

RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON SPECIAL Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, October 20, 6:50 p.m. 20 03

CALL TO ORDER:

The special council meeting was called to order Monday, October 20, 2003 at 6:50 p.m. by President of Council Jon Snyder.

Mr. Snyder: Madam Clerk, will you please call the roll?

ROLL CALL:

1. The following members of council responded to roll call: Foltz, Kiesling, Lindower, Magel, McLaughlin, Osborne and Snyder. Also present were: Clerk of Council Bittle. Director of Law Pusateri and Assistant Director of Law Treadon arrived shortly after the meeting was called to order. Mayor Rice, Director of Administration Held, Director of Finance Herr and City Engineer Benekos, arrived following the Board of Control meeting.

Mr. Snyder: The first thing on the agenda is - may I have a motion to read by title only the third reading of Ordinance No. 118-03?

2. Mr. McLaughlin moved and Mrs. Kiesling seconded to **read by title only, third reading of Ordinance No. 118-03.** All members present voting:
Yes: Kiesling, Lindower, Magel, McLaughlin, Osborne, Snyder and Foltz.
No: 0

Ordinance No. 118-03 - Third Reading

An ordinance accepting a record plat of Monticello No. 5 located within the corporate limits of the City of North Canton.

Mr. Snyder: Chairman Magel.

Mrs. Magel: Yes, this is the third and final reading. We've been cooperating with the developer. This is our second special meeting so we've moved up the time limits here in cooperation with the developer. And this will be our third reading and I think we've discussed all the issues in question and we've come to our conclusions. But I'd like to - I recommend that we accept this. And that's it, unless there's any other questions council on...

Mrs. Kiesling: I have one.

Mrs. Magel: Monticello 5.

Mrs. Kiesling: I'd like to know if we can amend the ordinance and pass it on an emergency.

Mrs. Magel: Well all you have to do is ask the President and see if there's a motion.

Mr. Osborne: Well I'll make a motion.

Mr. Snyder: One moment Mr. Osborne. May I point out one thing. Now we can amend this and it will become law this evening or tomorrow morning when the Mayor would sign it. However, I must caution you if we do amend it and it fails, the complete ordinance fails and we'll have to start all over again.

Mr. McLaughlin: From square one.

Mr. Snyder: So I would ask, is there six people who will support it in an emergency fashion?

Mrs. Kiesling: Well I just have one comment. Last week or two weeks ago, Mrs. Magel spoke about not wanting to set a precedent as far as passing plats on an emergency. And last week I was in the office and actually Monticello Plat No. 4 was passed on an emergency on September 11, 2000. And people who voted for it - Doug, Rick, Kathy, Jon were here - four of the ... seven of you voted it on an emergency. Therefore, I don't think we're setting a precedent at all. Mrs. Magel, I don't think that would be an issue if that was your ...

Mrs. Magel: I do not recall that. So I mean if you - if you say so, fine.

Mrs. Kiesling: I say so and it is the truth. So I'm wondering if you would change your mind and pass it on an emergency since we aren't setting a precedent.

Mrs. Magel: Well my - we need six votes and what my vote is doesn't really matter.

Mrs. Kiesling: Yes, your vote does matter, I think, actually.

RECORD OF PROCEEDINGS

Minutes of

COUNCIL OF THE CITY OF NORTH CANTON

SPECIAL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, October 20, 2003

Mr. McLaughlin: I think there's five votes for it now, we just need that sixth vote to pass it on an emergency.

Mrs. Magel: Well who had the motion? Are you sponsoring six votes?

Mr. Osborne: I guess we need to determine now whether ...

Mrs. Kiesling: Well we don't want to kill it. So we want to know if you'll pass it on an emergency or not.

Mrs. Magel: It's not up to me, it's up to six votes here.

Mr. Osborne: Well we just said we have five votes. We need to know whether Mr. Foltz or yourself are going to support it for the sixth.

Mrs. Magel: Mr. Lindower, did you say one way or the other?

Mr. Lindower: Well I had talked about it before too. I personally am not really keen on the idea of passing plot plans on emergency either. And due to the fact that we set that precedent one time, we're going to be doing it over and over again. And I don't recall what you said Marcia on...

Mrs. Kiesling: It's plat No. 4 of Monticello.

Mr. Lindower: Yea, I don't recall the...

Mrs. Kiesling: You weren't here - we weren't here.

Mr. Lindower: Well yea, but I don't recall that councilmatic action on that at the time. So I guess I can't comment on that. But personally I personally don't support the emergency passage on it.

Mr. Osborne: I'm sorry, I couldn't hear.

Mr. Lindower: I do not support it.

Mr. McLaughlin: Well then let's just....

Mrs. Kiesling: Alright ...inaudible...

Mr. McLaughlin: let's just go on - let's go on with the third...

Mr. Osborne: Well can I just add something here then? What are - first of all it's not as it appears. We're not rushing this through. This came before this body back in late June, July and the former Law Director flagged some concerns and over the last four months those concerns have been systematically and categorically corrected with all municipalities involved - The City of Canton, North Canton, EPA. Mr. Caticchio is under contractual obligations to put some flood plain measures into action here. And I think we're setting this up for some litigation here if we prevent him from following through on his obligations and something happens, he's just going to turn right around and sue the city because we prevented him from meeting his contractual obligations with the City of Canton. Again, it isn't the first time this has come to this body. It has come to this body, it was well hashed, it was tabled in July, we've gone August, September, here we are into October. So I don't want to give the impression here that this is the first time we've looked at this, we've discussed ... this and we're trying to rush a - plans that a developer has brought to the city. This has been ongoing for four months. And I didn't bring the legislation, I ran off and left it at home, yes this did pass in 2000, Monticello Plat No. 4. And I feel a little bit deceived that there are members sitting on this body who don't even remember they passed it. And they let Member Magel sit here and say we don't want to set a precedent when what she was saying we don't want to do has already been done.

Mrs. Magel: Mr. President ...inaudible...

Mr. Osborne: And there's nothing - and there's nothing to gain here. What are you gaining by making this developer wait 30 more days? You're going to have him in the 1st of December here and what have we gained? Is there - is there any more knowledge going to come to council or to the public in the next 30 days? Is the weather going to improve in the next 30 days? We're harming the development, the developer, builders, buyers of homes. There's nothing to gain by waiting another 30 days. I ...

Mr. Snyder: Chairman Magel, may I offer, I just checked with the Law Department. I know the possibility that we could pass the first ordinance, 118-03, which he has people waiting for, on an emergency basis, and pass the other ordinance on a normal basis and that would allow him to - when the Mayor signs it, begin to sell those lots. And it would be somewhat of a compromise. I'm only offering that, I'm not saying that ...

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

Monday, October 20,

20

03

Mrs. Magel: Well I think that'd be a great compromise. However, I have a problem...

Mr. Held: Mr. ... they can't hear back there.

Mrs. Magel: in that I think some of us are concerned about the homeowners...

Mr. Held: The residents can't hear.

Mrs. Magel: need the 30 days...

Mr. Held: Inaudible... they can use this microphone ...inaudible... Jon ...

Mrs. Magel: to understand that they're taking the responsibility of Monticello 5 and 6 of the retention.

Mr. Snyder: And again, I apologize for my voice. But Chairwoman Magel, I know that Mr. McLaughlin and Mr. Caticchio had a lengthy meeting with the residents relative to that. They in fact are taking responsibility. It's more so in the No 6 portion than it is in 5. I think the land in question outside the city and the land in question is in sub - in the plot plan for No. 6. Am I correct on that?

Mr. McLaughlin: Yes.

Unidentified: Yes.

Mr. Snyder: So I mean I understand what you're saying in that's - it's well pointed that you want to make sure that they do have the chance under revised code that they could referendum. And that's why I think maybe the solution would be in the 5 ... that way he could sell his lots and not receive any a...

Mrs. Magel: Well just make a motion and see if there's the votes.

Mr. Osborne: I would like to add here even if it passes on emergency it still can be referendum. The public never gives up that right.

Mr. McLaughlin: But you don't have the six votes.

Mr. Treadon: That's not true.

Mrs. Magel: Thank you Mr. Treadon.

Mr. Treadon: That's not true.

Mr. Osborne: I don't think you ever give up that right.

Mrs. Magel: It has to be within the 30 days.

Mr. Treadon: It becomes effective upon signature by the Mayor.

Mr. Osborne: That's true. But I think there's still a 30 day - I don't think the public ever loses that right that 30 day right.

Mr. Treadon: I think you're wrong, respectfully.

Mr. Osborne: Well again respectfully, there's ways that elected officials then could bypass due process for the public. And a - well I'll let it go at that.

Mr. Snyder: Is there a motion to amend the Ordinance No. 118-03 as presented?

Mr. Osborne: I'll make a motion to that effect.

Mr. Snyder: Inaudible... to insert a clause of emergency as signed by the Mayor. That's only one ordinance, 118-03. Correct?

Unidentified: Don't do it.

Mr. McLaughlin: No.

Mr. Osborne: Correct.

Mr. McLaughlin: On emergency? For emergency?

Mr. Osborne: For 118-03 only.

Mr. McLaughlin: I'd prefer not to because I...

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, October 20, 2003

Mr. Lindower: That's No. 5?
Mrs. Kiesling: Yes.

Mr. McLaughlin: if you don't they've already - you've already ...inaudible...people said that ...

Mr. Snyder: Doug ...inaudible...

Mr. McLaughlin: you're going to kill the issue.

Mr. Osborne: Inaudible... I guess ...

Mr. McLaughlin: Let's just pass this...

Mr. Osborne: Mrs. Magel has indicated that she would go for a compromise on passing that one on an emergency. Is that what I understand Member Magel?

Mrs. Magel: I said it's a good compromise. But that's not what my understanding was of my issue.

Mr. McLaughlin: Let's just give it the third reading. And it's not going to pass on emergency...

Mr. Foltz: Inaudible...

Mr. McLaughlin: if you don't have the votes. I'm afraid if we put that clause in there you're going to kill this thing and we're starting from square one and I don't want to do that.

Mr. Foltz: Just...inaudible...

Mr. McLaughlin: I'd rather just pass it because we don't have - you're not going to get six votes on this thing.

Mr. Osborne: Well I guess you could come back in two weeks and pass it on emergency then.

Mr. Snyder: Mr. Foltz you have a...

Mr. Foltz: Just to follow up. When was the site plan of the detention/retention basin approved by the City of Canton?

Mr. Benekos: What was it?

Mr. Foltz: When was it?

Mr. Benekos: When was it? I believe it was two weeks ago.

Mr. Foltz: Two weeks ago?

Mr. Benekos: I believe that's when we...

Mr. Foltz: It was approved before the first meeting on this?

Mr. Benekos: Correct.

Mr. Foltz: Just that week previous? Okay, this wasn't held up by anybody on council.

Mrs. Magel: No.

Mr. Foltz: Let's get the facts right. Okay. The facts are the site plan for the retention/detention basin accepted by Canton, since it is in the City of Canton, which I have a disagreement with the subdivision situation, was not approved for that week previous to the Monday meeting. Okay, nobody's holding this thing up.

Mrs. Magel: If anything...

Mr. Foltz: I get tired of these accusations and then you know that's the facts. Okay. I think everyone knows how I'm going to vote on this. So if there's a motion, let's move forward.

Unidentified: No...

Mr. Snyder: There's no second on the motion.

Mr. Osborne: What...

Mr. Snyder: So the motion will die for a lack of a second.

RECORD OF PROCEEDINGS

Minutes of COUNCIL OF THE CITY OF NORTH CANTON SPECIAL Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held Monday, October 20, 2003

Mr. Osborne: Well two weeks ago there was confirmation that North Canton, as well as the City of Canton, had signed off on all these drainage requirements and retention basins and ...

Unidentified: Let's go with the third reading...

Mr. Osborne: And everybody was - all the paperwork was in order.

Mr. Snyder: Madam Clerk, ... call the question please.

Mrs. Bittle: Well we haven't had the motion to adopt the first reading.

Mr. Snyder: Oh, I beg your pardon. May I have a motion to adopt the first reading of Ordinance No. 118-03 as presented?

Mrs. Magel: Third reading.
Mrs. Kiesling: Third reading.
Mr. McLaughlin: Third reading.

Mr. McLaughlin moved and Mr. Osborne seconded to **adopt the third reading** of Ordinance No. 118-03. All members present voting:
Yes: Lindower, Magel, McLaughlin, Osborne, Snyder and Kiesling.
No: Foltz.

3. Mr. McLaughlin moved and Mr. Osborne seconded to **read by title only, third reading** of Ordinance No. 119-03. All members present voting:
Yes: Magel, McLaughlin, Osborne, Snyder, Foltz, Kiesling and Lindower.
No: 0

Mr. Pusateri: Inaudible...
Mr. Snyder: Please.

Ordinance No. 119-03 - Third Reading

An ordinance accepting a record plat of Monticello No. 6 located within the corporate limits of the City of North Canton.

Mr. Snyder: Thank you. Chairwoman Magel, any ...

Mrs. Magel: Ah yea, for time purposes let's just agree that these are very similar pieces of literature and all the above discussion that we had for the last 15 minutes would also apply to this.

Mr. Snyder: There being no other questions, may I have a motion to adopt the third reading of 119-03?

Mr. McLaughlin moved and Mr. Osborne seconded to **adopt the third reading** of Ordinance No. 119-03. All members present voting:
Yes: McLaughlin, Osborne, Snyder, Kiesling, Lindower and Magel.
No: Foltz.

ADJOURN:

Mr. Snyder: Thank you. May I have a motion to adjourn this meeting?

Mr. McLaughlin moved and Mr. Osborne seconded to adjourn the special council meeting. All members present voting:
Yes: Osborne, Snyder, Foltz, Kiesling, Lindower, Magel and McLaughlin.
No: 0

The special meeting adjourned at 7: 08.

PRESIDENT OF COUNCIL

ATTEST:

CLERK OF COUNCIL