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4 HEARING FOR THE REMOVAL
5 OF MAYOR THOMAS RICE
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11 BE IT REMEMBERED, this hearing was held
12 before the North Canton City Council, at the North
13 Canton City Council Chambers, 145 North Main Street,
14 North Canton, Ohio, on Tuesday, September 14, 2004,
15 commencing at 5:20 p.m.

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17 Jon Snyder, President
18 Marcia Kiesling, Council Member
19 Daniel Peters, Council Member
20 Greg Sarbach, Council Member
21 Dave Lindower, Council Member
22 Doug Lane, Council Member
23 Doug Foltz, Council Member

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APPEARANCES:

On behalf of the City of North Canton:

Paul J. Pusateri, Attorney at Law
Buckingham, Doolittle & Burroughs
4518 Fulton Drive, Northwest
Canton, Ohio 44718

On behalf of Mayor Thomas Rice:

Leonidas E. Plakas, Attorney at Law
Christopher M. Hury, Attorney at Law
Tzangas, Plakas, Mannos & Raies
800 Unizan Plaza
Canton, Ohio 44702

On behalf of David Held:

Daniel J. Funk, Attorney at Law
Baker, Dublikar, Beck, Wiley & Mathews
400 South Main Street
North Canton, Ohio 44720

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1 MR. SNYDER: Call this public hearing to
2 order for Tuesday, the 14th day of December --
3 September, excuse me. I'm already ready for
4 Christmas -- 2004. We adjourned the other night and
5 we're back on the Record.

6 Now, prior to -- Mr. Plakas, I ask you to beg
7 for us, we have a little housekeeping to do prior to
8 your resuming your cross-examination.

9 Mr. Foltz wants to say a few words prior to
10 this. Mr. Foltz.

11 MR. FOLTZ: Okay. Thank you, President
12 Snyder. It's been an honor and privilege to serve as
13 a member of North Canton City Council. That is,
14 until in recent hearing process involving the mayor's
15 removal. As the record shows, on May 24th I was not
16 in favor of these proceedings. I voted for Canton
17 criminal prosecutor Frank Forchione to provide an
18 impartial independent investigation. This involved
19 no additional cost to the City of North Canton
20 residents. I felt that we should have respect for
21 Mr. Forchione's opinion by not to have this hearing
22 but let the voters decide through the outcome of the
23 next election. Mr. Forchione also reviewed the Mike
24 Hickey allegations and did not find the mayor's
25 conduct to be inappropriate.

1 As I sit here in council chambers after
2 witnessing the first two days of testimony, I feel
3 these proceedings should end for the following
4 reasons:

5 Charges not criminal but involve personal and
6 political attacks that have splintered city residents
7 and employees.

8 The image of North Canton is being
9 compromised. We need to return as a legislative body
10 that acts in unison, that works for the benefit of
11 our constituents.

12 Time and thousands of dollars spent dealing
13 with these proceedings has shifted council's focus.
14 We must address the issues we as council members
15 promised our voters last November.

16 Finally, the charter procedure for these
17 hearings is not one of due process. Council is not a
18 court of law, council president is not a presiding
19 judge, and I do not wish to be a prosecutor, a jury
20 member, nor succeeding president of the council.

21 I challenge council to do what is right, not
22 for political gain but for the betterment of our
23 city. I listened to Kim Cooksey's heartfelt address
24 to council members last night. There are no winners
25 through this process. Think of the situation our

1 city employees are in. Let's end this animosity,
2 show your constituents that we can put differences
3 aside and compromise and work to bring back the
4 positive image that North Canton has always known and
5 desperately wants again. For these reasons I'll make
6 a motion to end these proceedings.

7 MR. SNYDER: Is there a second on that?

8 MR. LANE: Yeah, I second.

9 MR. SNYDER: Member Kiesling?

10 MS. KIESLING: No.

11 MR. SNYDER: Member Peters?

12 MR. PETERS: No.

13 MR. SNYDER: Member Sarbach?

14 MR. SARBACH: No.

15 MR. SNYDER: Member Lindower?

16 MR. LINDOWER: No.

17 MR. SNYDER: Member Lane?

18 MR. LANE: Before I do vote, I would like to
19 say that I have echoed some of the same concerns that
20 Doug has had from the beginning about the expenses on
21 this, but so far there have been some things come out
22 of this hearing that are of some interest. I'm going
23 to withhold giving my judgment call on this until the
24 proper time that we can discuss it. So I won't be
25 repeating myself at this point in time, but I, too,

1 would like to see a speedy end to this for David's
2 family, for Tom's family, for the city employees, for
3 this council, for the city itself. But due to the
4 fact that I would like some time to possibly look
5 this testimony again and answer my own questions,
6 I'll respectfully vote no on your motion.

7 MR. SNYDER: Mr. Foltz.

8 MR. FOLTZ: Yes.

9 MR. SNYDER: Member Snyder votes no. That's
10 six no, one yes. Motion defeated.

11 Pursuant to Mr. Foltz's motion, I have talked
12 to every member of this council, my colleagues. In
13 total unison of the Sunshine Law, I used the
14 telephone, there was no meeting face to face, there
15 were no votes cast, there was no violation, and I
16 will allow members of this body to speak.

17 After last Thursday's testimony,
18 unfortunately, the charter is very explicit as how
19 this was to be conducted as a public hearing and this
20 seems to be reducing itself to almost less than a
21 three-ring circus, so at this particular time as the
22 presiding officer and with all these nice accolades,
23 I've been called Your Honor and so forth, I would
24 recommend to my colleagues as it so shows in the 6 to
25 1 that we suspend these hearings at this present

1 time. Allow us to review the testimony of Mr. Held,
2 allow us to review publicly what the citizens of this
3 city want us to do. Possibly spend -- as you know,
4 we're not due to come back I think until the 5th day
5 of October. Come back at that particular time.

6 I know it's not in good legalese for us to
7 speak to the mayor without his counsel, but if the
8 mayor would like to speak to us, you know, as off the
9 Record just as the mayor, who he is, and us as the
10 councilmen, we're eight elected officials, to move
11 towards some resolution other than resolution that
12 we're encountering not only financially to everybody
13 but -- and my primary motive, and I'm only speaking
14 for myself at this particular time -- this city is
15 very fractured.

16 This is the greatest community, if not in the
17 world, in northeastern Ohio. We have a mayor that
18 serves it, by a council that serves it, and as
19 evidenced by the people that are here and people on
20 the street, I have heard both pro and con. We're not
21 seeming to get anywhere. We've allowed this thing
22 not only to be reduced away from a public hearing,
23 which was the intent of the architects and the
24 authors of the charter, to more than or even less
25 than a kangaroo court.

1 I mean, we brought a man in here who's a
2 respected man of this community, who served this
3 community very admirably, as testified by the mayor.
4 Unfortunately tempers flare, people are tired after
5 you work eight or nine hours. Here is a man who has
6 five children. That alone would probably test
7 anybody's ability to testify, let alone at five or
8 six o'clock at night. The mayor is well represented
9 by counsel, so I would say in the interest of all my
10 public I would ask my colleagues to support a motion
11 or make a motion we temporarily suspend these
12 hearings at least til the 5th day of October, give us
13 time to look at this, read the transcript, allow
14 Mayor Rice's counsel to read the transcript, allow
15 Mayor Rice's counsel to advise him to sit down as the
16 ladies and gentlemen which we really are.

17 I really don't want your job, Mayor,
18 truthfully, and I'm sure you'd like to hold onto it,
19 but let's see how we can resolve some of our
20 differences in an equitable and meaningful
21 relationship. As I said so many times from this
22 chair, it is indeed an honor to serve as president of
23 this council. It is indeed an honor to serve as
24 councilman elected by the people and I just want to
25 serve the people for what they want. I don't think

1 they want it to continue.

2 MR. SNYDER: Do we have a motion?

3 MS. KIESLING: I make a motion to suspend the
4 hearings to October 5th.

5 MR. PETERS: Second.

6 MR. SNYDER: Now open for discussion.

7 Mrs. Kiesling, do you have some?

8 MS. KIESLING: No, I completely agree with
9 you. Wednesday and Thursday's testimony was very
10 discouraging, a long night for all. I would love to
11 be able to review the testimony myself and read it
12 more thoroughly, make our decision, let us cool off
13 and come back and decide what we're going to do.

14 MR. SNYDER: Mr. Peters.

15 MR. PETERS: Agree. Yeah, I agree, I'm
16 getting the feeling that this council and community
17 is fractured and that's not what, what I intended, so
18 that's all I have.

19 MR. SNYDER: Mr. Sarbach.

20 MR. SARBACH: Yeah. In recognition of the
21 visitor's portion of last night's citizens speak, a
22 lifelong resident and employee of 28 years, Kim
23 Cooksey, gave an impassioned, emotional talk to this
24 council about his opinion and this fact-finding
25 process. I have the utmost respect for Mr. Cooksey

1 and know him to be a man of high character and
2 dedication to North Canton. After reflecting on his
3 words later in the evening, I couldn't help but think
4 if this council and the citizens of North Canton had
5 heeded Mayor Rice's advice with a fraction of
6 Mr. Cooksey's sincerity at a point shortly after Mr.
7 Forchione's investigation that we would not be having
8 these hearings today. If in fact Mayor Rice were to
9 give testimony as to those charges, I would be
10 inclined to suspend these hearings. That not being
11 the case, I will support your motion to wait till
12 October 5th and digest what we have at this point.

13 MR. SNYDER: Member Lindower, any comments?

14 MR. LINDOWER: It's pretty much all been
15 said. I will say this. I agree with Mr. Foltz's
16 comments to the nth degree, as well as Mr. Lane's.
17 The city has been good to me for 35 years that I was
18 employed here. I know most of the people who are
19 working in the city yet at this time, including Mayor
20 Rice, on a personal friendship type basis. I think
21 it's very important that it's noted that the council
22 never intended for this type of a hearing to take
23 place in the manner that it has so far. I'm a little
24 embarrassed by I guess the chaos that's been created
25 by these hearings. I indicated to folks that I have

1 spoken to, I used kind -- I'm used to kind of a
2 structured court type hearing where there are rules
3 that the court enforces that haven't been done here.

4 Mayor Rice has, from day one I said deserves
5 every bit of latitude as far as he can be given as
6 far as his rights, and I intend to be -- as far as my
7 opinion, I probably could vote to suspend these
8 hearings altogether right now tonight also, but in
9 all fairness and give him the full extent of due
10 process, I will review the transcripts from the
11 testimony that's been given so far. I think through
12 this process in some of the conversations that have
13 taken place between myself and my colleagues on the
14 council, as well as people in the public, folks not
15 only that live in the city of North Canton but live
16 out of the city of North Canton more or less follow
17 the news media reports. I think there's going to be
18 not only negativity come out of what we've done so
19 far but I think that there's going to be some good
20 come out of it.

21 Without taking all evening to reiterate what
22 I've just said, I think after these hearings are
23 concluded, one way or another on the 5th I think that
24 there's going to be a lot of information come forth
25 that's going to be on a positive basis, too.

1 Hopefully feelings and anger won't carry on. We have
2 city business we have to conduct, we have to deal
3 with not only the public but one another on council
4 and we're going to try to conduct ourselves as
5 adults. As far as I'm concerned, that's the way it's
6 going to be.

7 So having said that, I, I would also go along
8 with the idea that we postpone any further talks or
9 hearings until October the 5th.

10 MR. SNYDER: Thank you, Mr. Lindower. Member
11 Lane.

12 MR. LANE: I got into politics to help
13 people, and so far I don't think anybody's been
14 helped by this. Our citizens, Mr. Held, his family,
15 the mayor, his family, Mr. Hickey's family, other
16 people have been named in these hearings. I just
17 don't see where anything is positively being done. I
18 am, though, however, as I mentioned, I have some
19 concerns and some questions that I'd like to review
20 the testimony, look at it, and we can come back here
21 on October the 5th and talk amongst ourselves and
22 decide at that point in time how much further we
23 would like to proceed. I do appreciate the
24 opportunity to speak today.

25 MR. SNYDER: Thank you, sir. Mr. Foltz, do

1 you have a couple last words you'd like to say, sir?

2 MR. FOLTZ: The only thing I would like to
3 say, I addressed it earlier, made the motion and in
4 the spirit of what I said I do believe these hearings
5 should end tonight. But also as far as spirit of
6 cooperation, I'm willing to unify with council to
7 postpone and hopefully not bring it back October 5th
8 or whatever date. I think enough damage has been
9 done to our residents, our employees, our city image,
10 so I'll stand by those statements and I'll stand also
11 unified with this council, even though it will be
12 reluctantly.

13 So we start making our communication between
14 us and eventually we get to the point where we can
15 solve our constituents' problems, we can work towards
16 business problems, city annexation, to put the
17 business of running the city first and foremost for
18 our citizens, so in that spirit of cooperation I will
19 agree with this council to make it a unanimous
20 decision.

21 MR. SNYDER: Thank you for your decision.
22 Appreciate your words. At this time I will call the
23 roll. Member Kiesling.

24 MS. KIESLING: Yes.

25 MR. SNYDER: Member Peters.

1 MR. PETERS: Yes.

2 MR. SNYDER: Member Sarbach.

3 MR. SARBACH: Yes.

4 MR. SNYDER: Member Lindower.

5 MR. LINDOWER: Yes.

6 MR. SNYDER: Member Lane.

7 MR. LANE: Yes.

8 MR. SNYDER: Member Foltz.

9 MR. FOLTZ: Yes.

10 MR. SNYDER: Mr. Snyder votes yes. That's
11 7-0 vote. These hearings will be suspended until
12 October 5, 2004.

13 At this time I want to thank the public for
14 your kindness, your well-deserved behavior, and we
15 hope that we're doing the right thing. And good
16 fortune to the attorney, Mayor Rice, his family.

17 Mr. Held, we thank you for your testimony,
18 sir, your attorney, and this meeting stands in
19 recess.

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21 Hearing adjourned at 5:40 p.m.

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C E R T I F I C A T E

STATE OF OHIO)
) SS
 STARK COUNTY)

I, Laurie Maryl Hart, a Registered Merit Reporter and Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that this hearing was by me reduced to Stenotype and afterwards transcribed by computer-aided transcription, and that the foregoing is a true and correct transcription.

I do further certify that this hearing was taken at the time and place in the foregoing caption specified. I do further certify that I am not a relative, counsel or attorney of either party, or otherwise interested in the event of this action, or is the court reporting firm with which I am affiliated under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Canton, Ohio, on this 5th day of November, 2004.


 Laurie Maryl Hart, RMR & Notary Public.
 My commission expires January 6, 2007.