

RECORD OF PROCEEDINGS

0343

Minutes of COUNCIL OF THE CITY OF NORTH CANTON

REGULAR

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, July 14, 7:00 p.m. 20 03

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. Richard Scherpenisse, Northminster Presbyterian Church.
3. All present recited the Pledge of Allegiance.

Mr. Snyder: Thank you Reverend. Madam Clerk, please call the roll.

ROLL CALL:

4. The following members of council responded to roll call: Foltz, Kiesling, Lindower, Magel, McLaughlin, Osborne and Snyder. Also present were: Mayor Rice, Director of Administration Held, Assistant Director of Law Treadon, City Engineer Benekos and Clerk of Council Bittle.

5. Consideration

Minutes of Council Meeting: 6/9/03
Minutes of Council Meeting: 6/23/03
Financial Statement: June, 2003

Mr. McLaughlin moved and Mrs. Kiesling seconded to approve the minutes of the council meetings and the financial statement as presented. All members present voting:
Yes: Kiesling, Lindower, Magel, McLaughlin, Osborne, Snyder and Foltz.
No: 0

6. Committee Reports

Finance & Property Committee: Refer to the minutes on file in the Council Office of the Finance & Property Committee meeting held July 7, 2003.

Ordinance, Rules & Claims Committee: Refer to the minutes on file in the Council Office of the Ordinance, Rules & Claims Committee meeting held July 7, 2003.

Park & Recreation Committee: Refer to the minutes on file in the Council Office of the Park & Recreation Committee meeting held July 7, 2003.

Street & Alley Committee: Refer to the minutes on file in the Council Office of the Street & Alley Committee meeting held July 7, 2003.

Mr. McLaughlin moved and Mrs. Magel seconded to approve the committee report minutes as presented. All members present voting:
Yes: Lindower, Magel, McLaughlin, Osborne, Snyder, Foltz and Kiesling.
No: 0

7. Recognition of Visitors

Mr. Snyder: Is there anyone in the audience wishing to speak to the council this evening? If so please step forward, state your name and address for the record. Any? Seeing none...

OLD BUSINESS:

Mr. Snyder: May I have a motion to remove from the table Ordinance No. 84-03?

Mr. Osborne moved and Mr. McLaughlin seconded to remove from the table Ordinance No. 84-03. All members present voting:
Yes: Magel, McLaughlin, Osborne, Snyder, Foltz, Kiesling and Lindower.
No: 0

Mr. Snyder: May I have a motion to...
Mr. Osborne: Amend.

Mr. Snyder: to amend the ...

Mr. Treadon: Well you have ...

Mr. Snyder: You have to read it before ...

Mr. Treadon: Read it first.

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Mr. Snyder: we amend it.
Mr. Treadon: and then a motion...

Mr. Snyder: May I have a motion to read by title only, the first reading of Ordinance No. 84-03?

- 8, Mr. Osborne moved and Mrs. Kiesling seconded to **read by title only, first reading of Ordinance No. 84-03.** All members present voting:
Yes: McLaughlin, Osborne, Snyder, Foltz, Kiesling, Lindower and Magel.

Ordinance No. 84-03 - First Reading

Ordinance No. 84-03 amending Section 553.02, 553.03, 553.05 and 553.06 of CHAPTER 553 **Weeds, Trees and Grass** of the Codified Ordinances of the City of North Canton.

Mr. Snyder: Chairman Osborne.

Mr. Osborne: Thank you Mr. President. This is the same ordinance that we were about to pass, I guess it's been three weeks ago now and there were concerns about notification. There was one change made in the ordinance to reduce from 10 days to 7 days the notification. The 8 inch grass level is a change from the present ordinance, down from 12 inches. And also the ordinance specifically talks about grass. Whereas the old ordinance strictly talked about weeds and I guess noxious weeds and vegetation. So I think we pretty well beat this one up. So I'd like - anybody have any comments at this time or can we move ahead and vote on this?

Mr. Snyder: I will entertain a motion to amend that piece of...
Mr. Osborne: Okay.
Mr. Snyder: legislation as it was ...inaudible... first presented.

Mr. Osborne: Okay, I'll make a motion to amend.

Mr. Treadon: Now what are the amendments?

Mr. Osborne: The seven day notice.

Mr. Treadon: That's the only amendment?
Mr. Osborne: Yes sir.

Mr. Snyder: Is there a second?

Mr. McLaughlin: Wait a minute. I thought there was - said there something else besides the seven day.

Mr. Osborne: That's all we changed from the previous writeup of this.
Mrs. Kiesling: That's all we ended up changing.
Mr. Foltz: Eight inch height that was in ...inaudible...
Mrs. Kiesling: Oh, we changed that the first time, right.
Mr. McLaughlin: Yea the 8 inch height. Okay, okay.
Mr. Foltz: and the term grass.

Mr. Foltz: Second.

Mr. Snyder: Okay, there's a motion and second. Any discussion? If not I'll entertain a motion to adopt the first reading of Ordinance No. 84-03 as amended.

Mr. Osborne: Motion.

Mr. Treadon: No, you first...

Mrs. Bittle: I didn't call the roll.

Mr. Treadon: You've got to call the roll on the amendment.

Mr. Snyder: Pardon me.

All members present voting:
Yes: Osborne, Snyder, Foltz, Kiesling, Lindower, Magel and McLaughlin.

Mr. McLaughlin moved and Mrs. Kiesling seconded to **adopt the first reading, as amended,** of Ordinance No. 84-03. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lindower, Magel, McLaughlin and Osborne.
No: 0

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NEW BUSINESS:

9. Mr. McLaughlin moved and Mr. Foltz seconded to **read by title only, first reading** of Ordinance No. 90-03. All members present voting:
Yes: Foltz, Kiesling, Lindower, Magel, McLaughlin, Osborne and Snyder.
No: 0

Ordinance No. 90-03 - First Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into a two year Lease Agreement by and between the City of North Canton and The Knights of Columbus, Bishop McFadden Council 3777, Home Corporation, North Canton, Ohio, to lease Lot No. 3998 and part of Out Lot 177 in the City of North Canton for various recreational facilities within the City of North Canton and declaring the same to be an emergency.

Mr. Snyder: Chairman Foltz.

Mr. Foltz: Yes, as it reads, it's probably late in coming, but we need to take care of this. It's basically a two year lease agreement, which we've had ever since I've been on council. I don't know how much further back it goes than that, but I'm sure for many years. So I advocate that we pass this on emergency. But any questions, comments from council?

Mr. Foltz moved and Mr. Lindower seconded to **adopt the first reading** of Ordinance No. 90-03.

Mr. Snyder: Alright, call the roll please.

All members present voting:
Yes: Kiesling, Lindower, Magel, McLaughlin, Osborne, Snyder and Foltz.
No: 0

Mr. McLaughlin moved and Mr. Foltz seconded to **suspend the rules** for Ordinance No. 90-03. All members present voting:
Yes: Lindower, Magel, McLaughlin, Osborne, Snyder, Foltz and Kiesling.
No: 0

Mr. McLaughlin moved and Mr. Foltz seconded to **adopt under suspension of the rules** Ordinance No. 90-03. All members present voting:
Yes: Magel, McLaughlin, Osborne, Snyder, Foltz, Kiesling and Lindower.
No: 0

Mr. Snyder: May I have motion to read by title only the first and only reading of Resolution No. 91-03?

10. Mr. McLaughlin moved and Mr. Foltz seconded to **read by title only, first reading** of Resolution No. 91-03. All members present voting:
Yes: McLaughlin, Osborne, Snyder, Foltz, Kiesling, Lindower and Magel.
No: 0

Resolution No. 91-03 - First Reading

A resolution adopting the Budget of the City of North Canton, Ohio, for the year 2004.

Mr. Snyder: We're required by state statute as well as our own charter that the Mayor's budget be sent to the Budget Commission of Stark County for approval predicated on the fact that any revenues that we take from people be it a tax levy, that that money is in fact being spent fully and not being accepted and hoarded and arbitrated for future use. Any questions on that?

Mr. McLaughlin moved and Mrs. Magel seconded to **adopt the first reading** of Resolution No. 91-03. All members present voting:
Yes: Osborne, Snyder, Foltz, Kiesling, Lindower, Magel and McLaughlin.
No: 0

11. Mr. McLaughlin moved and Mrs. Magel seconded to **read by title only, first reading** of Ordinance No. 92-03. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lindower, Magel, McLaughlin and Osborne.
No: 0

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Ordinance No. 92-03 - First Reading

An ordinance authorizing the Board of Control of the City of North Canton, through the Director of Administration, to seek quotes for administering a self-insured health insurance program and authorizing the Mayor, upon instruction by Council, through the Board of Control, to enter into a contract for said health insurance program and declaring the same to be an emergency.

Mr. Snyder: Our health insurance prime right now is running on a twelve month interval. It is the wish of the Director of Finance that she bid it both for a year and two year intervals. Inaudible... concurrently with a companion piece of legislation 93-03. As you know we are going into negotiation with the bargaining units this year and we want to be positioned and poised to handle that. So consequently we're asking that to be passed on emergency. Is there any questions on that? If not...

Mr. McLaughlin moved and Mrs. Kiesling seconded to **adopt the first reading** of Ordinance No. 92-03. All members present voting:
Yes: Foltz, Kiesling, Lindower, Magel, McLaughlin, Osborne and Snyder.
No: 0

Mr. McLaughlin moved and Mrs. Kiesling seconded to **suspend the rules** for Ordinance No. 92-03. All members present voting:
Yes: Kiesling, Lindower, Magel, McLaughlin, Osborne, Snyder and Foltz.
No: 0

Mr. McLaughlin moved and Mrs. Magel seconded to **adopt under suspension of the rules** Ordinance No. 92-03. All members present voting:
Yes: Lindower, Magel, McLaughlin, Osborne, Snyder, Foltz and Kiesling.
No: 0

12. Mr. McLaughlin moved and Mrs. Kiesling seconded to **read by title only, first reading** of Ordinance No. 93-03. All members present voting:
Yes: Magel, McLaughlin, Osborne, Snyder, Foltz, Kiesling and Lindower.
No: 0

Ordinance No. 93-03 - First Reading

An ordinance authorizing the Board of Control of the City of North Canton, through the Director of Administration, to seek quotes on Life Insurance for the period December 1, 2003 through November 30, 2005 for the City of North Canton and authorizing the Mayor to enter into a contract and declaring the same to be an emergency.

Mr. Snyder: Currently the contract on the life insurance does run for a two year cycle and consequently we're going put the two together. And the same situation does exist and we're asking it be passed on an emergency basis. Any questions? If not...

Mr. McLaughlin moved and Mrs. Magel seconded to **adopt the first reading** of Ordinance No. 93-03. All members present voting:
Yes: McLaughlin, Osborne, Snyder, Foltz, Kiesling, Lindower and Magel.
No: 0

Mr. McLaughlin moved and Mrs. Magel seconded to **suspend the rules** for Ordinance No. 93-03. All members present voting:
Yes: Osborne, Snyder, Foltz, Kiesling, Lindower, Magel and McLaughlin.
No: 0

Mr. Snyder: May I have a motion to adopt under suspension of the rules Ordinance No. 94-03 (93-03).

Mr. McLaughlin moved and Mrs. Magel seconded to **adopt under suspension of the rules** Ordinance No. 93-03. All members present voting:
Yes: Snyder, Foltz, Kiesling, Lindower, Magel, McLaughlin and Osborne.
No: 0

13. Mr. McLaughlin moved and Mrs. Magel seconded to **read by title only, first reading** of Ordinance No. 94-03. All members present voting:
Yes: Foltz, Kiesling, Lindower, Magel, McLaughlin, Osborne and Snyder.
No: 0

Mr. Treadon: 94-03?

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Ordinance No. 94-03 - First Reading

An ordinance authorizing the Mayor of the City of North Canton, through the Board of Control, to enter into a contract for emergency repairs of the #4 well pump, without advertisement and competitive bidding, at a cost not to exceed \$19,516.00, and declaring the same to be an emergency.

Mr. Snyder: As I told you last Friday, the Director of Administration brought to my attention that an emergency did exist for the health and welfare of the citizens of the City of North Canton. Consequently the Ohio Revised Code does permit him to spend in excess of the \$15,000.00 bidding limit and that was done and now we are approving said same. And I would like to do it on an emergency ...inaudible... Any questions?

Mr. Osborne: I'd like to say just one thing. I also gathered that this is a repair that once they got into that it evolved into something a little more extensive than they initially thought.

Mr. Snyder: That's correct. It...

Mr. Osborne: And giving that I understand. I'll go along with that.

Mr. Snyder: The original estimate given to the administrator was approximately a little under \$14,000.00. However, when they did get in there, there were other issues and it was only prudent that they be repaired at that time. Because it's time and material and they were there and his decision was to do it accordingly and that was about it. If there are not questions...

Mr. McLaughlin moved and Mr. Lindower seconded to **adopt the first reading** of Ordinance No. 94-03. All members present voting:

Yes: Kiesling, Lindower, Magel, McLaughlin, Osborne, Snyder and Foltz.

No: 0

Mr. McLaughlin moved and Mrs. Magel seconded to **suspend the rules** for Ordinance No. 94-03. All members present voting:

Yes: Lindower, Magel, McLaughlin, Osborne, Snyder, Foltz and Kiesling.

No: 0

Mr. McLaughlin moved and Mrs. Magel seconded to **adopt under suspension of the rules** Ordinance No. 94-03. All members present voting:

Yes: Magel, McLaughlin, Osborne, Snyder, Foltz, Kiesling and Lindower.

No: 0

14. Mr. McLaughlin moved and Mrs. Magel seconded to **read by title only, first reading** of Ordinance No. 95-03. All members present voting:

Yes: McLaughlin, Snyder, Foltz, Kiesling, Lindower and Magel.

No: Osborne.

Ordinance No. 95-03 - First Reading

An ordinance authorizing the supplemental appropriation of funds of the City of North Canton, Ohio, to be appropriated from the unappropriated balance of the No. 03 Income Tax Fund to the Inter-Fund Transfer account in the aggregate amount of \$2,100,000.00 for the current expenses during the fiscal year ending December 31, 2003 and declaring the same to be an emergency.

Mr. Snyder: The law - the Finance Director did transfer \$2,100,000.00. It was wired out of our account last Thursday morning to go along with the additional \$2,000,000.00 that - to pay for the property we purchased at Arrowhead. We now are asking that \$2,100,000.00 be taken from the unappropriated portion of our money transferred to keep the operation of the city continuing for appropriated things through December 31, 2003. Any questions? If not...

Mr. McLaughlin moved and Mr. Foltz seconded to **adopt the first reading** of Ordinance No. 95-03. All members present voting:

Yes: Snyder, Foltz, Kiesling, Lindower, Magel and McLaughlin.

No: Osborne.

Mr. McLaughlin moved and Mr. Foltz seconded to **suspend the rules** for Ordinance No. 95-03. All members present voting:

Yes: Snyder, Foltz, Kiesling, Lindower, Magel and McLaughlin.

No: Osborne.

Mr. McLaughlin moved and Mrs. Magel seconded to **adopt under suspension of the rules** Ordinance No. 95-03. All members present voting:

Yes: Foltz, Kiesling, Lindower, Magel, McLaughlin and Snyder.

No: Osborne.

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15. Ordinance No. 96-03 - First Reading

Mr. Snyder: May I have a motion to read by title only, the first reading of Ordinance No. 96-03?

Mr. Osborne: Mr. President, may I - I'd like to ask at this time that we possibly table this given the letters that were addressed to Council in the last week from the Law Director. Did everybody get a chance to read those two letters? One was - dealt with the variance language that he had removed. And there was a second letter and I thought I had it here, but I can't put my hands on it. But he also talked about conflicts - here it is right here - per council's instruction on Monday, July 7th, enclosed herewith please find an ordinance which I have prepared inserting definition of an open space, which I removed from the zoning ordinance, back into the zoning ordinance. It says he has no ... objection to the definition. However, I am reiterating that I do not believe that this definition should be in the zoning ordinance and if it is placed in the zoning ordinance it should only be placed in the zoning ordinance after it is harmonized with the definition of public open space set forth in the subdivision regulations. At any rate there is no great rush. I'd like to delay this until we come back and maybe cooler minds have prevailed. And so I'm looking for a second.

Mrs. Kiesling: Doesn't it have to be in the committee?

Mr. Osborne: I'm sorry.

Mrs. Kiesling: Doesn't somebody on the committee have to...

Mr. Snyder: No this is an open meeting.

Mr. Osborne: No, this is open...

Mr. Snyder: That already came through committee.

Mrs. Kiesling: Oh that's true, we're out of committee.

Mr. Snyder: That - we had a 4-0 vote to put it on there last week. So it - it will take a second, it's a regular piece of legislation.

Mrs. Kiesling: I second it.

Mr. McLaughlin: To send it back to the Planning Commission? Is that what...

Mr. Osborne: Well we could do that too.

Mr. Treadon: Well it's a motion to...

Mr. Osborne: Well we need to delay it right now.

Mr. Snyder: Right now it's a motion to table.

Mr. Treadon: Table.

Mrs. Kiesling: I second the motion to table it.

Mr. Snyder: There's a motion and a second, please...

Mrs. Kiesling: Take it back to committee and decide what we're do with it.

Mr. Snyder: Is there any discussion?

Mrs. Magel: Well I'd like to say I think it belongs back in the book - it shouldn't of been taken out. And then do proper procedure and then have a - and I do appreciate his counsel on this to help us along what he wanted. But it should be in the book since we passed it in the book and shouldn't of even been taken out. And I don't care if we table it, but at least let's do this proper procedure and leave it in the book where it belongs in the book and take a second look at it if you want. Or what was the other thing? Somehow - what is the procedure to take to...

Mr. Snyder: The Planning Commission.

Mr. Osborne: The Planning...

Mrs. Magel: the subdivision?

Mrs. Kiesling: Yea, we have to change subdivision...

Mr. Snyder: Inaudible... a subdivision change has to come out of council committee, ordinance, rules and claims for a - or four members of the council requesting said same.

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Mr. Osborne: Again, the whole issue needs to be studied in its entirety with cool heads, with input again from the Law Director, from the Zoning Inspector and I might like to quickly consult with D.B. Hartt and see if they see any overall impact with this. Cause this was just a knee jerk reaction to you know, hey you took it out, let's immediately put it back. And he has some sound logic and legal reasons for it. And I understand there's some concerns that Monticello that we may be intending to place new restrictions on their open space requirements. So again, I just want to slow up with this. And I appreciate the second and...

Mr. McLaughlin: Can I ask a question of Tom? Tom, what is the proper procedure? Should we - since Roy's not here would you - legally would you put it back in or would you just send it straight to the Planning Commission?

Mr. Treadon: Put it back in?

Mr. McLaughlin: I mean make it part of the book again or just keep it out of the book and send it directly back to the Planning Commission?

Mr. Treadon: Well I'd recommend you follow the recommendations that he outlined in his July 10 correspondence. If you're - you talking about the

Mr. McLaughlin: Green space definition.

Mr. Treadon: Green space definition.

Mr. Osborne: Open space...

Mr. McLaughlin: Open space, excuse me.

Mr. Treadon: Or excuse me, open space. All he's saying is he has no objection to that. I think what he's saying is it should be consistent with the language - the definition should be consistent with the language in the subdivision regulation. Which is easy enough to do, you can just - if you want to put that back in, amend the subdivision regulation.

Mr. Osborne: But he says put it in the zoning regulations after it is harmonized with the definition of open space in the subdivision regulations.

Mr. Treadon: Right.

Mr. Osborne: So I'd like to deal with it in the subdivision regulations and then maybe companion legislation at that time.

Mr. Treadon: That's probably the way to do it, do them both at the same time.

Mr. Snyder: But the problem is, Mr. Law Director, it might not - the burden of the limit of proof remains on the subdivision first. Submitting a plot plan you must meet the requirements of the subdivision regulation. So they first must meet that criteria.

Mr. Treadon: Right.

Mr. Snyder: And that's where the conflict is at Monticello. They are meeting that threshold presently, but will not meet the threshold under the proposed change in zoning. However, I believe it's the wish of certain council members can we do this? And I ask - this is in the form of a question even though it's fairly lengthy. Can we put in an errata form - or a sheet in the front of that book temporarily just outlining our definition of open space? It would not be actually...

Mr. Treadon: No.

Mr. Snyder: You can't?

Mr. Treadon: No.

Mr. Snyder: Okay, well I'm asking...

Mr. Treadon: You need three readings - three separate readings...

Mrs. Magel: We had three readings. It was in the book.

Mr. Treadon: I understand that. But he took it out when you passed it.

Mr. Osborne: It was not in the previous draft. The problem came between when council authorized Mrs. Magel to make these last minute changes and that's where these issues have come up.

Mr. Treadon: When you passed it, it was not.

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Mr. Osborne: That's right.

Mrs. Magel: Inaudible...

Mr. McLaughlin: It was not in the book.

Mr. Foltz: Yes it was.

Mr. McLaughlin: No, it was not in the book.

Mr. Foltz: It should of been in though.

Mrs. Kiesling: We - right.

Mr. McLaughlin: So in other words if we wanted to do something...

Mrs. Magel: Well that's a technicality. When we passed it, we passed it assuming it was going into the book.

Mr. Treadon: Well you assumed it, but it wasn't in the book.

Mrs. Kiesling: We assumed it, but we gave him the right to check it over and make clerical changes.

Mr. Treadon: That's his position and I believe he's correct.

Mr. Osborne: As I understand it, it's not only Mr. Batista's opinion, it's Mr. Hemminger's position as well. He consulted with Mr. Hemminger and they both concur that you're going to have a conflict, the subdivision regulations - you're just being repetitive with this whole process. The subdivision regulations deal with that issue. So...

Mrs. Magel: Oh wait a minute...

Mr. Osborne: I concur with the Law Director and the Assistant Law Director and I'd like to just go ahead and ...

Mrs. Magel: We're going to have to question this. I have the minutes for the second reading. I put it in the book, it's in - it's - technically it was put in the book and all the changes and all the color code and every change that was made was put into the book when we had our second reading ...

Mr. Osborne: Well I...

Mrs. Magel: It was put into the book, literally.

Mr. Osborne: Well I guess...

Mrs. Magel: Literally.

Mr. Osborne: at this time - next time maybe we might not want to vote until we actually have the product in front of us. You know saying whether it should of been in, it was in, could of been in...

Mrs. Magel: That's what we have a law director for.

Mr. Osborne: And he has given us advice - he has given us advice here, along with...

Mrs. Magel: I asked him for his opinion prior to this.

Mr. Treadon: And he gave it to you.

Mr. Osborne: It's right here.

Mrs. Magel: No, no, no he gave it to me on the third reading.

Mr. Osborne: Well we have a letter here dated July 10th that we ...

Mr. Treadon: I don't understand what you're asking, I simply don't. If you're asking a question...

Mrs. Magel: No.

Mr. Treadon: Okay, then I won't answer it.

Mrs. Magel: You can answer it though.

Mr. Treadon: It sounded like a question to me.

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Mrs. Magel: It was in the book on the second reading. And then I got advice and I asked for advice from the lawyer, from Roy Batista. And I have it in the minutes on the third where he suggests everything is fine. He told me he read it, looked it over and everything was fine - and it's in the minutes.

Mr. Treadon: Had he made the changes that - did he remove the open space provision?

Mr. Snyder: Well I think where the conflict is coming from, it was not in everybody's book.

Mr. McLaughlin: Exactly.

Mr. Snyder: It was only in the one book. So consequently...

Mrs. Magel: It was in the official book that the Mayor asked me to immediately that night turn over to Roy. I didn't have it, I had - I ... already turned it over to you. Inaudible...

Mr. Osborne: I've never touched it - I've never touched it...

Mr. Snyder: Well there's a - there's a question...

Mrs. Magel: Yea you did cause I remember you asking the definition of open space.

Mr. Snyder: on the floor. I'm going to call the question then. At this point we don't want to get into an argument publicly over it. Madam Clerk, please call the roll.

Mrs. Bittle: Is this for a motion to table?

Mr. Snyder: This is a motion to table Ordinance No. 96-03.

Mr. McLaughlin: I'm confused.

All members present voting:

Yes: Kiesling, Lindower, McLaughlin, Osborne and Snyder.

No: Foltz and Magel.

Mrs. Bittle: That's 5 yes and 2 no.

Mr. Snyder: I would like also to - out of your committee Mr. Osborne, please send to the Planning Commission the request to study the subdivision regulations to harmonize them with the - that particular thing. But they have to look at that as that is a significant amendment to the subdivision regs and the Charter requires that it be ...inaudible... by the Planning Commission. And if you'd be so kind to ask the Clerk to ...inaudible... that and put us on the next agenda I'd appreciate that.

Mr. Osborne: Mrs. Clerk will you - Mrs. - Mrs. Bittle...

Mrs. Magel: Madam Clerk.

Mr. Osborne: Would you - could you address a letter to the Planning Commission? Address them to look at that issue.

Mrs. Bittle: What sub division reg you want - public open space?

Mr. Osborne: For the open space and reconciliation possibly between both the subdivision regulations and the zoning.

Mr. McLaughlin: It still has time to get on the Planning Commission for the month of August...

Unidentified: Yea, it will come back to us in August.

Mr. McLaughlin: So we should have something before we come back from vacation.

Mr. Lindower: Inaudible...

REPORTS:

Mr. Snyder: Exactly. Any report, Assistant Director of Law?

Mr. Treadon: No sir, no report.

Mr. Snyder: Director of Administration.

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Mr. Held: Yes. I'd like to offer a second quarter report on our recycling program, which is going very well. Last year at this time we collected 109.71 ton of recyclables in total and this year, at this time, we've collected 123.81 ton of recyclables. So we are seeing an improvement and things are moving along very well with that. That's all.

Mr. Snyder: Mr. Mayor.

Mayor Rice: Yea Jon, one thing. Since this is our last meeting before our summer recess and last week was a busy week, I thought I'd take a moment to update council members on what took place in regard to Arrowhead last week, because there's a lot of things going on right now, so you know at least up to date where we're at. If we go back starting with last Monday, actually was notified by Jon and our Finance Director and Law Director, at that time that that Squires opinion that we got outlining, so to speak, the standards in which people would have to follow to lease that property from us was not going to apply. Now there was a change in that that basically we would not be bound by that Squires and Sanders restrictions in regard to leasing the Arrowhead property. That same evening, as you all recall, six members of City Council reaffirmed their support for the closing of Arrowhead and that transaction which was scheduled for last Thursday, July 10th. On July 9th, Wednesday, the City conducted our preclosing walk through. That was conducted by Administrator Held, Kim Cooksey and Joe Oleskey of our Park and Recreation Department. They finalized their inspection documents in connection with Section 16 of the Purchase Agreement. And then on July the 10th, Thursday, as everybody knows, the transaction was closed on that day, Julie forwarded the funds and the transaction was recorded. Also on the 10th I sent a memo to - a memo and the signed inspection sheets to the Law Direction in regard to Section 16 of the contract or the purchase agreement. I also sent a memo and documents from the Ohio Department of Commerce that I received, I think, the day prior, to the Law Director concerning the transfer or potential transfer of the liquor license at Arrowhead Country Club. That item is of great concern and interest to those parties interested in leasing the property. Verbally on the phone, they indicated to me that that license was transferrable. They forwarded the appropriate documents needed to make that happen and I passed that on to your Law Director for his advice as to how we proceed. We sent a letter to Arrowhead requesting the City be added as an additional insured party during the time in which they possess the property as our - we are now the owners. I sent out almost 150 letters to golf management firms nationwide soliciting their interest and/or proposals to lease the Arrowhead property from the city. I might mention I got a couple calls back on that letter today of interest. The Finance Director and myself, Jon was invited but unable to attend, on Thursday the 10th we went to Arrowhead with their folks to review the leases that are currently in place, their management and personnel structure and the contracted banquet activities that they have on the books for October, November and December of 2003. I've had various discussions with both Jon, as Chairman of the Finance and Property Committee and the President of City Council, as well as Doug Foltz, the Chairman of Park and Recreation. We'll continue to talk and discuss the issues in regard to Arrowhead and get their input. Also I've had numerous discussions with both the Law Director and the Finance Director on issues as regard to our preparation of occupying Arrowhead Country Club. We're basically looking to prepare for three possible paths of operation. One would be leasing to an outside entity, two would be hiring a management firm and number three would be potentially the city operating the facility itself. As I said before, council's input is welcome. If a - please direct any interested parties to my office that you might hear of that have any interest. We're open to ideas and suggestions and proposals and as well any information or input you - anyone here on council may have, please feel free to provide that information. We're hoping that we can determine which one of those three paths is best for us to pursue by the end of July - it's kind of our soft target date. And not that we'll have it all nailed down by then, but between those three paths which one looks like it's coming or are going to be possibly the most beneficial way for the city. Obviously leasing is interested for example. However, if we don't get any substantial lease proposals and offer, we may not be able to pursue it that way. That may eliminate that. We don't know. We're waiting for proposals. We have received no firm - I shouldn't say even firm, we haven't received any documented proposals for leasing or managing that facility as of today. So we have no proposals in hand from anyone. Got a lot of people talking. A lot of people gathering information and saying they're interested, but they haven't submitted anything yet. Okay. And obviously because of the time line with them and their ability to give us notice of a 30 day vacancy of the property, may lead us to need to meet during the summer recess if that becomes necessary. I'll be working with Jon on this very closely and Doug and if we need to we'll call a summer session. But last week was a busy week. To give you some idea of the type of stuff we're doing, we're working everyday on that trying to prepare for our eventual occupation and operation of that facility. Okay. Thank you, that's all.

Mr. Snyder: Thank you Mayor. Mr. Engineer.

Mr. Benekos: Thank you. Just a few items regarding the YMCA so you're aware of them. We're looking at possibly a future agreement with the YMCA in conjunction with the improvements they're going to do with - at the parking lot. There's some improvements to Bitzer Street and McKinley that the city will bear. So I just wanted you to be aware, we may be entering into an agreement with the Y. So the city would fund that portion of it. Also, you may be aware we did some drilling for mines in the parking lot area. We did not find any mine voids over there. We did find a void in Bitzer Street and we are currently working with ODNR to determine the extent of that void and some remediation alternatives for that. But we are

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planning on remediating that and that will possibly cost the city some money and hopefully ODNR will bear that cost, but we're working with them on that. So I wanted you to be aware of that. And also Mr. Osborne was correct, he did initiate the concern and the question of extending Hartman Street and the need for that. And then when we looked into that further it was not necessary so...

Mr. Snyder: Thank you sir.

Mr. Benekos: Inaudible... and I'm done. Thank you.

Mr. Snyder: Madam Clerk ...inaudible...

Mrs. Bittle: No report.

REPORTS - COUNCIL:

Mr. Snyder: Member Foltz.

Mr. Foltz: Yea, just a few things President Snyder. One, I just wanted to get on the record here with Ordinance 50-30, 50 - excuse me -03. I think Council Member Magel was absolutely right. We passed that in good faith. And it's been indicated as Kathy Magel's ordinance. We passed that 7-0 as a council body - we all had good intentions. I'm not saying that the variance language does not need looked at and updated and further discussed, I think that's something we're all going to do. But in the spirit of council and as legislators, I think when you pass something it should stay that way. And I would of preferred if and I said this last week so it's not news for our Law Director Roy Batista, but I would of preferred these letter before our third reading to indicate which way we should of looked at this, as far as the variance anyway, the open space doesn't seem to be a problem. Just wanted to go on record with that. And I support Member Magel and her earlier discussion about retaining Ordinance 50-03 even if we have to come back and change the variance format. That's it. Thank you.

Mr. Snyder: Member Lindower.

Mr. Lindower: I'd just like to comment about 50-03 also. I concur with what Doug said. I've spoken to Mrs. Magel about it. I also agree that there's definitely a need to align the subdivision changes or subdivision wording right with the ordinance on open space. The only thing is it kind of baffles me a little bit why we can't come up with the correct procedure just to do that alignment and get this thing done and over with. If it takes putting it back in the book and then modifying it again, however we need to do it, I think it - we have to get it done and immediately. I concur that it should of never been removed to start with without council's approval. But that's just where I stand on it. Thank you.

Mr. Snyder: Member McLaughlin.

Mr. McLaughlin: A couple things. I started off - I'll start off with that too. On 50-03, Doug was right, it was a 7-0 vote, we all agreed to that. And a - but like I say I wish that - I noticed in our packet over the weekend that the letter from Roy was there. I wish this letter was - would of came in our ...inaudible... before our third reading. I mean need a little more input beforehand and let us know what's going on. Some of the things I'm going to go over real quick is - where we at on Mississippi Avenue Jim? Have the bids come back.

Mr. Benekos: The bids are opened this Friday at 11:00 a.m.

Mr. McLaughlin: And then we can start on it - hopefully just get it started some time before school.

Mr. Benekos: Before school starts Monday.

Mr. McLaughlin: I'm hoping and get it still - are we still going to have enough time to finish everything and...

Mr. Benekos: Yes.

Mr. McLaughlin: Okay. That's one of my concerns. Paving projects, we're on schedule?

Mr. Benekos: Yes.

Mr. McLaughlin: For the paving projects.

Mr. Benekos: That's been award - or it's been bid and will be awarded this week hopefully.

Mr. McLaughlin: I want to make sure we've got that. Second of all I noticed a business on Schneider Road, that one business next to Walgreens, it becomes available. I guess they've moved out of there and everything else like that. I don't know how many people are employed or whatever, but I didn't know if there was anything we could of done to save them. I don't know where they went or whatever, but I just happened to notice that over the weekend that the sign was going up there and everything else. Anybody know anything about that? Did they...

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Mayor Rice: They had a space issue primarily Rick, as I understand it, and actually got some incentives to go elsewhere.

Mr. McLaughlin: That's the reason we need to...

Mayor Rice: The facility was un...

Mr. McLaughlin: Small. Okay.

Mayor Rice: Yea, it was not sufficient for their needs.

Mr. Snyder: I think he has an additional place in Hudson, does he not? He has a...

Mayor Rice: Somewhere up in that area.

Mr. Snyder: He has two facilities that John ...

Mr. McLaughlin: See I didn't know that. It would be nice one of these days if we hired an economic development person to retain some of the businesses that we have and to make our city grow with jobs that - we definitely do need an economic development person. A couple other things real quick. The downtown fair I want to mention. I want to make sure, since we will be on vacation, I want to bring that up to everybody's attention that that will be the week of the - the will be of the that will be August the 15th, 16th.

Mayor Rice: Like 16th, 17th something like that.

Mr. McLaughlin: Yea, I want to make sure that that's on.

Mayor Rice: That weekend.

Mr. McLaughlin: Also want to mention September the - that Saturday the first ... September is the symphony. I want to make sure that's taken care of and ...inaudible... And also Jim I want to - I know we talked about Knoll Street, you were going to see what you could do over the break. Maybe start some of that to look at some of that for the - when we went down there and talked to the residents you were down to look at that and see what we can get going ...

Mr. Benekos: Right. I'm getting a price on that.

Mr. McLaughlin: Appreciate that. And last of all, Gas Light Circle. We talked about you want to have a meeting or you want to have a public meeting with everybody?

Mr. Benekos: I think what I'll do is submit legislation requesting that the legislative process begin and there are several pieces of legislation and steps that need to be followed. And one of those steps is I believe is a public hearing for the residents...

Mr. McLaughlin: Okay.

Mr. Benekos: and at that time I can meet with them. If anybody does have a question prior to that time, you know they can call me. I did call that one gentleman back, left a message, but he never returned my call. So I'm mad at him now.

Mr. McLaughlin: Yea, it's funny, I mean in a business where I talk to people every day and try to contact them with either voice mail or vice versa. And yea I know, it's a busy world out there that you can't reach out. I can't even get the mayor half the time. So - just kidding - just kidding. I'm just teasing you. Anyway have a nice summer vacation. That's all I've got.

Mr. Snyder: Member Kiesling.

Mrs. Kiesling: No report.

Mr. Snyder: Member Magel.

Mrs. Magel: Ah yes, a couple things. First of all Madam Clerk, I do have a other - another public meeting scheduled for the renaming of Easton and East Maple.

Mrs. Bittle: Easton. That will also be on...

Mrs. Magel: Okay and that's official. Okay so I just want to let council know we're going to have two...

Mrs. Kiesling: On the 18th.

Mrs. Magel: public meetings on the 18th. So ...

Mrs. Bittle: One at 6:30 and one at 6:45.

Mrs. Magel: Really? Okay, 6:30 and 6:45 if that's fine.

Mrs. Bittle: If that's alright with council. Do you have a preference which is first, which is...

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Mrs. Magel: I have no preference. I think they will both run very smoothly. Second thing, Rick, we did hire an economic developer, remember.

Mr. McLaughlin: For a short time - for a short time.

Mrs. Magel: Well at least we voted to.

Mrs. Kiesling: Inaudible...left.

Mrs. Magel: Okay, and now, there's a lot of rumors, innuendoes and untruths going on about this Ordinance No. 50-03.

Mrs. Kiesling: It's 50...

Mr. Snyder: Oh ...inaudible...

Mrs. Magel: Right. And there was a editorial that the Law Director did not have a chance to have an input. First of all I believe the Law Director was here for the meeting. Second of all, I specifically talked to him after I put the changes into the book on the second reading. I think Mary Louise will verify I said at least called up five times and asked for Roy's input. And I did have it said on the - you'll see in the minutes, where Roy said everything was fine. There - I myself only made basically three changes. So it wouldn't of taken much to read over three changes. But what I would like to say is I would of liked to have seen the book whole and legal and everything that council passed for three readings and thirty days, it should not of been touched. And I still - my request would be get that book legal again. And I was the first person to say I would gladly take a look at the wording and accept the input from the Law Director as well as anyone on council or anyone from the public. But that was my request. In the meantime we're having a vacation here. I think what I'll do is gather up all the bits and pieces here and get the story from the very beginning to the very end and I'll complete this story as to what really happened. And thank you for your kind words. It was thrown on me. I'm not the chairman of that committee. It's just no one else was doing anything. We were saying things like pass anything. I did my best. I asked for input. It was passed seven nothing and I would like to see that thing restored whole. And happy vacation everybody. That's all.

Mr. Snyder: Thank you. Member Osborne.

Mr. Osborne: Well regarding the zoning, yes I did vote for it. This is something that could of easily been passed last year, could of been passed three, four months ago, but there was continual delays. Yes, I was anxious to get anything passed because we were facing concerns with the possible development of Arrowhead and we needed some kind of core zoning that was current in place. Now I have a letter here that I sent to Mr. Batista April 14th where I was concerned that this council was allowing a council member to make last minute changes to the code. In fact I'll read it right here: Dear Mr. Batista. I have been informed that council person Kathy Magel has requested that she take over making corrections to the city's proposed new zoning code. I would like your written opinion as to whether this opens the city to any increased liability exposure for errors or omissions in the code. Furthermore, I would like to know if the zoning consultant, D.B. Hartt, Inc., is absolved from any problems that may arise from the proposed zoning code now that the city has decided to make changes in house - cosmetic or otherwise. Well it's not surprising I never did get a reply from the Law Director. And you can see where all that back stabbing and innuendos and - got us. Okay, I had a call from a constituent today, he lives at Hartman Avenue. I don't know if he's in the audience. I've never met him. We've talked on the phone several times. Mr. Tom Hammond, 525 Hartman. And he was very concerned about the Beacon Journal article last week titled North Canton Official Reviewed, where the Law Director was seemingly giving advice as to how we could hide the environmental contamination report at Arrowhead. He just simply wanted me to bring that to council's attention and hope that they did see the article in the Beacon Journal. That's all I'm going to say about that. I was hoping Mr. Batista would be here tonight. I've been meaning to give him an update on the alley vacation I was hoping to get for some elderly people over on between Edgewood and Fairview - it was Alley No. 14. And Mr. Benekos had a good comment earlier about this alley near the Y that wants to be vacated - he called it a paper alley. Now Alley 14, I call it an alley that's really never been an alley, but paper alley is nice and short and sweet. I think it's very sad that we didn't at least come to this elderly couple's rescue and vacate at least the very end of this alley. If anybody here on council had been interested enough to just drive by they would see the predicament this elderly couple is in. Now the Law Director at the time - Mr. Batista recommended that go ahead and build, everybody in town is doing it even though it's not your own property. So Mr. & Mrs. Kobelt secured a - or attempted to secure a building permit and it was refused. So we're left in limbo. How are they going to get a - build their driveway if the city won't issue a building permit? Cause no contractor is going to build in this city without a building permit. So I just want to give the Law Director an update on that. This council is not serving its constituents up here.

Mrs. Kiesling: Hey, I'd just like to make a comment. Remember that alley vacation wasn't even brought out of committee. So a few of us didn't even get a chance to speak about it. It stayed in committee.

Mr. Osborne: Well no, Mrs. Kiesling, thank you very much. That's one issue that I guess will never go anywhere. June 19th I addressed a letter to the Law Director by way of Mr. Snyder, the President of Council, and I want to read that letter. Dear Mr. Snyder. In a meeting on May 22, 2003, where North Canton residents met with Mr. Barry Black, a representative of the Super Wash Car Wash project, he made a comment that the car wash might not satisfy the zoning requirement for off street parking spaces as required by the city's zoning code. In the meeting Mr. Barry Black stated that the car wash was a

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combination car wash. The site plan for the car wash shows two wash bays labeled auto and three wash bays labeled manual. The city's off street parking requirement for car washes varies depending on whether the car wash is classified as automatic, semi-automatic or manual. Subsequent to this meeting I have learned that the City's Zoning Inspector has deemed the car wash as a manual car wash. In the city's zoning ordinance a manual car wash is described as car washes in which vehicles are manually washed. In the wash bays labeled auto cars are washed by machine and not washed manually. Given that the operators of the Super Wash Car Wash has stated that this is a combination car wash and that the site drawings clearly show that two of the wash bays are not manual wash bays, I am requesting that you ask the City Law Director to render a written opinion as to how this super car wash should be classified under the city's zoning code. This would be under the old code. I also request that the Law Director indicate how the Super Wash Car Wash meets the city's off street parking requirements based on the correct zoning classification for this car wash. I would like an answer from the Law Director, in writing, as to whether he backs up the - Mr. Hemminger, the Zoning Inspector, or whether he feels differently. Regarding Arrowhead, last week, again I wrote a letter to the city asking that they delay the closing on Arrowhead. I would like to of seen contractor bids for some of these major repairs that Arrowhead clearly needs and I also asked for specific figures on the cleanup of the contamination. And I further stated I would like to see this contamination throughly remediated before the city closed on it. That didn't happen. As far as leasing the property I think it's very late in the season. I've talked to golf course operators, you would have to find somebody who wants to invest for nine months for a season that won't be coming until next summer. I also have a concern that the city has little or no regard for keeping Arrowhead Country Club as a golf course. I think there was a report in the Beacon Journal where the mayor said he was not going to be tied to a losing venture. The Mayor has been very adroit in choosing his comments from January on. I'm very concerned that this golf course will not remain a golf course and that's the key to keeping this green space. I'm also very disheartened at the lack of due diligence that this administration has done. Has council seen any ...inaudible... or projections as to expenses and possible profits that this course could deliver to the city? There's absolutely no plan for a course, at least I have not seen any. Here we are we already own it and we're still scrambling trying to figure out what we're going to do. I'm very concerned about the greens. These golf course greens, I have come to learn, are like living organisms, they need to be groomed on a daily basis. They're shaved down to 1/32nd of inch on a regular basis and if they're neglected, the greens are going to be destroyed and that will give the administration an excuse to move on to bigger and better things that I have seen proposed for that facility. These greens need daily maintenance by someone with knowledge and expertise. And I feel these greens are going to be lost before this administration gets something in place to continue the golfing tradition. I would like to ask the administration at this time to seriously consider reselling the golf course now and withholding the development rights. That way we have controlled what will happen with that property in perpetuity, in letting a golf course operator come in here and develop the banquet facilities and maintain that golf course. I've talked to several golf course operators, even the president of this council has advised that that golf course would not sustain itself as a public golf course, it's just too small, the traffic is too concentrated. I'm also very disheartened at the offers that Mr. Rice has been privy to receive and now denies that there were ever offers, viable offers placed on the property. The DePetro family has met with me finally, against your recommendation, several weeks ago. And my last conversations with them, we're too late in the season for them to come in and try make something of this facility. You've missed the profitable part of the season. I don't know who wants to come in here at this late stage, fertilize the property, cut the grass all winter long and deal with the major repairs that were listed - some can be delayed. North Canton would best be served if we would recoup several millions of dollars of what was - we've paid for it and reserve the development rights and that's all we were after from the beginning is preserving the green space. And if a golf course operator can preserve golf on that course, they're also preserving the green space. And that's certainly what the neighbors and a lot of residents of this city feel - are expecting to happen. But I have grave concerns that that property is going to be, regarding its golfing future is short and we're going to see that property whittled down with grandiose plans for water parks and salt storage facilities and BMX bicycle dirt courses and whatever else. Amphi theaters is the latest big rage I've heard. I think that's all. Thank you.

Mr. Snyder: Thank you. Let me address a couple things ...inaudible... Number one, I was not in attendance at a meeting with Gary Black. So please let the record show I was not in attendance at that meeting. I did instruct you at a council meeting that the charter, as well as the rules of ordinance regarding zoning, allow you 30 days relief to appeal the decision of the Director of Permits and Inspection. And you fully had 30 days to champion that cause if you are were in question as to the opinion of the Superintendent of Permits. His opinion was both arbitrary and capricious. You had the right to challenge that if you were not happy with the Zoning Board of Appeals you could use the local Common Pleas court. But please don't say that I was at a meeting I was not at. Relative to Arrowhead, number one, again please read the Charter sir, the only person that remove property from city ownership or change its course, is the City Council. The Mayor he wish to have - build his own home there, but unfortunately he's going to have to dream a little while because he needs four affirmative votes from City Council if that's what he intends to do. That property can be used for nothing but its intended purpose unless this council or future councils decide otherwise, no matter what anybody thinks. And please let the press put that to bed. I know of no movement by this council at this present time to sell that property or to use it for anything but for recreational life style golfing. That is my intention and that's, I think, the intention of the council. Relative to the supposedly why did we not secure contractors for bids, most of the things, as reported by one of the local newspapers, were in fact bogus. There is nothing wrong that

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would require a \$30,000.00 repair to the fire suppression system. There is nothing that would require an \$80,000.00 repair to the lift station that removes the grease from this kitchen. So both of those are in fact bogus figures. The building is 13 years old. Arrowhead Country Club had some difficult financial times. There is some things that need addressed as anybody's home and if you own a home you generally have a wish list, but you don't do them all in that year, you go ...inaudible... as your money comes in. Relative to the ...inaudible... of Julie Herr, the Mayor and myself, as director - as chairman of finance and property, and as the Council President, have had discussion relative to the income, the outlay and things that are not yet - the Mayor has kept me advised from day to day by phone or by face of what is going on. It is not formed yet for me to take it to you because it is not cast as of yet. However, there have been figures put to what the projected income, expenses and what it would cost the city. There is a contingency plan and I'm sure the Mayor will tell you to take care of that golf course should tomorrow morning Arrowhead cease to exist for some reason and run off and leave the property and that has been done through the Director of Administration, the Mayor and I have been informed of what that plan would be. And it is in place, Mr. Mayor: I am correct, through you parks department - am I correct in that statement? So those greens, along with the person who has been taking care of those greens, Mr. Aaron Webb, are - there is a contingency plan to take care of those greens, they will not in fact form any fungus or lose the greens. So that again, please let the public know that there has been due diligence done to protect that investment should for some reason Arrowhead decide tomorrow morning not to want to take care of that. But that's basically it on those little things. And I'll try not to give a campaign speech so I'll end it at that. One question I do have to the City Engineer and to the administration, I noticed - are we now putting on hold that South Main/Everhard change? Is there - the money didn't come through is that correct?

Mr. Benekos: That was from Ohio Public Works Commission. The funding from FHWA through SCATS is for fiscal 2005. We applied for the OPWC money for fiscal 2004. They wanted to delay their funding - asked us to resubmit for the following year so that we were not tying up funds, which shouldn't be a problem. We'll resubmit that - we'll request legislation to resubmit that in August, September.

Mr. Snyder: A lot of money - our money is already appropriated so we'll just sit and wait on it.
Mr. Benekos: Right.

Mr. Snyder: It will be pushed to probably 18 months or so out.
Mr. Benekos: Correct.
Mr. Snyder: Okay, that was my question.

Mrs. Magel: Mr. President...

Mr. Osborne: I have one rebuttal here.

Mrs. Magel: Mr. President.

Mr. Osborne: I did not mean to imply that you were actually at that meeting with Mr. Black. You were in council here when several of the residents came up and you offered that explanation as to...

Mr. Snyder: That was just...

Mr. Osborne: the possibility of why the car wash was not deemed appropriate for that location.

Mr. Snyder: And that was. And as I say, it's very clear that you have 30 days in to which to seek relief from any...

Mr. Osborne: Well by the time...

Mr. Snyder: any arbitrary decision of the Superintendent of Permits and Inspection. And if you weren't happy with that - and I believe, correct me if I'm wrong Mr. Held, they were poised - the Zoning Board of Appeals was expecting and were ready to hold a meeting immediately for that that Tuesday night that the - after that council meeting relative to that.

Mr. Held: Well I can't speak directly to that, but certainly like you mentioned if there was an appeal, that step could of been taken.

Mr. Snyder: Well I did speak to Chairman Kline and he was anticipating a letter to receive that they were going to in fact challenge that issuance of that zoning, but no one ever did so...

Mr. Osborne: By the time the residents became aware of this and the word was communicated to everybody, the 30 days had elapsed.

Mr. Snyder: Oh...inaudible...

Mr. Osborne: We were well into - past the 30 days.

Mr. Snyder: Yes, that's...

Mr. Osborne: And several inquiries were made and that - I think the city knowingly withheld presenting that 30 day limit when that - people did make inquiries about possibly appealing that.

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Mr. Snyder: I take exception to that sir because it is printed right in the charter. It is printed in the zoning when you issue the zoning permit, it is there. I mean again, you know, it is the responsibility of the party seeking relief to file the proper - but the procedure has never been withheld. It is a public record, it's there. I mean Mr. Hemminger works for the city he cannot wear two hats, that of advocate and pro or opponent on the other side. So...

Mr. Osborne: Well that's what he should be doing. He should be advising these residents how they can exercise their rights. I didn't learn of the 30 days until I picked up all the paperwork and I read through it. And I had talked to several other residents and they were prepared to file, but they didn't realize that we were outside the 30 days.

Mr. Snyder: Mrs. Magel.

Mrs. Magel: Well yes, next time I won't ask to be heard, I'll just interrupt and be rude and maybe I'll get my word in. For the record sir, as you wanted to clear your record, did I ever, in writing, verbally or through airplane message in the sky or any way shape or form request to take over the zoning book from you - from? I did not request to take over that zoning book.

Mr. Snyder: Inaudible... then I can't say you did. To the best of my knowledge you...

Mrs. Magel: No, I did not. Second of all, to end this maybe on a nice note, should - is there a - what's the next step on that GBA, GBB? Should we be having a ...

Mr. Snyder: You'll - that will come over from...

Mrs. Kiesling: It should come back to her committee...

Mr. Snyder: the Planning Commission and I didn't - unfortunately I was not at the meeting.
Mrs. Magel: Right.

Mr. Snyder: I knew several of your were. The recommendation will come I believe and it was thought out and probably to be a little more advantageous to this ...
Mrs. Magel: Yes.
Mr. Snyder: person to put it on conditional use...

Mrs. Magel: I was at that meeting.

Mr. Snyder: that will come over to the council and then at that point - and maybe - yea that has - that's zoning that has to be...
Mrs. Magel: Yea.
Mr. Snyder: heard at a public hearing and then three readings.

Mrs. Magel: And I was going to be nice and extend my generosity to a fellow council member to say it will probably come over within our vacation and maybe...

Mr. Snyder: And it has to be advertised.

Mrs. Magel: maybe we should start the advertisement and possibly you could get onto that public meeting on the 18th, but I'm not sure.

Mrs. Bittle: I'd have to look at the calendar because we have to allow about 5 days for them.

Mrs. Magel: Right this one you have to have the proper readings. But at least I was going to ask you, maybe you should get this started. And I'm being nice as a council person that this is advantageous to your constituents and to the city. Before tonight's meeting ends, maybe you should get that started.

Mr. Osborne: Well Madam Clerk, she just - we just had the meeting the other night. I don't know if - again she has to do some.

Mrs. Bittle: I don't have the recommendation yet from the Planning Commission.
Mr. Osborne: Right.
Mrs. Bittle: But if you get me ...

Mrs. Magel: Right, but it will come in probably on our vacation.

Mrs. Bittle: I can get the notice published in the paper. If you want that to happen over the break, I can start that process.

Mr. Snyder: It would probably be the intelligent thing to do. So I think we'll go ahead and we'll have you do that because that way it will speed the process a little.

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Mrs. Magel: That's all I was trying to do is just being...

Mr. Snyder: Appreciate that. So that's taken care of that.

FINAL CALL FOR NEW BUSINESS:

Mr. Snyder: Anybody else for comments? Is there any last call for anybody wishing to speak to the council? Mr. Sarbach and then you sir. First Mr. Sarbach.

Greg Sarbach. Good evening. My name is Greg Sarbach. 611 Northbury Circle. I apologize ... not being here the last six weeks, due to personal and professional reasons. But I came up here to thank the administration for their assistance and cooperation in the North Canton Lions Club sponsoring of the Memorial Day Parade. The parade does not get put on strictly by volunteers, it takes some paid personnel such as the police, street department, the water people, to get the streets and all those things are necessary to put on a successful parade. And I want to thank the administration for doing that. And as we grow the parade, we will need your help in the future. And I thank those council people who did participate either in the parade or by watching. And all the people in the community who have participated in it and have expressed desire to participate in future parades of this nature. As you know we're trying to change the Memorial Day Parade into more of a memorial type parade and the 4th of July parade would be a different venue. Just a personal observation. I would suggest that the - this is a different topic now, I suggest that council people are wise and prudent to listen to their constituents, which I'm sure you all know that, but the same is not necessarily true to govern by the writings of an out of town newspaper. You take it with a grain of salt. It's written by an individual, all of them, not just the one recently, but all of them. And some people take joy in stirring the pot in North Canton. So take that with a grain of salt and govern from within and don't let other people govern you. And I'm sure you all knew this, but sometimes it needs to be said. Again, I thank the administration and I thank the council for their cooperation. Thank you.

Mr. Snyder: Thank you Mr. Sarbach. Sir.

Matthew Mayhew: Hi, my name is Matthew Mayhew. I live at 805 Applegrove. And I guess the reason I'm here tonight is I have some concerns about the response time of the North Canton Police Department when I called them the other night. And I'd like to just maybe speak to the City Administrator as well as the Mayor in regards to this. I left a message for the Police Chief today and never got a response. So I wanted to kind of bring this to the attention of the council. That's all I have to say.

Mr. Snyder: Appreciate that sir.

Mrs. Magel: What's the details?

Mr. McLaughlin: What was the time - I mean how long was it?

Mr. Mayhem: Well I - the fact - the situation is I got home from work yesterday and I was - I had some threatening phone calls. So I know Lieutenant Steadman - he's a lieutenant with the North Canton Police Department and I asked to speak to him and he was busy at the moment so they were going to send an officer up who I had previously filed a complaint on and I didn't feel comfortable with this officer coming. So I told them to go ahead and forget it, that I would come down to the police department. What I want to know as a citizen, is I want to know and what I would like to know, is where every other unit or every other police officer was in this city at that time. Whether they were on a traffic stop, whether they were on lunch, what they were doing, why they couldn't of handled that complaint.

Mr. Osborne: Were your threats from a policeman here in town?

Mr. Mayhem: No it was a threat from a business owner in the city.

Mr. Osborne: Okay.

Mr. Mayhem: Yea, that's my main - main complaint is I want to know where you know we have what, four officers and one supervisor per shift? I want to know where those other officers were and why they couldn't of handled that complaint.

Mr. Snyder: I'm sure if you talk to Administrator Held after the meeting he'll gladly give you an audience to what...

Mr. Mayhem: I would appreciate that.

Mr. Foltz: Okay, thank you.

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Mr. McLaughlin: Thank you.

Mr. Snyder: That's not a problem sir. Thank you very much. Mr. Davenport.

Ernie Davenport: Inaudible...

Mr. Snyder: Am I supposed to throw it or pound it?

Ernie Davenport: No, just hang on. My name's Ernie Davenport. I live at 1441 Cornell Avenue SW. For those of you that don't know that's down in the slumps area.

Mr. Lindower: Wait a minute I live down in there.

Mrs. Kiesling: Yea, so do I.

Mr. Davenport: Well it's getting to be more of a slum. I think ...inaudible... in talking to the Mayor last week when I came and talking to the City Engineer last week and again tonight, the problem is going to get handled. Now I'm going to tell you this, I haven't had any sleep in three weeks, during normal sleeping hours. The reason is the situation that I've talked with these two gentlemen about, the new building down on South Main. That particular light that lights their backyard on that new building, the focal point is half way up my drive. These guys and Kathy know where I live, you know where I live, Jon knows where I live, so you understand my drive is like this, for that building to be at that low spot and focus a little more than half way up my drive, I can read the newspaper in my bedroom at night with the blinds closed. So I hope these two gentlemen are going to take care of that problem. I sat last week for the first time, I hadn't been here since 1960 or 1998. I sat last week and I was appalled that the tax payers' money is being wasted in this little session. First off I sat and listened to one of the chairman of the committee spend an hour and forty-four minutes saying nothing. On top of that any time it was somebody else committee chairman's turn, this committee chairman interrupted so many times that things were discussed across the whole room. And apparently the gentleman's mouth was running so much that his ears didn't work because he turned right around and ...inaudible... into the exact same subject that had just been discussed. Chuck, your ears don't work when your mouth is running, remember that. There used to be a councilman on here, he didn't make it on the second term, why? Cause he operated just like you do Chuck. When it's time for reelection an unknown beat the socks off of him. So be careful will you? Stop wasting my money. The same thing went on tonight. I was going to congratulate you because you did just like this tonight until something came up. And Jon, you're just as much at fault as he is, not with that, but that hammer. I told you to get it ready. When that guy's mouth opens when somebody else is talking beat the socks off of that other piece of wood that's up there with that hammer. If he wants to talk he says, Mr. President, I'd like to have something to say and then he's allowed to talk if you recognize him. Right now I have the floor so nobody's allowed to talk but me. That's a normal meeting procedure. Have I said anything wrong? Oh, it was very interesting, Kathy brought up this thing last week, the thing you're fighting back and forth - bickering back and forth, brought that up last week, that same building down there. It's ridiculous for you all to argue about variances. That same building down there built their parking lot and then three weeks later asked for a variance to stretch their parking lot by two feet - steal two feet from the normal setback. Whose fault was that? Who receives - who's into it? Do you know Mr. Held?

Mr. Held: As far as - you mean if a property owner has to come back for a variance because it...

Mr. Davenport: In this case this was a new building being built. They built the parking lot and stole two foot off the rear setback. Do you know what I'm saying there, right? The parking lot is two foot wider than it should be or deeper than it should of been. I don't have a problem with that. What I do have a problem with is they went ahead and did the work and then made an application for the variance. That particular builder is known for blackmailing city administrations, which is exactly what that was.

Mr. Held: I'm sorry, say that again, for what?

Mr. Davenport: For blackmailing. He built it and they go out and they say well you over did this. What are you going to do? All you got to do is twice, tear it up until you get the variance and then we'll let you - if you get the variance we'll let you build. But make them tear up. The second time you do that no one steals from you any more. Does that make sense? Okay, I'm not going to beat you up tonight, but I'll beat you up verbally on Sunday. And I'm glad to see you back. I haven't seen you in so long. Inaudible... 1998 when I was here last time. Right Tom? You know me. You heard me stand up here and beat this guy up when he the...

Mr. Foltz: Police chief.

Mr. Davenport: chief of police about the boom boxes. You even said, well I guess you left. Right there on that table the mayor put up a slide projector right there on that screen. I showed an hour and forty minute slide presentation on the boom boxes, correct? You weren't here the whole time, but...

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Mr. Foltz: Yes.

Mr. McLaughlin: Yep.

Mr. Foltz: Yea.

Mr. Davenport. for those of your that were here, I embarrassed the City Engineer.

Unidentified: That was Phil.

Mr. Davenport: And I'll talk to you about that Jim, later on. Does anybody got any questions about what I said? Inaudible... you've got to let Jon talk to you - I mean let you talk to me. I'll try to...

Mr. Osborne: Mr. President, may I answer this gentleman.

Mr. Snyder: Please, go ahead.

Mr. Osborne: Mr. Davenport, you were right - 100 percent right. The president of this council on a couple of occasions had said we will go by the rules or whatever...

Mr. Davenport: Robert's Rules of Order.

Mr. Osborne: Yes sir. But I've had to play their game. Everyone here just speaks when they want to speak. And you are so right, I would like to see this council conducted strictly under the Robert's Rules of Orders and everyone allowed to speak uninterrupted. But it's a fantastic observation, that is true, this council the entire time I've been on it has not operated under those rules.

Mr. Davenport: Okay. Now last week they couldn't cause you were butting in all the time. Okay.

Mr. Osborne: Well sir I'm going to listen to that...

Mr. Davenport: Tonight you were doing pretty good up to a point and then all of a sudden you fell into your same trap as last week. Now you got to appreciate, I remember from 1998 back - I go all the way back to the 60's coming up here. None of these people were here then, not even you Tom. None of you were here then. And I watched how the place ran and I was appalled last night - I mean last week. You can ask Jon what I told you. I can't say it in public. I'm an old military person, now the ladies might not understand what I'm saying, but most of the gentlemen do. And I'm not talking sexism here, I'm talking the words I said to Jon I can't repeat in an open forum. But you were doing good tonight. I intended to come up here and pat you on the back. Cause it only took you about four minutes to go through your little piece up front - committee thing you had. But we went through that same thing for an hour and forty-four minutes last month. So it should of been pretty easy to do. You got any more questions?

Mr. Osborne: Yes sir. Mr. President, may I speak?

Mr. Snyder: Please.

Mr. Osborne: Well I'm sorry you feel that I am to blame for the total disarray on this council. I spend a lot of time doing a lot of research, trying to present facts, and to hear you speak, if you're representative of the public, you basically would rather I not say anything and go along with the crowd and I will not do that.

Mr. Davenport: No, I did not say that and I do not intend that. Now I'm interrupting you. I do not intend for that to be that way. But when you've got something to say if it's Doug's turn to talk, let him get done and then say I have something to say on that subject and when Jon recognizes you go ahead and talk to them. But don't butt in in the middle. That way nobody - I sat here last week and I thought when it was Doug's turn, I didn't understand what you were saying cause you butted in twice on him in the middle. When it was his turn you butted in on him four times. You didn't think I could count did you? Okay. I didn't sit back here ...inaudible... mark it down like I did the boom boxes. Okay? But if goes in here it's permanent ...inaudible... of this old man. So when I say three times and four times, those are the numbers. You even interrupt Jon and he's the man with the gavel. It wouldn't surprise me a bit if he didn't reach over and bonk you right on top of the beam.

Mr. Osborne: Thank you sir.

Mr. Davenport: Any more questions?

Mr. Osborne: Thank you sir.

Mr. Davenport: That's constructive criticism. Now I've got one good thing. I want to thank - I don't know whether you were the reason Mr. Held or not, but a neighbor - we had a tree blow in our neighborhood. It wasn't one tree, it was one tree started a mirid of trees. And a neighbor up on top of the hill, which is

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like from here up to the top of the building beyond - behind me, called somebody down here. I don't know if they called you or not ...inaudible... don't say and was told did they fall on private property. Yes. They're not the city's responsibility. Well I would submit to you that I remember a tree falling on private property down at a house called ... House and the then administrator told Jack ... the same thing, oh, you're responsible for cleaning it up. If I recall the numbers that came out that the city spent like 180 some thousand dollars repairing the man's house, repairing his trailer - house trailer, cutting the tree up. Now there's nobody here unless it's one of these three guys here. It wouldn't be you because it was in a council meeting, where I came in and volunteered to go up into that land locked park up here behind my house and cut up every wooden tree that was on the ground. I had an ulterior motive certainly. I've got a wood burning fireplace, I could heat my whole house with whatever I cut up there. But I also volunteered, I'll touch nothing that's standing even if it's dead as a mackerel. If it's laying down fine, I'll cut it up and get it out. Secondly I'll carry a big can of flourescent yellow paint with me and any tree that I see that's in trouble, I'll spray a big dot on the side of it. Then I'll call you the administrator and say hey, there's four trees up here you need to send somebody out and look at them. Don't send the parks man because he's not the right guy. Send Joe whatever his name is, he'll take a look at it and tell you whether to cut them down or not. The tree that fell on Jack ... house and trailer had a big yellow spot this big around; cause I took the liberty of going up there and I called then administrator. I don't know whether he sent anybody or not. He had a habit of doing that, telling you I'm going to do such and such and it never occurred. But it was 180 some thousand dollars the city paid for that man's house, trailer and to get the tree cut up and out of there. One tree feel down. The guy that called you his tree caused it to start if he called you. His tree caused it to start. It hit two more trees. All together there's eleven trees down in the backyard of a house that's next to me that's been vacant for over two years. If somebody hadn't said Joe, ...inaudible... He's says you know anything about this? I said yea, it started up there, it came down. We walked around the backyard, Joe looked it all over, he crawled up the mountain, got up on top, came down and says you know the guy that called his tree started the whole mess. We'll get him to clean it up then. Now I have a question, cause I'm kind of dumb sometimes. There's a ten foot easement behind that property to goes from one piece of the park to the other piece of the park. Who owns that easement?

Mr. Snyder: I think...

Mr. Davenport: I'm not talking about who owns the use of the easement. Who owns the property? Is it still the property owner and all you have is the right to ...

Mayor Rice: Inaudible... isn't it?

Mr. Davenport: the right trespass, right, at any time you so desire. Well three trees were in the ...

Unidentified: Easement.

Mr. Davenport: ten foot easement. All of the rest were all on private property. And what I started out with is I want to thank whoever made the decision to send Joe out there to take a look. Joe came before lunch, we went up and looked around. He says I'll be back with a crew. Three dump trucks came back. They sawed it all up, hauled it all away. Not all the way up the hill, but to get it out of that house's backyard. Nobody's lived there in two, two and a half years. So thanks whoever did the thing. I'm done. Thank goodness, everybody's saying. Now I don't know anybody here except I know a little bit about Tom, cause Tom sat and listened to me reverberate before. I know Kathy, Rick, I know this guy and Doug. Other than that I know Jon by talking to him on the phone and coming last week and I know the rest of you the same thing. And I know my girlfriend here because she's been at every meeting I was ever here. Right? Anybody else got any kind of questions they'd like to throw in here? Okay, that was meant - it was constructive criticism believe it or not Chuck.

Mr. Osborne: Thank you sir.

Mr. Davenport: But I have no qualms about beating anybody up personally or business wise or what have you. I'm an old ...inaudible... 34 years. My kids even ask me, dad, why do you never tell us what's right? Why do you always tell us what's wrong? I ...inaudible... paying me to go out to this customer and tell him what's he's doing right. I had to go out and tell him what he's doing wrong so he could fix it. That's what all of this rhetoric was about Chuck. Thanks a bunch.

Mr. Snyder: Thanks Ernie, I appreciate it.

Mr. McLaughlin: Thanks.

Mr. Snyder: Anyone else in the audience wishing to speak? If not is there anything to come before this council? Well we hope you all learn a few versions of Kum Ba Yah while we're gone. If not I'll entertain a motion to adjourn.

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ADJOURN:

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

Yes: Foltz, Kiesling, Lindower, Magel, McLaughlin, Osborne and Snyder.

No: 0

The meeting ended at 8:36 p.m.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL