

CASE NO. 2002E-006

EXHIBIT: 1

February 26, 2002

To: Ohio Election Commission
21 West Broad Street, Suite 600
Columbus, Oh 43215

From: Kathleen Magel

RECEIVED

FEB 27 2002

RE: Case No: 2002E-006

OHIO ELECTIONS COMMISSION

Dear Sir or Madam,

The following is an affidavit responding to the alleged false statements on my campaign literature as accused by Chuck Osborne.

Mr. Osborne alleges two specific falsehoods. I will address both bullets for this committee by supplying full documentation of the truth and point out that his conclusions are in error and were determined by false and misleading statements he supplied to this committee.

Bullet 1: That Mrs. Kathy Magel did not author and could not have authored the city's new zoning code as stated in her campaign flyer.

I became chairperson of the Ordinance, Rules and Claims committee December, 1999. North Canton Planning Commission was presented a "boilerplate" proposal for our new Zoning Code from a consulting firm D. B. Hartt. The Planning Commission passed the D. H. Hartt's proposal November, 2000. At that time the proposal went to Council

Committee (I was still chairperson). The City Engineer was newly hired and had never actually seen the new Zoning Code. The City Zoning Inspector felt the new code should be more specific to North Canton's needs. The three of us agreed to meet on a weekly basis for several hours to mold the Zoning Code to North Canton's standards. We met for the full year of 2001. A list of over 200 items was compiled of the concerns that the three of us encountered and will eventually be addressed in the new Zoning Code. The three of us contributed largely to the authoring of the new code. (see Attachment F)

Bullet 2 : That the City of North Canton did not and does not to this date have a new zoning Ordinance as stated in her campaign flyer.

Attachment D : My campaign flyer.

My campaign flyer did not state anything about a new zoning ordinance and to suggest so is *false and misleading*.

Supporting Documentations

Attachment A: The correct Timeline

The timeline points out to you that the new zoning code did not come to council until **after** North Canton Planning recommended it in November, 2000 when I was Chairperson of the Ordinance Rules and Claims committee.

Corrections to *Misleading/false* statements in Mr. Osborne's affidavit are as follows:

- Page 4 Par 2 I Became chairperson January 2000
- Page 4 Par 3 (Exhibit 4) Zoning code never in Mr. Sabach's committee
- Page 5 Par 1 (Exhibit 5) Zoning code never in Mr. Snyder's committee
- Page 5 Par 1 (Exhibit 6) Zoning code never in Mr. Thomas's committee
- Exhibit 3 – Zoning code was only in council committee after Nov. 2000.

The timeline also points out to you that I became chairperson in Jan. 2000 and had a full year to study the zoning code until Planning recommended it in Nov. 2000 to council. From Jan.2001 until Dec. 2001 I met nearly every week for several hours with the City Engineer and Zoning Inspector as we tweaked the boilerplate code to meet North Canton's standards.
(See Attachments B and C)

Corrections to *Misleading/false* statements in Mr. Osborne's affidavit

- Page 5 Par 3 I studied the New Zoning Code for 2 full years as well as attended Planning meetings to become very knowledgeable of the new zoning code.
- Page 6 Par 3 The additional changes that will be under review of DB Hartt were the changes the City Engineer, the City Zoning Inspector and I worked on from Jan. 2001 through Dec. 2001. We reviewed the boilerplate page by

page, line by line and made 223 notations to better meet North Canton's needs.

- Page 5 Par 2 Mr. Osborne did not change any code with the City Engineer or City Zoning Inspector.
- Page 7 Par 2 There was *NEVER* a working draft of the City's new zoning Ordinance presented to Council when I was chairperson.
- Page 7 Par 2 Mr. Osborne suggests I was just an observer of the process when in fact the City Engineer, Zoning Inspector and I met for a full year improving the zoning code.

Attachment B: A portion of the Minutes of the North Canton Planning Commission meeting

Nov 1, 2000 as recommended accepting the code by a 4 to 0 vote.

B1 Page 30 Mr. Hemminger (City Zoning Inspector) discussing the code was cumbersome, difficult to read supposed to be North Canton, not Stowe, Timbuktu or whatever Needs tweaking, fine tuned, make it work

B2 Page 31 Mr Hemminger (City Zoning Inspector) discussing it's a boiler plate that came from somewhere.

B2 Page 31 Mrs. Magel (Me) discussing how we are going over this literally word for word.

B3 Page 35 The motion, second and vote 4 to 0 of North Canton to recommend for approval Nov. 2000.

Attachment C: A portion of the Minutes of Council meeting Jan 16, 2001. Page 307 Mrs. Magel (ME) discussing having a meeting with Jim (City Engineer) and Gene (City Zoning Inspector) to start nailing down the new code to a comfort zone for the three of us then present to council.

Attachment D: My Campaign Flyer

Attachment E: Committee Assignments 1999 – 2000

Attachment F: Letter from City Engineer and City Zoning Inspector

Kathleen A. Magel
Signature: Kathleen A. Magel

Sworn to and subscribed before me on this 26 day of Feb., 2002

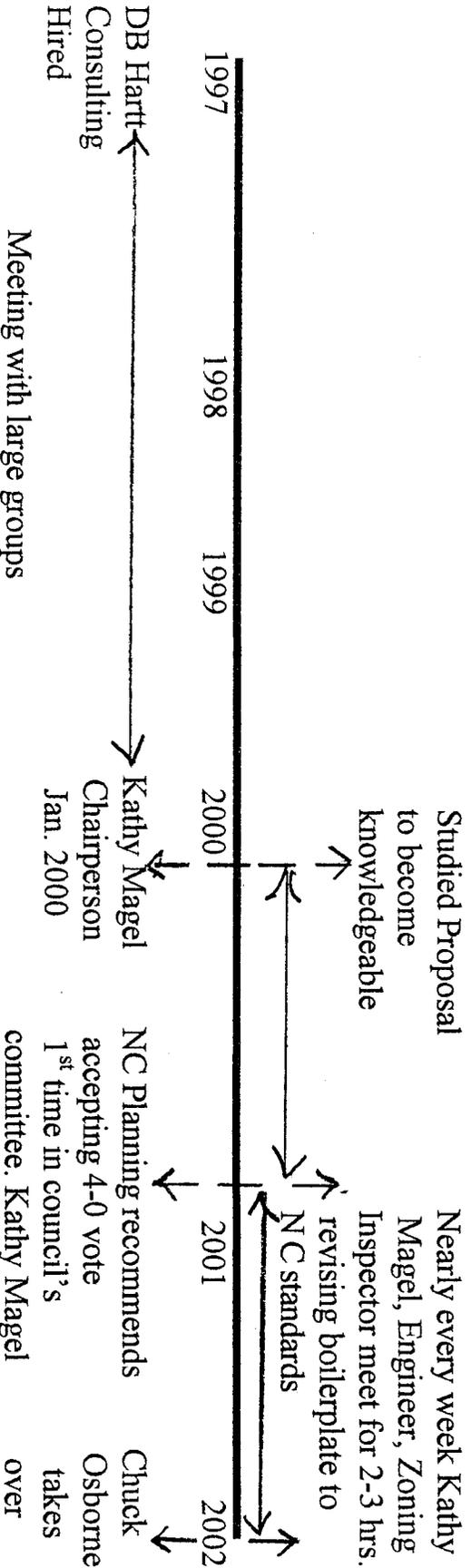
Mary Louise Bittle
Signature: Notary Public

MARY LOUISE BITTLE
Notary Public - State of Ohio
My Commission Expires Jan. 31, 2006

Attachment A

Time Line

Attachment A



* Former – not present 2001
 N C refers to the City of North Canton

Attachment B

**A portion of the minutes of the North Canton Planning
meeting November, 2000**

September 1, 2000

Ch. Flechtner: No, I don't.

Mr. Batista: I think that is going to be an issue that probably Council is going to want to deal with. Whether or not they are going to want to delegate.

Mr. Hemminger: We've talked about this for two years. We've had different sessions where we have gone over different section's page by page. It got pretty tedious, I am sure. Some people probably got really tired of listening. We thought we had kind of worked the bugs out and were waiting for public input. We (the group) Council, Planning Commission, Zoning Board of Appeals, all went through these things. There have been issues that have come up that I wondered if we should leave them this way. I didn't think that we had any major problems with the way it is presented today or we wouldn't have presented it today. I believe Hartt's intent, and it complicates the ordinance, is to provide more review for developments. To protect the residential character of the neighborhoods. To make sure that something doesn't come in without the Planning Commission knowing about it and having an opportunity to establish conditions, performance standards. That's why we have so many conditional uses where we didn't have them in the past. If you want to make it easy, we can eliminate that and be where we are today with an ordinance that won't stick to the wall if you spit on it. We thought we were trying to put more regulatory control in the ordinance. That's where Hartt was coming from. That's the message he heard from the citizens he talked to. That's the message he heard from us when we talked to him and that's why it's like this. It is cumbersome, it's difficult to read, it's difficult to copy there are so many pages. The intent is there. If we want to modify that, if we want to change it, if we want say "Well okay, we don't want to do so many conditions" or whatever. I don't think Hartt can be faulted for presenting it in this matter, making it complicated. I think he is only trying to respond to our desire to protect our community and gives us the tools to do it. Which we don't have in the current ordinance. If there are things that we would like to modify, I think--Hartt has nothing written is stone. He wouldn't have his feelings hurt. It's up to us. It's up to us, it's up to the people out here, it's up to the people who come to all the meetings to say "This is our ordinance, this is North Canton's ordinance, this is not a model ordinance from Stowe, Timbuktu, or wherever" It has to work for North Canton. If it doesn't work for the people out here, it doesn't work. If you want to talk about it more, there is no problem with that. Hartt won't be offended, and I certainly could care less if he was. He has been a good consultant and done a good job. Given us what we have asked for basically. Now it is up to us to tweak it, fine-tune it, make it work. That's where we are with it.

Ch. Flechtner: And I think--don't get me wrong Gene, we are only tweaking this. I think what Hartt has done, the basic format is good. My only question, and if I were a Councilman, I would be concerned about all the conditional uses that lie in the authority of the Planning Commission. Because a conditional use only has to have the approval of the Planning Commission, as I read this. I don't--I am not afraid of taking that responsibility but I just--if Council wants to give that to us, delegate that to us, then fine. We will do that.

Mr. Hemminger: Well apparently I have the authority. They give it to me now.

Ch. Flechtner: No, no--

Mr. Hemminger: Yes, their permitted uses. In our existing ordinances.

Ch. Flechtner: Well yes, some of them.

Mr. Hemminger: I trust you more than I trust me. I think they trust you more than they trust me.

Mr. Shanabruch: We've had the discussion also that this is a document, it needs to go through a review process once a year. That's--the old one, it got so old I think it just kind of laid there. I would imagine the next two, three, four, years were are going to spend some time on this in revision and well we should. I think Council, if they think we are getting off track, will talk to us about it.

Mr. Roush: (And) I guess to follow up with that. I guess we could continue to review it and tweak it. Every month we are going to come up with one or two new things and maybe what we should do is accept it. Then if we come up with one or two things during the next year or so you come back and amend the ordinance.

Commission
September 1, 2000

Mr. Batista: My recommendation is--

Mr. Shanabruch: So moved!

Mr. Batista: My recommendation is--

Mr. Shanabruch: That is a motion.

Mr. Batista: Pass it onto Council expressing the--we will summarize the minutes from tonight expressing the concerns from Planning Commission saying "Here it is, you're probably going to want to take a look at the following issues." I think we have talked about seven or eight of them. For instance, on the junkyard, I would be very interested in finding out what their precedent is for determining a junkyard is a nuisance, per say.

Mr. Hemminger: I think it is a boiler point. I don't--certainly there is no intent involved. We have never talked regarding Ms. Fasnaught's property in a demeaning manor. Never--I was surprised to see that the wording specifically said that. Quite frankly, I hadn't looked at it that closely. Certainly there would be no intention. We--I wouldn't want to have to deal with an ordinance that said that. It's a boiler plate that came from somewhere.

Mr. Batista: I would be very interested. I think Ms. Fasnaught would tell us if we determined that to be a nuisance per say, I think we are going to be in litigation quite often. I would sure like to know where they are coming from on that issue.

Mrs. Magel: May I say something?

Ch. Flechtner: Sure

Mrs. Magel: As Council, we are going to be going over this literally word for word. What I would like to say to Planning is; I would like to update you weekly on every change we've made and certainly ask for your input weekly. We need to work together on this. I agree. We are putting a lot of power in your hands. I quite noticed that myself (inaudible) here. I can assure you. I am going to request some changes. There are some things in here I also do not (inaudible). One of which is (Inaudible). So, I would suggest, I personally, as the chairperson, would like to work with you weekly. So, you can keep your books. We will be talking about what we will be thinking deleting, thinking about adding. (Inaudible) revise these, you now have a new written one every time--

Mr. Hemminger: It cost a lot of money.

Mrs. Magel: Cost a lot of money?

Mr. Roush: To print them every week it does.

Ch. Flechtner: At some point we are going to want to print multi documents of this.

Mrs. Magel: I am just suggesting there could be, even though there will be cooperation between us, the two bodies Planning and Council.

Ch. Flechtner: It certainly is an easy way out for us.

Mr. Shanabruch: It's an appropriate way out.

Mrs. Magel: That was not my intent.

Ch. Flechtner: That gets it off our plate.

Ch. Flechtner: It will take that long to get back.

Mr. Pachmayer: Why don't you make that motion now?

Mr. Shanabruch: I have already tried to make a motion, I would like to add to that motion that we do as Mr. Batista suggested and make sure we incorporate the changes we discussed this evening. To the best of Gene's note taking ability.

★ Ch. Flechtner: Gene doesn't have to take notes, Ann will make sure that those are--

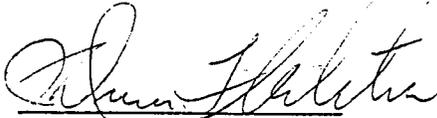
Ch. Flechtner: Okay, what's your motion.

Mr. Shanabruch: That we approve. Pass this to Council with our recommendation for approval subject to discussions we had for minor modifications this evening.

Mr. Pachmayer: Second

Vote: 4 - yes, 0 - no. Motion approved.

Meeting adjourned.


J. Dennis Flechtner

abr

Attachment C

**A portion of the minutes of the North Canton Council
meeting January 16, 2001**

RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Tuesday, January 16, 7:00 p.m., 2001 (YEAR)

REPORTS - COUNCIL:

Mr. Rice: Councilman Foltz. Mr. Foltz: Yea, I'd like to personally welcome Julie aboard. I'm looking forward to working with you. That's it.

Mr. Rice: Councilman Sarbach. Mr. Sarbach: Hey, I was going to say the same thing, but I'm going to do it anyway. Julie, welcome - appreciate you coming here tonight off the payroll and looking forward to seeing a lot more of you.

Mr. Foltz: Put a little star by her name.

Mr. McLaughlin: No report.

Mr. Snyder: I did already welcome Julie. But, I want to say I like this chair.

Mr. Rice: You're not allowed to take it home with you.

Mr. Snyder: I think I will I...

Mr. Boyajian: Thank Mary Louise.

Mrs. Magel: Inaudible...

Mr. Snyder: it's very comfortable. I could watch television...

Mr. Sarbach: Don just realized we got new ones.

Mr. Wiley: I did. These are nice.

Mr. Snyder: They are very nice.

Mr. McLaughlin: Pretty observant for a lawyer.

Mr. Wiley: That's scary isn't it?

Mr. McLaughlin: I know. I'm not going into court with you bud.



Mr. Rice: Councilwoman Magel. Mrs. Magel: Yes, I would like to congratulate Julie - welcome you - looking forward to working with you. The other thing is we have a -- Jim and Gene and I have a meeting tomorrow at 3:00 and here we go ... we're going to start the new zoning. So as soon we get it nailed down to a comfortable between us, we'll be starting. And I assume it will be - it should be fairly soon that it will be brought to Council. So happy reading with the black notebooks and if there's any questions just call. Mr. Treadon: Call Gene. Mrs. Magel: Then I could pass the questions back on. That's all.

Mr. Rice: Councilman Wiley.

Mr. Wiley: Yes. Julie, welcome again. And I want it noted for the record that I hadn't been in the old chair long enough to miss it. Also...

Mrs. Magel: Fair enough -- that's fair enough.

Mr. Wiley: back in October we had discussed the renewal of the Warner Cable contract and every once in awhile I've brought up the fact that I'd like to get the cable channel for the schools going. Had brought in a video that maybe some of you had the opportunity to see of the type of things that the high school can do. And I'm going to request that the Chairman of the Ordinance Committee put on the next agenda for the committee consideration of presenting to the Mayor a directive to go to Time Warner and try to get that accomplished so that we can get this done before it comes up for renewal again in October of this year. And if you have questions about it, please feel free to ask me or call the superintendent of schools. They're very anxious to get this going and I think they'd be very appreciative of Council and the Administration if we could get that underway. Thank you.

Mrs. Magel: In lieu of the fact that I'm going to be starting the zoning, I'd like to delegate this particular area to Don.

Mr. Wiley: That's fine.

Mrs. Magel: I think he has the expertise. And if you could get that going.

Mr. Wiley: Sure.

Mrs. Magel: Okay, cause..

Mr. McLaughlin: Now that Warner Cable is going to give us free viewing on the Indians and the Cavs...

Mr. Sarbach: Free, free?

Mr. Wiley: Unscrambled...

Mr. Sarbach: Included.

Mr. Wiley: At least.

Mr. McLaughlin: Well now maybe we should after them for this...inaudible... Since they're really getting they're loving heart in the community by giving that to us

Mr. Sarbach: No, they're including it, they're not giving us anything.

Attachment D

My Campaign Flyer



Kathy Magel

Council at Large

Please consider me your choice for Council at Large in North Canton.

My background information:

- Married 29 years to Tom Magel
- Two daughters: Jennifer '93, Melissa '97 Hoover graduates
- Bachelor of Science: Mathematics, Clarion University
- Owned and operated computer business in North Canton, 12 years
- Tutored mathematics for proficiency test, Hoover High School
- Taught adult education GED classes, Canton City Schools
- Taught mathematics secondary education
- Volunteered for North Canton Meals on Wheels
- Past member of North Canton charter review committee

Currently, I am the most experienced Council at Large candidate. My committee work has consisted of extensive hours authoring the new zoning code in conjunction with the City Engineer and the City Zoning Inspector. I will continue to serve the city with both honesty and vigor to address the present concerns of the quality of water, the water distribution system, the implementation of upgrading the water treatment plant and the overall infrastructure of the city. Thank you for your support. I would be happy to hear your input and can be reached at 330/497-7171 or at www.northcanton.com on the web. A sign location would be greatly appreciated.

Attachment E

Council Committee Assignments January, 2000

**1999-2000 COMMITTEES
NORTH CANTON CITY COUNCIL**

COMMUNITY & ECONOMIC DEVELOPMENT

Chairman: Tom Rice
V-Chairman: Jon Snyder
Member: Doug Foltz

FINANCE & PROPERTY

Chairman: Jon Snyder
V-Chairman: Rick McLaughlin
Member: Tom Rice

ORDINANCE, RULES & CLAIMS

Chairwoman: Kathy Magel
V-Chairman: Chris Thomas
Member: Jon Snyder

PARK & RECREATION

Chairman: Doug Foltz
V-Chairwoman: Kathy Magel
Member: Greg Sarbach

PERSONNEL & SAFETY

Chairman: Rick McLaughlin
V-Chairman: Tom Rice
Member: Kathy Magel

STREET & ALLEY

Chairman: Greg Sarbach
V-Chairman: Doug Foltz
Member: Chris Thomas

WATER, SEWER & RUBBISH

Chairman: Chris Thomas
V-Chairman: Greg Sarbach
Member: Rick McLaughlin

Effective 12/8/99
mlb

**2000 COMMITTEES
NORTH CANTON CITY COUNCIL**

COMMUNITY & ECONOMIC DEVELOPMENT

Chairman: Tom Rice
V-Chairman: Jon Snyder
Member: Doug Foltz

FINANCE & PROPERTY

Chairman: Jon Snyder
V-Chairman: Rick McLaughlin
Member: Tom Rice

ORDINANCE, RULES & CLAIMS

Chairwoman: Kathy Magel
V-Chairman: Don Wiley
Member: Jon Snyder

PARK & RECREATION

Chairman: Doug Foltz
V-Chairwoman: Kathy Magel
Member: Greg Sarbach

PERSONNEL & SAFETY

Chairman: Rick McLaughlin
V-Chairman: Tom Rice
Member: Kathy Magel

STREET & ALLEY

Chairman: Greg Sarbach
V-Chairman: Doug Foltz
Member: Don Wiley

WATER, SEWER & RUBBISH

Chairman: Don Wiley
V-Chairman: Greg Sarbach
Member: Rick McLaughlin

Effective 9/11/00

Attachment F

Letter from City Engineer and Zoning Inspector



City of NORTH CANTON, OHIO

145 NORTH MAIN STREET
NORTH CANTON OHIO 44720-2587
(330) 499-3465

February 26, 2002

To Whom It My Concern:

In 2001, Councilwoman Kathy Magel, Permits & Inspection Superintendent Gene Hemminger and City Engineer Jim Benekos met on a regular basis to review the draft Zoning Ordinance Update Proposal that was provided by D.B.Hartt, Inc. for the City of North Canton. At that time, Mrs. Magel was the Chairperson of the Ordinance, Rules & Claims Committee of Council. Currently, she serves as the chairperson of another committee.

At the direction of Mrs. Magel, and with the approval of the Administration, the three of us undertook the task of reviewing this proposal section by section to check for continuity and to rewrite the ordinance to reflect the needs and concerns of North Canton. As we proceeded, it became obvious that no one from the City had studied the entire document in detail and provided any critical analysis although there had been several public meetings and it had progressed through the Planning Commission.

Currently, Mr. Hemminger has compiled a 15-page list containing 230 questions, comments and concerns that the three of us developed regarding the proposed zoning ordinance. The City Engineer needs to review this list before it is forwarded to D.B.Hartt. At that time we will schedule a meeting with D.B.Hartt to discuss the items on that list. Subsequent to that meeting, a final list of recommendations will be developed and presented to City Council for their consideration.

Councilwoman Magel has spent many hours during the calendar year 2001, to help develop what will become the City of North Canton's new Zoning Ordinance

If anyone has any further questions regarding this matter, they may contact Gene Hemminger at 330-499-5557 or Jim Benekos at 330-499-3465.

James J. Benekos, P.E., P.S.
City Engineer

Gene D. Hemminger
Superintendent
Permits & Inspections

JJB/abr

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