those investigations rings a recurring theme as Frank Forchione stated: "Rice's conduct demonstrates a conflict of interest." Members of this City Council, I am referring to you as well. You, as elected officials are not protecting the citizens of this community from individuals such as Tom Rice. Council, you were bullied, and contrary to your comments that you did not want to continue to put the city through the ordeal of continuing the hearings, the fact is you were really protecting your own personal interests. I am aware that three of you, Mrs. Kiesling, Mr. Sarbach and Mr. Snyder had already suffered a personal financial burden regarding subpoenas that were served on each of you a few months ago by the Mayor's attorney relating to a parody of a campaign letter circulated earlier this year. I am also aware that there was the possibility of further legal entanglements for you regarding that issue. I believe that some people on this council think that they can reduce their personal exposure to further legal action from Tom Rice by suspending the hearings. Something of a quid pro quo you might say. This council was intimidated with the threat of legal action for themselves and you, as a

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group, gave in to a bully, gave into a bully to save yourselves. Gutless and spineless on your part. And where do you think this leaves you now as councilpersons? At the mercy of a Tom Rice. Tom Rice you are a bully. You have hidden behind a high-priced attorney because you cannot explain your actions regarding any of the charges made against you. Moreover, you simply refuse to be accountable. And since you could not and would not address those charges, you balked at the process that clearly spelled out, that is clearly spelled out in the City Charter. All attorneys know that if you cannot argue the facts of the case, you attack the process. And that is certainly what you did. Months of pleadings, first before the Court of Appeals and then the Common Pleas Court, and you could not prevail with your arguments in the Courts. These legal actions on your part resulted in increased expenses to the City of North Canton. And again, all attorneys know that if you cannot dispute the facts of the allegations and you cannot dispute the process being used to air those facts, then what is left but to disparage and discredit the witnesses to those facts. And that is exactly what you did until you brought the process to its knees. Tom Rice, you made a mockery of this city, the City Charter and the public hearings. The hearings that are simple hearings mandated in the City Charter to allow a public official to explain his actions. And you chose not to explain your actions. Mr. Rice, I truly hope that you made a videotape of the public hearing, because those videos would make excellent training tapes for the Johnnie Cochran School of Law. Mr. Rice, David Held was your selection for city administrator. Mr. Held had no previous experience but that was your best pick to run the City of North Canton. Maybe with a little seasoning and professional guidance, he could have grown into the job. But Mr. Held's testimony made it clear that you did not provide professional guidance. What you did provide was ample amounts of intimidation and fear not only to your hand-picked city administrator, but to city employees as well. Your threats were also documented in Forchione's report released earlier this year. "This phrase, tell the employees that they work at the pleasure of the Mayor appears to be a common threat in the Rice Administration. Several department heads, who asked not to be named for fear of their job, note that this was raised often by Held and Rice when they provided opposing opinions to Rice's position." And that's from Mr. Forchione's report. The newspaper coverage of the allegations against Tom Rice and of Rice's efforts to thwart public hearings have been covered by two newspapers, the *Beacon Journal*, with a Sunday circulation in excess of 185,000 and the *Repository* with a Sunday circulation slightly over 90,000. Each newspaper has had access to the detailed allegations that I provided the Stark County Prosecutor. This is what I provided contrary to what the *Repository* stated in the paper earlier this year. Each paper has reported on the events leading up to the public hearings and yet the *Repository* Editorial Board has not expressed the slightest bit of outrage over the actions of Mayor Tom Rice. The *Repository* has written ten editorials and the *Beacon Journal* has written two editorials. Do Summit County and the City of Akron expect a much higher level of ethical conduct from its elected officials than what is expected here in Stark County or does the *Repository* Editorial Board have a vested interest given their past endorsement of Tom Rice in the Fall 2003 election? In a May 18, 2004, *Beacon Journal* article, editorial titled "Public and Private", the *Beacon Journal* editorial begins by saying, "North Canton Mayor Tom Rice should find little comfort that an investigation into his conduct of city business did not uncover any criminal activity." The investigation and report by Frank Forchione, the Canton City Prosecutor, was hardly complimentary, suggesting at best "that Rice has displayed a cavalier attitude toward mixing his personal affairs and public actions." The editorial continues on stating, "More troubling, this is the second time around that Forchione has raised ethical concerns about Rice's conduct." On September 26, 2004, the *Beacon Journal* editorial board ran their second editorial titled, "Nasty in North Canton" and suggested that, "the city is not served by Rice's continuation in office without public acknowledgement of his ethical blindness. The best course would be for Rice, for once, to put the city's interest ahead of his own and step aside." Tom Rice, you do not have the moral fiber to fill the shoes of mayor and you should indeed step aside. If this council is going to comply with its own charter and deal with the ethical violations of Tom Rice that continue to mount, seemingly at the pleasure of this mayor, why is it that an admonishment as recommended by the Ohio Ethics Commission over a year ago and a public reprimand as suggested by the Stark County Prosecutor earlier this year were not forthcoming? And Mr. Snyder, I do not care to hear you recite again as you've done on numerous occasions up here that this council cannot reprimand the mayor. If you are so inclined, you can accomplish that in some manner. If needed, a discussion with the Stark County Prosecutor can guide you. Cause he's advised me you can. Finally, there was an editorial in yesterday's *Repository* regarding the public hearing in North Canton and it was entitled, "What Did We Learn." I think what I learned from all this is that the City of North Canton has a mayor by the name of Tom Rice who has repeatedly violated the public's trust and when discovered for the man that he is he will continue to unapologetically put his interests ahead of the public whom he promised to serve. Couple additional comments. I believe there's a March 9th article and I was a little slow to respond in here that night. Mr. Rice commented that this is Chuck Osborne, he lost the election against me and this is just sour grapes. Let me tell you Tom Rice, I have been

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on your trail for over two and a half years. I took all this information to the Ohio Ethics Commission two and a half years ago. I am on a first name basis with them. And believe me, they're watching you as well. Thank you.

Mr. Snyder: Is there anyone else? Mrs. Magel.

Mrs. Magel: I wanted to thank, Kathy Magel, 1025 E Maple Street. Jim you said that you'll address the situation with the streets.

Mr. Benekos: Correct.

Mrs. Magel: Yea, and I thank Council to take the time to not rush into it but understand, to get the point. One thing that wasn't mentioned, during the week that you're going to prepare for whatever you're going to give them. The sidewalk issue also. It's 4 feet, it's going to be reduced from 5 feet to 4 feet. If any of you would like to take a nice fall walk with your spouse. Take a walk on the nearest sidewalk but don't use 1 foot of it. Only use four foot of it and I did it and it's kind of uncomfortable. One kind of shoves the other one off unless you're about 2 foot backwards. So I just would invite Council to try that out to see what going from 5 foot to 4 foot would mean if you walked in tandem with someone else.

Mr. Snyder: Is anyone else wishing to speak this evening? Seeing none.

OLD BUSINESS:

- 8. Mr. Sarbach moved and Mrs. Kiesling seconded to **read by title only, second reading of Ordinance No. 131-04.** All members present voting:
 Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
 No: 0

Ordinance No. 131-04 - Second Reading

Ordinance No. 131-04 amending ARTICLE XVII, HOLIDAYS, Section 17.03, ARTICLE XIX, SICK LEAVE, Section 19.11, ARTICLE XXVIII, UNIFORM ALLOWANCE, Section 28.01 of Ordinance No. 7-04, Collective Bargaining Agreement between the City of North Canton and The Fraternal Order of Police, Ohio Labor Council, Inc. (FOP-OLC), and by the addition of ARTICLE XXXVII, DRUG TESTING, of Ordinance No. 7-04, Collective Bargaining Agreement between the City of North Canton and The Fraternal Order of Police, Ohio Labor Council, Inc. (FOP-OLC).

Mr. Snyder: Chairman Lindower.

Mr. Lindower: There sure are a lot of words there Paul.

Mr. Pusateri: I was hoping you guys could pass this by emergency.

Mr. Lindower: This is in regards to Ordinance 131-04. Language in the Collective Bargaining Agreement between the City and the FOP which represents the police supervisors. I spoken to Mr. Miller about some of the issues here. The negotiations continued between administration, the supervisors and the collective bargaining individuals from the FOP. We've discussed the issues as far as bringing into line, for instance the drug testing the verbiage and so forth in that ordinance have been approved by the collective bargaining unit as well as the City. Uniform allowance has been brought into align to give a tax benefit to the people who are involved in that to change the timing on it. There's no additional cost to the City. As far as the uniform allowance. It's a matter of changing the time that the checks were issued and so forth. I really don't want to get into dissertation about this whole thing; however, looking over this and being familiar with these past ordinances. I'm sorry, the Collective Bargaining Agreements, I don't see anything in here that's at all out of line. I would request that we go ahead and approve this second reading. Are there any other questions from Council on this?

Mr. Sarbach: Is that a motion?

Mr. Lindower: Yes sir.

- Mr. Lindower moved and Mr. Sarbach seconded to **read by title, second reading of Ordinance 131-04.** All members present voting:
 Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower, and Peters.
 No: 0

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Mr. Sarbach: Gail, may I suggest you put your p.a. mic a little closer cause I'm having difficult hearing.

Mrs. Kiesling: Yell at us Gail.

Mrs. Kalpac: Yell at you.

NEW BUSINESS:

- 9. Mr. Snyder: Moving along, I would request, please bear with me Chairman Kiesling, on Ordinance 134-04...

Mrs. Kiesling: Yea.

Mr. Snyder: ...I would ask that the one section say one family residential R-70, two family residential R-50 and three multi family residential RMFA and four multi family residential read simply as the CEDA was stated R-50 and R-70. One family residential districts and RMF-A and RMF-B multi family residential districts. That was the language in the CEDA as you are in possession prior to the reading of the actual ordinance the way it should be read. So I would ask that prior to it being read that that portion of it be amended. Is there a motion to do so?

Mrs. Kiesling moved and Mr. Sarbach seconded to amend Ordinance 134-04 as stated above. All members present voting:

Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach. No: 0

Mrs. Kiesling moved and Mr. Sarbach seconded to read by title only, first reading, as amended Ordinance 134-04. All members present voting:

Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder. No: 0

Ordinance No. 134-04 - First Reading

An ordinance implementing the terms of Paragraph 5 of the Plain Township/City of North Canton Cooperative Economic Development Agreement and Annexation Agreement ("CEDA"), dated June 17, 2003, by establishing the zoning classifications of R-50 and R-70, One Family Residential Districts and RMF-A and RMF-B, Multi-Family Residential Districts as specified by Ordinance No. 50-03, Zoning Ordinance of the City of North Canton, for the premises known as The Sanctuary Annexation, containing 107.4341 acres of land, more or less, annexed by Ordinance No. 120-03.

Mr. Snyder: Chairman Kiesling.

Mrs. Kiesling: Yes, this is the next step in the CEDA Agreement with Plain Township to zone the area that we currently or just recently annexed into the City, the South Course of what use to be Bob O'Link. This concurs with what was exactly in our CEDA Agreement. We had a public hearing and there were no major issues with the zoning.

Mr. Snyder: Any questions?

Mrs. Kiesling moved and Mr. Lane seconded to adopt the first reading, as amended, Ordinance 134-04. All members present voting:

Yes: Foltz, Kiesling, Lane, Lindower, Peters, Sarbach and Snyder. No: 0

- 10. Mrs. Kiesling moved and Mr. Sarbach seconded to read by title only, first reading of Ordinance 135-04. All members present voting:

Yes: Kiesling, Lane, Lindower, Peters, Sarbach, Snyder and Foltz. No: 0

Ordinance No. 135-04 - First Reading

An ordinance establishing the zoning classification of One-Family Residential, R-70, as specified by Ordinance No. 50-03, Zoning Ordinance of the City of North Canton, for the premises known as the Orion Street Annexation, containing 0.6065 acres of land, more or less, annexed by Ordinance No. 54-04.

Mr. Snyder: Chairman Kiesling.

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Mrs. Kiesling: Yes, these are two single family residences we just annexed from Plain Township. We are currently zoning them as they sit single family residences. Any questions, concerns?

Mrs. Kiesling moved and Mr. Sarbach seconded to **adopt the first reading of Ordinance 135-04.** All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Foltz and Kiesling.
No: 0

- 11. Mr. Sarbach moved and Mrs. Kiesling to **read by title only, first reading of Ordinance 136-04.** All members present voting:
Yes: Lindower, Peters, Sarbach, Snyder, Foltz, Kiesling and Lane.
No: 0

Ordinance No. 136-04 - First Reading

Ordinance No. 136-04 amending Section 921.04, of Ordinance No. 75-94, as amended, of the Codified Ordinances of the City of North Canton for the purpose of increasing the fee for sewer connection charges.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: Yes, I believe the presently the fee for tap on is \$50 for the sanitary sewer. This will raise it to \$500. That will be paid by the developer and the new owner for all new construction or new tap ons in the City. This will help us finance some of the sewer projects that, there are many more projects that this money will generate but this will be a good start for us.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading of Ordinance 136-04.** All members present voting:
Yes: Peters, Sarbach, Snyder, Foltz, Kiesling, Lane and Lindower.
No: 0

- 12. Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading of Ordinance 137-04.** All members present voting:
Yes: Sarbach, Snyder, Foltz, Kiesling, Lane, Lindower and Peters.
No: 0

Ordinance No. 137-04 - First Reading

An ordinance approving, confirming and accepting the easement plat of pars of Lot 6671, located within the corporate limits of the City of North Canton, Ohio, for the purpose of granting perpetual storm sewer easements over that tract of land as shown on the easement plat.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is an easement for a storm sewer. I believe it's in the Monticello area. The engineer as decided after the development has proceeded that this would be a better place to have the storm sewer and we're going to accept that easement. This ordinance allows us to accept that easement to maintain that function on that property.

Mr. Sarbach moved and Mrs. Kiesling seconded to **adopt the first reading of Ordinance 137-04.** All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

- 13. Mr. Snyder: Chairman Sarbach, the Chair requests that pertaining to Ordinance 138-04, that you request a amendment to read 10 feet, 10 foot, excuse me, waterline easement. That's going to run these figures 60, which was the actual width of the street ending some time prior to the reading of that.

Mr. Sarbach: It's in the title and the actual ordinance itself needs corrected.

Mr. Snyder: That's right. And if you would do that, Chair would request that.

Mr. Sarbach: The engineer is in concurrence with that?

Mr. Snyder: Actually, the request from engineering does read 10 foot. It was erroneously typed in at 60 and we ask that that be corrected.

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COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, October 11, 7:00 p.m. 20 04

Mr. Sarbach: Ok. I'd like to amend Ordinance 138-04 to represent a 10 foot waterline easement as opposed to the incorrect 60 foot waterline easement.

Mr. Sarbach moved and Mrs. Kiesling seconded to **amend** Ordinance 138-04 as stated above.

All members present voting:

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

No: 0

Mr. Snyder: We're almost ready for CSPAN another two or three of these.

Inaudible

Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading, as amended** of Ordinance 138-04. All members present voting:

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

No: 0

Ordinance No. 138-04 - First Reading

An Ordinance accepting a ten (10) foot waterline easement, being part of Out Lot 131 in the City of North Canton, presently owned by Aultman Health Foundation, (Grantor) beginning for the same at a point at the intersection of the centerline of Whipple Avenue NW (C-214) with the centerline of Glenwood Street SW, to provide for the construction and maintenance of raw waterlines along Glenwood Avenue.

Mr. Snyder: Chairman Sarbach.

Mr. Sarbach: This is to get our well water from one side of town to the plant. This will give us an easement to that raw waterline at that location.

Mr. Sarbach moved and Mr. Peters seconded to **adopt the first reading, as amended of** Ordinance 138-04. All members present voting:

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

No: 0

Mr. Snyder: Chairman Peters would you like to make a motion that Ordinance 139-04 be tabled?

14. Mr. Peters moved and Mr. Sarbach seconded to **table** Ordinance 139-04. All members present voting:

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

No: 0

15. Mr. Sarbach moved and Mr. Peters seconded to **read by title, first reading of** Ordinance 140-04. All members present voting:

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

No: 0

Ordinance No. 140-04 - First Reading

Ordinance No. 140-04 amending Section 1125.02(b), DEFINITIONS, of Ordinance No. 50-03, Zoning Ordinance of the City of North Canton, as amended to remove the definition of Open Space.

Mr. Snyder: Chairman Peters.

Mr. Peters: Yes, thank you Mr. Chairman. Just removing it from zoning. Going to put it back in the subdivision regulations where it belongs.

Mr. Peters moved and Mr. Sarbach seconded to **adopt the first reading of** Ordinance 140-04. All members present voting:

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

No: 0

16. Mr. Sarbach moved and Mrs. Kiesling seconded to **amend** the agenda to include Ordinance 141-04, and suspending the rules of council requiring committee report minutes.

All members present voting:

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

No: 0

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Mr. Sarbach moved and Mr. Peters seconded to **read by title only, first reading of Ordinance 141-04.** All members present voting:
Yes: Snyder, Foltz, Kiesling, Lane, Lindower, Peters and Sarbach.
No: 0

Ordinance No. 141-04 - First Reading

An ordinance authorizing and ratifying the City of North Canton Director of Law's engagement of the services of an attorney qualified to perform legal services in respect to litigation pertaining to the Metro Transit Authority Annexation and surrounding issues, and declaring the same to be an emergency.

Mr. Snyder: As we have discussed in our brief committee meeting earlier this evening, we need authorization to affirm Mr. Pusateri's move to hire Attorney Mathews at Baker, Dublikar & Mathews. Two matters of litigation relative to the Metro Transit Annexation and anything else involving that area. Which could be anything, right? Inaudible. Is there any questions on that Council?

Mr. Lane moved and Mrs. Kiesling seconded to **adopt first reading** of Ordinance No. 141-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder.
Abstained: Foltz
No: 0

Mr. Sarbach moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 141-04. All members present voting:
Yes: Kiesling, Lane, Lindower, Peters, Sarbach and Snyder
Abstained: Foltz
No: 0

Mrs. Kiesling moved and Mr. Peters seconded to **adopt under suspension of the rules** Ordinance No. 141-04. All members present voting:
Yes: Lane, Lindower, Peters, Sarbach, Snyder, Kiesling
Abstained: Foltz
No: 0

REPORTS

Mr. Snyder: Comments, Director of Law?

Mr. Pusateri: I do not have a report Mr. President. Thank you.

Mr. Snyder: Director of Finance?

Mrs. Herr: The only thing I wanted to mention was is if any of your constituents have any questions regarding the levies that are going to be on the ballot beginning of November as well as the S Corp ballot language if there's any questions that I can answer for them, please have them call me. Because I want to make sure that the word gets out that it's very important that these issues pass.

Mr. Snyder: You know, I noticed that the article last weekend in the Canton Repository they spoke to the Director of Finance and Budgetary Office in Canton but did not give us, maybe we could send a little note to the press saying how important that the one on subchapter S because there are a lot. That money would go untaxed to the City. Maybe we could fire off either by your office or administration, someone how important that actually is to us. Director of Administration?

Mr. Miller: Nothing tonight.

Mr. Snyder: Thank you sir. Mr. Mayor?

Mr. Rice: No report.

Mr. Snyder: Mr. Engineer?

Mr. Benekos: No report.

Mr. Snyder: Madam Clerk?

Mrs. Kalpac: No report.

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REPORTS - COUNCIL

Mr. Snyder: Mr. Foltz?

Mr. Foltz: No report other than I'm happy that we're paving some of these streets in my Ward. Inaudible. Hopefully we'll continue at this rapid pace and finish these projects before the snow flies.

Mr. Snyder: The weather's been perfect.

Mr. Foltz: It's been a beautiful fall so we should be, the contractor's should be very happy in all seriousness. Things should be moving along so we're not caught during a rainy, winter season for our residents.

Mr. Snyder: Mr. Lindower?

Mr. Lindower: No report.

Mr. Snyder: Mr. Lane?

Mr. Lane: Yea, question for Mike. Julie's comment reminded me that today was the last day to sign in for gas aggregation. I was just curious how that went. If you have any kind of initial report on things. Do you have any numbers?

Mr. Miller: No, Direct Energy hasn't given me any numbers yet nor has Buckeye, who is our consultant. I know that we had a number of calls at the office that we've handled to try to get the information of the people correctly. Ultimately, it's up to the people to decide.

Mr. Lane: I got a few calls and as I said, today was the last day to opt in however on the ballot will have, if it passes, everybody will be a part of it unless they opt out, correct?

Mr. Miller: The opt out language if it's adopted in November will take some time to ramp up to. We'll have to go through a certification process etc. so if a opt out is passed November in all likelihood that program won't be able to be put into effect probably until next year's heating season.

Mr. Lane: So we're looking at a good twelve months probably? Ten to twelve months.

Mr. Miller: Yes.

Mr. Lane: Ok, thank you.

Mrs. Kiesling: No report.

Mr. Snyder: Mr. Peters?

Mr. Peters: Just a couple things. I passed out the definition of open space last week. If you guys have made any revisions or have any ideas to that if you could get them to me by the end of the week so maybe we could have a working document we can discuss next week. Another thing too, I'm probably going to regret bringing this up again, in response to what Chuck said. You said that the charter clearly states how to remove a city official or something like that. We're not following what the charter clearly states. And we are not doing our job by not following that clear charter and then you go on to say that the charter doesn't clearly state a reprimand but we could it. The more I've thought about it, I talked to that point last week, to make amendments to that charter to kind of tighten the loop holes, the more I think about it though, it would better to just scrap the whole thing. Fall back in revised code and be done with it. I mean that charter has caused a lot more problems recently than I could have ever imagined so just food for thought. That's it.

Mr. Snyder: Mr. Sarbach?

Mr. Sarbach: I think I'm going to pass on comments on Mr. Osborne but I would like to reaffirm my desire to have some figures from the Water Plant. Like history figures from the last possibly ten years what cost and operation of the plant has gone to this upgrade and expansion. Just to get a handle on how's it gone. As far as the operation of the Water Treatment Plant and I requested that several months ago and I realize we've had a lot going on since then that required Julie's attention and hopefully we can get back to getting, I hope one page. I realize it takes a lot of effort to get it condensed down to one or two pages. But I'm still desires to see some of those figures as they pertain to the operation of the Water Treatment Plant. Thank you.

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Mr. Snyder: My only comment is the people came from Bonnett. I know we begin...inaudible...to prepare you're budget. And this is not in no way intended to put pressure on you at that point. I know historically we do not just do a waterline but if you could look at it when you do prepare your budget. Again, I know those people have been suffering there a little bit. I know Bonnett...inaudible...it's about five years off isn't it? It's what '07?

Mrs. Kiesling: It keeps getting bumped back every time I get a new thing.

Mr. Snyder: We did on Harmon Street, I know, a couple years ago.

Mr. Lane: Without getting anybody's expectations up.

Mr. Snyder: If it could be looked at and if there's any way it could fast track it, it would be appreciated. That's all.

Mayor Rice: The only comment I'd make Jon is keep in mind what the administration's been doing the last couple years. If you recall, as I'm sure you do, we prioritized the 4 inch waterlines which are the worst in the City. Then we'll go 4 inch then to 6 inch. That is, according to Jim here tonight, according to his chart that's a 6 inch line. Now if that's accurate, it's a 6 inch line, is it?

Mrs. Kiesling: It is.

Mayor Rice: Ok, that's what his list shows now so if it's a 6 inch. It wouldn't be scheduled just so we're being up front with everybody, the reason it's not scheduled at this point at time is because we haven't finished the 4 inch but we're hoping to get the 4 inch done. Will we get them all done next year?

Mr. Benekos: We should have a majority of them done next year.

Mayor Rice: We might, we should be pretty close hopefully by the end of next year. Being done with the 4 inch so we'll be starting to get to the 6 inch. So right now, unless you want to change the way we've been prioritizing.

Mr. Snyder: I'm not trying to...

Mayor Rice: It's unlikely it will get on the list for next year cause we're still in 4 inch lines.

Mrs. Kiesling: And I understand we're still in 4 inch lines; however, I know that my 6 inch line is probably worse than some 4 inch lines. And I've been told that by the Water Department and we consistently have breaks. We just had another main break two weeks ago. I think there's been five in the last two or three years. So Bonnett is a huge issue and I understand 4 inch lines but I think if we're going to prioritize the entire City some 6 inch lines may be worse than some 4 inch lines.

Mayor Rice: It could be. It could be. And we recognize that, we certainly understand Bonnett is a serious problem and we will work with you guys and see how quickly we can get it done.

Mr. Snyder: I'm not asking to move it ahead of...if something comes up. There's always something coming up but you get a few extra dollars it would be appreciated and I'm sure.

Mayor Rice: It's liable to me one of those cases when we do get it, try to get it quickly, if you get it done maybe the street doesn't get redone that year but at least we get the waterline done.

Mrs. Kiesling: Right.

Mayor Rice: Which we have done in some cases before when we don't have the money to do the whole thing. But if we can get the waterline done because that's the more critical issue for the residents.

Mr. Sarbach: May I ask Jim how old is that line on Bonnett?

Mr. Benekos: I really don't know.

Mrs. Kiesling: It's the original. I've been told that by the Water Department and my home was build in '51.

Mr. Snyder: '51?

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Mr. Sarbach: It's over 50 years old. I've heard of the process, and I'm sure you have, we haven't gone to it yet, where they run what they call a pig through the line and I know it's at the expense and liability of the City to do that but it avoids digging these things up. I don't know if it's practical for a 50 year old pipe to do that to. You'll probably end up destroying it by doing it but.

Mrs. Kiesling: You mean like angioplasty it?

Mr. Sarbach: Yea, it's kind of like angioplasty.

Mrs. Kiesling: Rotoblade it.

Mr. Sarbach: It's a device that looks like a big egg that has blades on it and the water pressure pushes it through and scrapes the inside of the pipe and knocks all of that stuff lose and you run it through a couple times and it cleans it out. If the walls of the pipe aren't any good you have more problems. I just want to ask this engineer, I know I spoke to the last engineer about it. Have you considered any of that any place in the City? Where we have potential problems or is that something that...are you aware of that process?

Mr. Benekos: Yes, we are aware of that process. In this case where they're having breaks in the line indicates you have wall thicknesses that wouldn't support that.

Mr. Sarbach: Are there other places where that could be a benefit to the City?

Mr. Benekos: It is possible but again right now we're working on the 4 inch lines so it's a matter of volume and water pressures that those 4 inch lines don't support.

Mr. Sarbach: I don't want to circumvent that I just wondered if there's areas where that might be...

Mr. Lindower: I saw a couple years ago a cross section of 4 inch pipe the build up inside that pipe looked like granite to me. I don't know who you would ever clean that stuff out of there. I mean those deposits were so hard and build up inside there, there's probably no way to clean it up and replace it.

Mr. Benekos: The pigs they can get in there and clean them. And there's chemical cleaning processes to do that. But, again, the 4 inches we're trying to eliminate those. You don't want to put a hydrant on a 4 inch line. 6 inch we like to replace those but then again we look at the condition of the pipe itself. The wall thicknesses are being reduced and we want to go ahead and replace those. You run into a whole different set of problems when you do something like that. It saves some time, saves some costs but you run into the life of the pipe isn't going to be there for a long time afterwards as you would when you put in a new pipe.

Mr. Sarbach: So you don't anticipate were going to be doing that anytime soon. Is that what you're saying?

Mr. Benekos: Probably not. If we get into a larger pipe with special conditions we would consider that but it is a tool in the arsenal that we can use but typically we do not.

Mr. Snyder: And then one final thing is Director of Finance Herr has spoke to you. We did relook at doing and redoing on the ballot. We have both for storm, water and street improvement. Both of those will be sorely needed as our general revenues are impacted. We will be talking to you about some things going forward here in the next couple weeks which gives us several dollars and we want to continue to work and dedicate our time to the infrastructure. That brings in additional couple hundred thousand dollars. We have a project right there that Mr. Fano which we'll probably eat that first year of that revenue up but it has to be done. So those, no one likes to increase levies but that certainly - and the one on the Sub Chapter S will mean that person's income would not be taxed to the City. I operate under a C so it doesn't make a difference. Inaudible. Is there final call for new business?

Mr. Osborne: I'd like to respond to Mr. Peter's comments. I don't know whether I misunderstood you. Were you talking about scraping the charter, entire charter or that section?

Mr. Peters: Scraping the whole thing.

Mr. Osborne: Scrap the whole charter.

Mr. Peters: Go by the Ohio Revised Codes.

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Mr. Osborne: Well there are some great advantages to being a charter city and I don't know how you could have a court system outside this community evaluate violations of our charter if you were just talking about scraping that section. As long as you allow anything to take place like took place during those hearings, I don't care where you were, nothing would be accomplished. That's all I have to say.

Mr. Snyder: Any one else have any other comments for the Council? If not...

Unidentified: Hey Jon, we have somebody back here.

Mr. Snyder: Excuse me. Oh Sam, come on forward.

Mr. Brenton: Sam Brenton from 1681 Westfield. Last time I was up here I brought the fact that I called it screening. You could call it mesh or anything else. When they do landscape along the sidewalks and they put straw down. They put that like little green netting down. When the wind gets it, it goes across to the sidewalk. Inaudible...down there, just South of London's Candy, there was one blown across the sidewalk for months. Nobody bothered it. I went up North Main today and there's one but it's still tacked down on North Main. Keep an eye on it cause if somebody fall on it, go in their car or truck, it's going to be you guy's fault. Then Mr. Boyajian, I called him one day and I gave him...inaudible...just like I gave you, South of my yard, there's a little storm sewer grate. One of the guys from Peachtree or someplace, him and his daughter went down past my house on a bike. About fifteen minutes he came back, he said his wheel went down in that grate. Them holes is that long. Just enough for a bike wheel to go down in there. The next day, John had that out. You go down there, you'll see strips just like fifteen hours he had that out and worked on. Like I say, where I worked, they pounded safety into you to you was almost sick of it. Because when I was still a teenager, I helped pick somebody up I worked with off the railroad track after a train was done with him. Another guy I worked with got splashed with gasoline, stand beside me and he decided to light a cigarette and every once in awhile you can still smell that skin, that was over fifty years ago. Like I say, safety to me is safety. That wall Westfield and Everhard Road is made out of ties. Did you ever see that? The City put that in there. Go down and look at that thing. That thing is, I'll tell you right know, is on a 45°. You come up with a car and see that women with her little kids walking on top those ties, ya know? You think how long are they going to be up there before they fall over on somebody. Like I said, that's another one of Revoldt's, what do you call it? It was a project to him but to me it's a lousy, anyhow, that's why I keep telling you guys to me safety is safety. And when I see it I'm going to call you Tom. Another thing, my yard down there is 640 some feet long. Next time you run for the mayor, that's how big of a sign I want down there. Like I say, I voted for you twice and I'll do it again. Thank you guys.

Mr. Snyder: Any other comments? If not, may I have a motion to adjourn?

ADJOURN:

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

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

No: 0

The meeting adjourned at 8:04 p.m.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL