

MINUTES OF THE MEETING OF JANUARY 13, 2003

The regular meeting of Canton City Council was held on Monday, January 13, 2003, at 7:30 P.M. in the Canton City Council Chamber. The meeting was called to order by President of Council Ray Denczak. The roll call was then taken (as follows) by Clerk of Council Debbie Vanckunas. The invocation was given by Councilmember Kathleen Altieri-Bucher, followed by the Pledge of Allegiance led by President of Council Denczak.

PRESIDENT DENCZAK: With a quorum being present, the Chair calls this meeting of Canton City Council to order. Roll call please.

ROLL CALL: 11 COUNCILMEMBERS PRESENT (BILL SMUCKLER, DONALD E. CASAR, MARY M. BABCOCK, GREG HAWK, KATHLEEN ALTIERI BUCHER, RICHARD A. MALLONN II, CRAIG MASSEY, JOHN R. MROCZKOWSKI, RICHARD D. HART, ROSEMARY DIAMOND & JOE CARBENIA)

1 COUNCILMEMBER ABSENT (DAVID R. DOUGHERTY)

AGENDA CORRECTIONS & CHANGES

PRESIDENT DENCZAK: Agenda Corrections & Changes, Members of Council. You're being asked to suspend Rule 24B to add Informal Resolutions 8, 9, and 10. You're being asked to suspend Rule 22A to add Second Reading of Ordinances 6 through and including #11. Member Smuckler, the Chair will now recognize Rule 24B suspension.

MEMBER SMUCKLER: Mr. President, I move to suspend Rule 24B and add Resolutions 8 and 9 to the agenda; seconded.

PRESIDENT DENCZAK: And 10 also. Do you have that Member Smuckler? It's from the Personnel Committee approving the reappointment of Rick Fisher to the Building Board of Appeals.

MEMBER SMUCKLER: And number 10; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 24B to add Informal Resolutions 8, 9er and 10 to the agenda; are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Rule 24B has been suspended and Resolutions 8, 9er and 10 are a legal part of your agenda. Member Smuckler, the Chair will now recognize the suspension of Rule 22A to add the second reading of Ordinances 6 through 11.

MEMBER SMUCKLER: Mr. President, I move we suspend Rule 22A and add Ordinances 6 through 11 back to the agenda; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 22A to add the second reading of Ordinance 6 through and including #11 to the Agenda. Are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Rule 22A has been suspended and Ordinances 6 through and including #11 are a legal part of your agenda.

PUBLIC HEARINGS

PRESIDENT DENCZAK: We have no scheduled public hearings at this time.

PUBLIC SPEAKS (ORDINANCES OR RESOLUTIONS FOR ADOPTION ONLY)

PRESIDENT DENCZAK: We have no one signed up under Public Speaks under Ordinances or Resolutions for Adoption.

INFORMAL RESOLUTIONS

PRESIDENT DENCZAK: Informal Resolutions. Excusing Members; it will not be necessary to excuse members. Oh, I'm sorry. We do have one member absent, Member Smuckler.

MEMBER SMUCKLER: Mr. President, I move we excuse Member Dougherty this evening; seconded.

PRESIDENT DENCZAK: Moved and seconded to excuse Member Dougherty; are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Let the journal show that Member Dougherty has been excused. Resolution #8 please.

PRESIDENT DENCZAK CALLED UPON CLERK OF COUNCIL VANCKUNAS TO READ RESOLUTIONS #8 THROUGH #10 BY TITLE, AS SHOWN BELOW. THE RESOLUTIONS ARE ON FILE IN THEIR ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS FILE DATED January 13, 2003.

8. SUBMITTED BY THE PERSONNEL COMMITTEE OF COUNCIL: APPROVING THE REAPPOINTMENT OF MS. JULIE DANNEMILLER TO THE BOARD OF ZONING APPEALS EFFECTIVE 1/1/03-12/31/05. - ADOPTED BY COUNCIL

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #8; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #8; are there any remarks under this resolution?... Very well, by voice vote please, all those in favor, signify by saying aye—those opposed, no.

NO REMARKS

ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #8 is adopted.

9. SUBMITTED BY THE PERSONNEL COMMITTEE OF COUNCIL: APPROVING THE REAPPOINTMENT OF MR. STEVEN LAMIELLE TO THE BOARD OF ZONING APPEALS EFFECTIVE 1/1/03-12/31/05. - ADOPTED BY COUNCIL

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #9; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #9er; are there any remarks?... If not, by voice vote, all those in favor, signify by saying aye—those opposed, no.

NO REMARKS

ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #9er is adopted.

10. SUBMITTED BY THE PERSONNEL COMMITTEE OF COUNCIL: APPROVING THE REAPPOINTMENT OF MR. RICK FISHER TO THE BUILDING BOARD OF APPEALS EFFECTIVE 1/1/03-12/31/05. - ADOPTED BY COUNCIL

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #10; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #10; are there any remarks under this resolution?... Very well, by voice vote, all those in favor, signify by saying aye—those opposed, no.

NO REMARKS

ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #10 is adopted.

COMMUNICATIONS

PRESIDENT DENCZAK: All Communications are received as read.

NOTE: ALL COMMUNICATIONS WHICH FOLLOW, LISTED BY AGENDA TITLE, ARE ON FILE IN THEIR ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS FILE DATED January 13, 2003.

18. SAFETY DIRECTOR JOSEPH J. CONCATTO, CITY OF CANTON: REQUEST TO INCREASE APPROPRIATIONS IN GRANT FUNDS FOR CANTON POLICE DEPARTMENT IN THE AMOUNT OF \$98,500, ETC. - LAW DIRECTOR (See O#1, 1st Rdg)
19. SAFETY DIRECTOR JOSEPH J. CONCATTO, CITY OF CANTON: REQUEST TO INCREASE

APPROPRIATIONS IN GRANT FUNDS FOR FIRE DEPARTMENT IN THE AMOUNT OF \$14,260, ETC. - LAW DIRECTOR (See O#2 , 1st Rdg)

20. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO ENTER INTO \$25,000 CONTRACT WITH COMPANAGEMENT FOR WORKERS COMPENSATION SERVICES. - LAW DIRECTOR (See O#3 , 1st Rdg)
21. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO GRANT AN EASEMENT TO AULTMAN HOSPITAL FOR AN OXYGEN SUPPLY LINE IN DARTMOUTH AVE SW, & AUTHORIZE AUDITOR TO ESTABLISH THE APPROPRIATE ACCOUNT. - LAW DIRECTOR
22. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO ENTER INTO \$212,067 CONTRACT WITH ROOTSTOWN EXCAVATING TO ALLEVIATE STORM WATER FLOODING ON 25TH ST NW IN FRONT OF BETHEL TEMPLE & MALONE COLLEGE, ESTABLISH THE 25TH ST NW STORM SEWER GP 1066 FUND, & APPROPRIATE \$233,067 FROM THE 4501 CAPITAL IMPROVEMENT FUND. - LAW DIRECTOR
23. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO ENTER INTO A 2-YR CONTRACT WITH THE CANTON JOINT RECREATION DISTRICT FOR FIELD MAINTENANCE @ THURMAN MUNSON STADIUM IN AMOUNT OF \$25,000/YR EFFECTIVE 4/1/03. - LAW DIRECTOR (See O#4 , 1st Rdg)
24. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO AUTHORIZE THE AUDITOR TO ESTABLISH A 4538 MARKET AVENUE NORTH GP 1070 SANITARY SEWER FUND & APPROPRIATE \$137,937 FROM THE SEWER REPLACEMENT FUND. - LAW DIRECTOR (See O#5 , 1st Rdg)
25. TREASURER ROBERT C. SCHIRACK, CITY OF CANTON: REPORT OF TREASURER'S OFFICE BANK RECONCILIATIONS & CITY'S OUTSTANDING INVESTMENTS AS OF 12/31/02. - RECEIVED & FILED

ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING

PRESIDENT DENCZAK: We're now under Ordinances & Formal Resolutions for their first reading and referral. Ordinance #1 please. Let the journal show that all ordinances are being given their reading as required by State Law. Ordinance #1 please.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #1 THROUGH #5 FOR THE FIRST TIME BY TITLE ONLY AND ANNOUNCED THE COMMITTEE REFERRAL, AS FOLLOWS.

- #1 (1ST RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Finance Committee

- #2 (1ST RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Finance Committee
- #3 (1ST RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH COMPMANAGEMENT, INC. FOR WORKERS' COMPENSATION ADMINISTRATIVE SERVICES; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Finance Committee
- #4 (1ST RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE CANTON JOINT RECREATION DISTRICT FOR FIELD MAINTENANCE TO THURMAN MUNSON MEMORIAL STADIUM; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Parks & Recreation and Finance Committees
- #5 (1ST RDG) AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO ESTABLISH THE 4538 MARKET AVENUE SANITARY SEWER FUND; AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATION HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Finance Committee

ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING

PRESIDENT DENCZAK: Ordinances & Formal Resolutions for their Second Reading.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #6 THROUGH #11 FOR THE SECOND TIME BY TITLE, AS FOLLOWS.

- #6 (2ND RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE AND/OR DIRECTOR OF PUBLIC SAFETY TO ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR SUPPLY ITEMS, MATERIALS AND PROFESSIONAL SERVICES FOR THE CITY OF CANTON'S OPERATIONS DURING THE 2003 CALENDAR YEAR; AUTHORIZING ALTERNATIVELY THE PURCHASE OF SAID ITEMS PURSUANT TO THE STATE COOPERATIVE PURCHASING AGREEMENT AND/OR ODOT PURCHASING AGREEMENT; AND DECLARING THE SAME TO BE AN EMERGENCY
- #7 (2ND RDG) AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO ESTABLISH THE 4547 SHORB AVENUE & 4TH STREET, N.W. ROADWAY IMPROVEMENT G.P. 1050 FUND; AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY

- #8 (2ND RDG) AN ORDINANCE AUTHORIZING THE CITY OF CANTON TO ACCEPT DONATION OF REAL PROPERTY; AND DECLARING THE SAME TO BE AN EMERGENCY
- #9 (2ND RDG) AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF REAL PROPERTY IN CONJUNCTION WITH THE SCENIC RAILROAD STATION PROJECT; AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND PURCHASE SAID PARCEL AT THE ESTABLISHED FAIR MARKET VALUE; AND DECLARING THE SAME TO BE AN EMERGENCY
- #10 (2ND RDG) AN ORDINANCE AMENDING EXHIBIT A TO ORDINANCE NO. 236/2002; AND DECLARING THE SAME TO BE AN EMERGENCY
- #11 (2ND RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT RENEWAL WITH THE OHIO MUNICIPAL LEAGUE JOINT SELF-INSURANCE POOL IN AN AMOUNT NOT TO EXCEED \$160,000.00 FOR GENERAL LIABILITY AND COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE COVERAGES; AND DECLARING THE SAME TO BE AN EMERGENCY

ORDINANCES & FORMAL RESOLUTIONS FOR THIRD READING

PRESIDENT DENCZAK: Ordinances and Formal Resolutions for their third and final reading. Ordinance #12 please.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #12 THROUGH & INCLUDING #15 FOR THE THIRD & FINAL TIME BY TITLE, AS FOLLOWS.

- #12 (3RD RDG) **ADOPTED AS ORDINANCE NO. 3/2003** AN ORDINANCE APPROVING A CANTON CITY WATER MAIN EXTENSION TO HOLY CROSS LUTHERAN CHURCH; AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT FOR THE EXTENSION OF SAID WATER MAIN; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance #12; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #12; are there any remarks under this ordinance?... Ver well, roll call vote please.

NO REMARKS

ROLL CALL: 10 YEAS, 1 NAY (CASAR VOTED NO)

PRESIDENT DENCZAK: Ordinance #12 is adopted.

#12 ADOPTED AS ORDINANCE NO. 3/2003

- #13 (3RD RDG) **ADOPTED AS ORDINANCE NO. 4/2003** AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF ONE PARCEL OF CITY-OWNED REAL PROPERTY; AUTHORIZING THE SALE AND CONVEYANCE OF SAID PROPERTY PURSUANT

TO THE CITY'S RESIDENTIAL LAND DISPOSITION PROGRAM; AND DECLARING
THE SAME TO BE AN EMERGENCY

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance #13; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 13 are there any remarks under this ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #13 is adopted.

#13 ADOPTED AS ORDINANCE NO. 4/2003

#14 (3RD RDG) **ADOPTED AS ORDINANCE NO. 5/2003** AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF ONE PARCEL OF CITY-OWNED REAL PROPERTY; AUTHORIZING THE SALE AND CONVEYANCE OF SAID PROPERTY PURSUANT TO THE CITY'S RESIDENTIAL LAND DISPOSITION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance 14; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 14; are there any remarks under this ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #14 is adopted.

#14 ADOPTED AS ORDINANCE NO. 5/2003

#15 (3RD RDG) **ADOPTED AS ORDINANCE NO. 6/2003** AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF ONE PARCEL OF CITY-OWNED REAL PROPERTY; AUTHORIZING THE SALE AND CONVEYANCE OF SAID PROPERTY PURSUANT TO THE CITY'S RESIDENTIAL LAND DISPOSITION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance #15; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 15; are there any remarks under this ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #15 is adopted.

#15 ADOPTED AS ORDINANCE NO. 6/2003

ORDINANCES & FORMAL RESOLUTIONS – POSTPONED MATTER

PRESIDENT DENCZAK: Postponed matter please.

THE FOLLOWING ORDINANCE WAS AMENDED & POSTPONED AT THE JAN. 6, 2003 MEETING:

#16 (RECEIVED ALL 3 RDGS) **AMENDED & ADOPTED AS ORDINANCE NO. 7/2003** AN ORDINANCE AMENDING ORDINANCE NO. 126/2002; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance #16; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 16; are there any remarks under this ordinance?

MEMBER SMUCKLER: I move to amend Ordinance #16 by the substitute ordinance that's placed before every Councilmember; seconded.

AMENDMENT: Pursuant To Rule 36, I hereby move to amend Item No. 16 on the agenda by the substitution of the attached ordinance, which replaces the previously substituted ordinance. It is identical in every word. It simply letters Section 1 with subsections (a) through (e) in order to divide the question on a simple basis.

ATTACHED AMENDED ORDINANCE: **ORDINANCE NO. _____**
AN ORDINANCE AMENDING ORDINANCE NO. 126/2002;
AND DECLARING THE SAME TO BE AN EMERGENCY

WHEREAS, the City of Canton faces a severe fiscal deficit for the year beginning 2003, and it is anticipated that the expenditures will exceed revenues projected for 2003; and

WHEREAS, the City of Canton will be unable to maintain its present payroll commitments in the year 2003 based on the projected deficit, and the City of Canton expects such deficit to continue for several years thereafter; and

WHEREAS, in order to overcome the deficit and balance the budget, it is necessary to reduce the work force in the Police and Fire Departments due to lack of funds; and

WHEREAS, a reduction in the overall work force requires the proportionate abolishment of positions above the ranks of Police Officer and Firefighter;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANTON, STATE OF OHIO, THAT:

Section 1. Section 1 to Ordinance No. 126/2002, adopted by Canton City Council on July 15, 2002, be and the same is hereby amended to read as follows:

Section 1. Exhibit A to Ordinance No. 40/2000, as amended, the Classification Plan for Bargaining Unit Personnel Employed by the City of Canton, be and the same is hereby amended as follows:

Position Group 10 PO Police Division (10-20-01)

- (a) *Reduce the number of authorized employees in the classification of Police Officer from 141 to 132 effective at the close of business January 1, 2003.*
- (b) *Reduce the number of authorized employees in the classification Lieutenant from 18 to 16 pursuant to the Collective Bargaining Agreement between the Fraternal Order of Police and the City. Two Lieutenant positions shall be abolished through attrition effective March 13, 2003.*
- (c) *Reduce the number of authorized employees in the classification Sergeant from 24 to 19 pursuant to the Collective Bargaining Agreement between the Fraternal Order of Police and the City. Five Sergeant positions shall be abolished through attrition effective March 19, 2003.*

The foregoing amendments are contained in Exhibit A attached hereto.

Position Group 10 FI Fire Division (10-30-01)

- (d) *Reduce the number of authorized employees in the classification Firefighter from 135 to 133 effective at the close of business January 1, 2003.*
- (e) *Reduce the number of authorized employees in the classification of Captain from 34 to 31 pursuant to Chapter 124 of the Ohio Revised Code and any other applicable laws. Three Captain positions shall be abolished through attrition effective August 28, 2004.*

The foregoing amendments are contained in Exhibit B attached hereto.

Section 2. All other provisions of Ordinance No. 143/2002 which are not inconsistent with the provisions herein are hereby ratified and shall remain in full force and effect.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the citizens of the City of Canton; the emergency being to avoid unnecessary delay in adopting the foregoing amendments which are needed to alleviate a projected fiscal deficit and accomplish a balanced budget in the General Fund. And provided it receives the affirmative vote of two-thirds of the elected and/or appointed members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

PRESIDENT DENCZAK: Moved and seconded to amend Ordinance 16 per the copy before each of you members of Council. It's a substitute ordinance. Are there any remarks under this motion?

MEMBER SMUCKLER: Mr. President, the substitute ordinance is exactly the same as the ordinance that's on the agenda. The only difference is there will be a movement to divide the question and this will make it very easy and very simple for the Council President to divide the question and that every Councilmember can vote the way they want on every section of this ordinance.

MEMBER CASAR: Mr. President, as I stated last week when we were discussing this particular ordinance or one of the many ordinances in regards to this, I stated that I was not, although I'm not against the fact is that the officers will be changed in this amendment here because the F.O.P. already voted for it in their contract and I really don't see the reason why we should have to back it up with an ordinance, but since the Law Department says we have to, I guess that's why it's in the ordinance...either way I will not be supporting it. As long as I'm a member of this Council, I will not vote to reduce a police officer, be it an officer on the street or be it an official of rank. I think, as I stated last week, with the crime and the things that we have going on in this world and our community, we have to find ways to keep these officers on the street and keep them employed so that we can safeguard...the citizens of our City will be safeguarded. And this is something we must do and for that reason, I will not support this ordinance.

PRESIDENT DENCZAK: Are there any further remarks under the motion to amend?... The question you're voting on now is the amendment placed before each of you. By voice vote, all those in favor, signify by saying aye--those opposed, no.

NO FURTHER REMARKS

AMENDMENT APPROVED BY MAJORITY VOICE VOTE
(MEMBER CASAR VOTED NO)

PRESIDENT DENCZAK: The amendment has passed; the question you are voting on now is the ordinance as amended--which is the substitute ordinance.

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance #16 as amended; seconded.

PRESIDENT DENCZAK: Moved and seconded to adopt Ordinance 16 as amended--that was the substitute ordinance. Are there any remarks?

MEMBER SMUCKLER: Mr. President, with the permission of the Chair, I would ask you to please divide this into various sections.

PRESIDENT DENCZAK: The Chair will divide. There will be section a, b, c, d, and e. And they will be divided; you'll be voting on each section individually, is that understood?... The first question you're voting on now is Section a. Are there any remarks under Section a?

MEMBER SMUCKLER: Mr. President, question for the Safety Director so I understand it. I have always believed that the number of rank officers to the number of officers in the street ought to be a better equivalent. This a, we're not reducing the number of current policemen, we are only making it, the numbers that are in Council's laws reflect more the numbers that are in the street, is that correct?

SAFETY DIRECTOR CONCATTO: Mr. President, if I understand your question correctly, Member Smuckler, these numbers, this section a would reduce the total strength of the Police Department down to 175, and it would be more relevant at the patrol level.

MEMBER SMUCKLER: We are not, with a vote of yes on this, we are not reducing or laying off or getting rid of,

or whatever you want to call, any member of policemen, is that correct?

SAFETY DIRECTOR CONCATTO: That's correct.

MEMBER SMUCKLER: Are we, we are making a decision, though, that it can't hire any more policemen unless we would come back to this Body and ask for more authorized strength, is that correct?

SAFETY DIRECTOR CONCATTO: You couldn't hire any more policemen up to 175, if we were down below 175, then the City could hire up to 175 without coming down to Council.

MEMBER SMUCKLER: Again, this is my disagreement. I'm supporting some of these other sections, but this is my disagreement of I believe that we ought to keep the ability to hire, the ability to move personnel into here at a much higher level, and I will vote no on this particular section and yes on some of the other sections.

PRESIDENT DENCZAK: Any other remarks?

MEMBER CASAR: Mr. President, it's my contention, completely, as I stated earlier in my remarks, that I will not vote to reduce the numbers. And I'd like to ask the Safety Director a question if I may please.

PRESIDENT DENCZAK: You may.

MEMBER CASAR: With this ordinance, if the first section passes, a, the numbers would go from what to what?

SAFETY DIRECTOR CONCATTO: Mr. President, we are presently at 182 on the police department, and this would reduce it down to 175.

MEMBER CASAR: Thank you.

PRESIDENT DENCZAK: Any other questions?

MEMBER HART: Yeah, Mr. President. Just a quick question for I guess either Law Director or Safety Director. It was discussed in Caucus that we have some police officers that due to military commitment will be leaving the Police Department to fulfill their obligation in the military. My question is if there is indeed a conflict and it is a protracted one, does the City reserve the right to, you know, hire or replace those police officers that may be fulfilling a, you know, their military duty if things end up being a long, protracted, drawn-out conflict?

SAFETY DIRECTOR CONCATTO: Mr. President, the answer to your question is that we must hold those positions for those people that would be called up, I believe, and I'll verify that with the Law Director. Also, we could not hire, it would...wouldn't be prudent to hire somebody to take their place for a year because then you would have to lay them off, fire them or keep them. So that wouldn't be a prudent decision to make unless we were determined to keep those people for a career.

LAW DIRECTOR MARTUCCIO: Mr. President, thank you. Member Hart, Federal law, State law and our own local codified ordinances protect the positions of people who are called up for a conflict like this. As I mentioned, they go off the escalator in the same...they come back on the escalator when they return from overseas at the same place they stepped off the escalator, is the simplest way to put it. These are also collective bargaining members and some of their rights are spelled out in their collective bargaining agreement as to how they're paid and so on. To

answer your question, we could not terminate them while they were away. If they were in a low enough category that they were scheduled to be laid off anyway because they're so low in seniority, then that probably wouldn't interfere with the layoff—but their right to come back exactly where they were in terms of seniority and rights and so on, continues to exist. And they are paid for a certain amount of time while they're away at a certain level.

MEMBER HART: Again, my worry isn't so much that they were laid off, I guess my worry is to the citizens, you know, if we lose, you know, 7 or 10 patrol officers, you know, we're, the citizens of Canton are kinda left in a lurch and I just want to see what we can do to hopefully see that we can have a decent amount of men on the police force.

PRESIDENT DENCZAK: Any other remarks?...

SAFETY DIRECTOR CONCATTO: Mr. President, I'd like to ask the Finance Chairman a question or two.

PRESIDENT DENCZAK: You may.

SAFETY DIRECTOR CONCATTO: Mr. Mroczkowski, Member Mroczkowski, the Chairman of the Finance Committee who has studied quite extensively the budget for the City of Canton. Do you see a budget deficit in 2004?

MEMBER MROCZKOWSKI: In the year 2004? Is that your question?... (INAUDIBLE RESPONSE) Thank you, Mr. President. Yes.

SAFETY DIRECTOR CONCATTO: Mr. President, may I continue?

PRESIDENT DENCZAK: Yes.

SAFETY DIRECTOR CONCATTO: Do you see a more serious budget deficit in the year 2005?

MEMBER MROCZKOWSKI: Absolutely.

SAFETY DIRECTOR CONCATTO: Did not this Council request a plan to come down from the Administration to deal with those budget cuts?

MEMBER MROCZKOWSKI: That is absolutely correct.

SAFETY DIRECTOR CONCATTO: Then Members of Council, this is my plan. You may not like it because it effects people, but there is no plan that's going to come down to this Council that's not going to effect people. If Council then has a better plan, please let me know. Because I have take a lot of criticism from my fellow firefighters, from police officers for even thinking about cutting down or cutting back the staff, cutting back officers. I went to the point of even asking this committee, this Council, to demote officers because I felt that was the seriousness of this budget deficit. There is nobody in this room that does not want to cut police or fire more than I do—I do not want to. But we make up 50% of the budget. We have been able to use rainy day funds this year to compensate for that. We will not be able to use them for next year. And if somebody can move the money around, then I ask Council to give me their plan because this is my plan to do it. It's not a nice plan. As a previous fire chief, I have taken a lot of criticism from my fellow firefighters, but I took this very seriously. This is not politically motivated. I have no political basis to do this. And if it was, it certainly is negative. But this is not politically motivated, and you will realize that tomorrow.

PRESIDENT DENCZAK: Any other remarks?... The question you're voting on separate now is section a. Roll call vote please.

NO FURTHER REMARKS ON SECTION A ROLL CALL: 3 NAYS, 8 YEAS
(MROCZKOWSKI, HART & DIAMOND VOTED YES. SMUCKLER, CASAR, BABCOCK, HAWK,
ALTIERI, MALLONN, MASSEY & CARBENIA VOTED NO)

PRESIDENT DENCZAK: Section a is deleted from the ordinance. You're now voting on Section b. Member Smuckler?

MEMBER SMUCKLER: Mr. President, I move that we adopt Section b; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Section b; are there any remarks under this?

MEMBER SMUCKLER: Mr. President, unlike a, I support Section b. I am a big believer in making it equitable, the number of rank officers versus the number of patrolmen. And I am also very aware that this has been negotiated by the unions and I'd ask my fellow Councilpeople to please support Section b.

PRESIDENT DENCZAK: Any other remarks?

LAW DIRECTOR MARTUCCIO: Mr. President, I'd like to answer Member Casar's question again that was posed last week. The reason that Sections b and c still appear in this ordinance, even though they were mostly already negotiated with the F.O.P. is that if you'll note these clearly say that the lieutenant positions and the sergeant positions in c shall be abolished through attrition and they give the different months...dates when the lists expire. This is to enforce that it would be through attrition and not through promoting and then abolishing, which is a little bit crueler way of going about it. So this does reinforce what's already in the F.O.P. contract, but it gives a kinder gentler edge if you will. Thank you.

PRESIDENT DENCZAK: The question you're voting on now is Section b. If there are no further remarks, roll call vote please.

NO FURTHER REMARKS ON SECTION B ROLL CALL: 8 YEAS, 3 NAYS
(SMUCKLER, BABCOCK, HAWK, ALTIERI, MASSEY, MROCZKOWSKI, HART & DIAMOND VOTED
YES. CASAR, MALLONN & CARBENIA VOTED NO)

PRESIDENT DENCZAK: Section b has passed with the emergency required number of votes.

MEMBER CASAR: Mr. President, I move we adopt Section c; seconded.

PRESIDENT DENCZAK: The question divided now, you're not, it's now moved to adopt Section c. Are there any remarks under Section c?

LAW DIRECTOR MARTUCCIO: Mr. President, thank you. Section c is a ditto of Section b, except we're dealing with the abolition again through attrition of sergeants and not lieutenants. We're now talking about sergeants. And again it was negotiated and it would be done through attrition effective when the lists expired in March. Thank you.

PRESIDENT DENCZAK: Any further remarks?... The question you're voting on now is Section c. Roll call vote

please.

NO FURTHER REMARKS ON SECTION C ROLL CALL: 8 YEAS, 3 NAYS
(SMUCKLER, BABCOCK, HAWK, ALTIERI, MASSEY, MROCZKOWSKI, HART & DIAMOND VOTED YES. CASAR, MALLONN & CARBENIA VOTED NO)

PRESIDENT DENCZAK: Section c with the emergency required number of votes has passed. Section d, now, Member Smuckler.

MEMBER SMUCKLER: Mr. President, I move we adopt Section d; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Section d.

MEMBER SMUCKLER: Mr. President, question to the Safety Director.

PRESIDENT DENCZAK: You may.

MEMBER SMUCKLER: I want to make sure this is correct. 135 to 133...are there any people that are going to be let go or we've already exceeded that number in the people that have left?

SAFETY DIRECTOR CONCATTO: We've already exceeded the number. This would not reduce or lay off anybody. We're at 169 right now.

MEMBER SMUCKLER: We're at 169 and this, with the officers what's in that position...again, same thing consistent as last week, I just have a problem reducing this and I'd like to keep the numbers the same and it doesn't effect your budget one way or the other.

PRESIDENT DENCZAK: Any further remarks?... The question you're voting on now is Section d as divided. Roll call vote please.

NO FURTHER REMARKS ON SECTION D ROLL CALL: 3 YEAS, 8 NAYS
(MROCZKOWSKI, HART & DIAMOND VOTED YES. SMUCKLER, CASAR, BABCOCK, HAWK, ALTIERI, MALLONN, MASSEY & CARBENIA VOTED NO)

PRESIDENT DENCZAK: Section d is deleted. Member Smuckler, Section e.

MEMBER SMUCKLER: Mr. President, I move we adopt Section e; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Section e; are there any remarks now under Section e?

MEMBER SMUCKLER: Mr. President, I will be supporting Section e for 2 reasons. Number 1, I'll be supporting it because I didn't vote for the 3 fire captains when they were first promoted to start with. And the second reason is that reluctantly, to quote him, the union has agreed to this based on the fact that they felt they have no other choice. But again I always believed in matching the number of rank officers to the number of people that are in the streets. And again this was done at a certain time when we're not going to have any bodies being taken off the payroll.

PRESIDENT DENCZAK: Any further remarks?

SAFETY DIRECTOR CONCATTO: Mr. President, just one comment about what Member Smuckler said. This was not, I wouldn't call it negotiated between the police...I'm sorry, the Fire Department and myself. It was done in labor management. But they certainly had a choice. And, I believe they had a choice. That was, made it sound like they didn't have one, but I believe they had a choice.

PRESIDENT DENCZAK: Any further remarks?... The question you're voting on now is Section e. Roll call vote please.

NO FURTHER REMARKS ON SECTION E ROLL CALL: 7 YEAS, 4 NAYS
(SMUCKLER, HAWK, ALTIERI, MASSEY, MROCKOWSKI, HART & DIAMOND VOTED YES.
CASAR, BABCOCK, MALLONN & CARBENIA VOTED NO)

PRESIDENT DENCZAK: That didn't receive 8 votes, so Section e has passed without the emergency to it. The Chair now recognizes a motion to adopt the ordinance as amended, Member Smuckler, as divided.

LAW DIRECTOR MARTUCCIO: Mr. President, I believe that motion would serve only to ratify all of the remaining sections that passed in addition to the sections that already have been passed. They would consolidate them.

MEMBER SMUCKLER: Mr. President, I have to ask a question.

PRESIDENT DENCZAK: You may.

MEMBER SMUCKLER: I know what's going to happen here and this is...this is not the way to do this. If you need a motion to support the rest of the sections of this ordinance, I'll give you one. But I don't want to go back over a, b, c, d, and e again.

PRESIDENT DENCZAK: That would do it.

LAW DIRECTOR MARTUCCIO: You can name the whereases in sections 2 and 3 if you choose, separately.

MEMBER SMUCKLER: Mr. President, I move to adopt the remaining sections of this ordinance; seconded.

PRESIDENT DENCZAK: Moved and seconded to adopt the remaining sections of the ordinance, which is Section 2, and Section 3, which is the emergency ordinance.

MEMBER CARBENIA: Point of order.

PRESIDENT DENCZAK: State your point of order.

MEMBER CARBENIA: I thought that Section e was passed without the emergency clause, so would this supercede that?

PRESIDENT DENCZAK: No, that will be written that that...which one was it?...e...okay, e did not receive the necessary 8 votes for the emergency ordinance to apply, so the motion now is for Section 2 and 3 to be adopted;

however Section e will not be adopted with the emergency.

MEMBER SMUCKLER: By point of information, it will be adopted, it will just take 30 days for it to adopt down the road, correct?

PRESIDENT DENCZAK: That's correct, yes.

MEMBER SMUCKLER: Okay, and the time element on that is not needed for at least 30 days anyway, correct?

PRESIDENT DENCZAK: That's correct.

MEMBER SMUCKLER: So for all intents and purposes, it passed, is that correct?

PRESIDENT DENCZAK: That's right.

MEMBER SMUCKLER: Thank you.

PRESIDENT DENCZAK: Any other remarks under Sections 2 and 3?... You're now voting on Sections 2 and 3, roll call vote please.

NO FURTHER REMARKS ROLL CALL: 8 YEAS, 3 NAYS
(SMUCKLER, BABCOCK, HAWK, ALTIERI, MASSEY, MROCZKOWSKI, HART & DIAMOND VOTED YES. CASAR, MALLONN & CARBENIA VOTED NO)

PRESIDENT DENCZAK: Ordinance 16, as divided, has been passed with all phases of the ordinance except Section e passed with the emergency clause.

MEMBER SMUCKLER: And Section a did not pass at all.

PRESIDENT DENCZAK: ...and the deletion of number a, correct.

MEMBER SMUCKLER: Thank you.

PRESIDENT DENCZAK:a and d. Is that understood now?... (NO AUDIBLE RESPONSE)

ANNOUNCEMENT OF COMMITTEE MEETINGS

PRESIDENT DENCZAK: Announcement of Committee Meetings please.

MEMBER MROCZKOWSKI: Mr. President, Finance Committee will meet on January 27th, 03, at 6:30 p.m.

MEMBER MALLONN: Mr. President, Parks & Recreation Committee will meet January 27th at 6:30 as well.

PUBLIC SPEAKS (OPEN FORUM--CITY BUSINESS ONLY)

PRESIDENT DENCZAK: Public Speaks, Open Forum, City business only. We have two people signed up to speak—the first speaker is Ulysses Kendall.

MR. KENDALL: Thank you very much, Mr. President, Councilmembers, concerned citizens of Canton. I am in charge of safety...

PRESIDENT DENCZAK: State your address.

MR. KENDALL: 364 Lakecrest Street NW, Canton, Ohio.

PRESIDENT DENCZAK: Okay.

MR. KENDALL: I'm in charge of safety & security for the Canton City Schools. Last week as many of you know, we were notified that you removed two police officers from our secondary schools. Officer Ondo, Officer Zachary. We feel that that was unjust, not fair. We're talking 3,000 students, 500 plus staff members. We were blind sided with that. And we feel that that was unjust. There's an African proverb that says it takes a village to raise a child. Three thousand people is more than a village, it's a town. And I'm very concerned that we had no one there and we had to do an emergency meeting to bring police officers in. Now evidently someone feels that we should turn our back on our children. Because that's just what happened. And I just think that when we are ranked 44th in the nation for crime but we decide to take 2 police officers from our town, that is not fair. And I'm not here to discuss ratio with supervisors and police officers. But it concerns me that if I can go to a city like Springfield, which seems to be the guideline, and you say for one supervisor, there are 7 police officers. But in Canton we have one supervisor and 2.5 police officers. And I feel that Council, City, someone should have sat down with the School Board and our school system and said, look, this is going to happen and we need to come together and figure out a way. The de-escalation of the things that these police officers have done have saved this City a lot of money. We have 170 Canton City kids on probation. That number could be higher. I'm a former probation officer and I understand that. And those 2 individuals who knew all the gang problems, who knew all the people that came in and out of that building, that did counseling with out kids, that provided a safe haven for our staff members. And then we turn around and remove those 2 officers and pretty much just say it's too bad but we have to deploy those individuals some place else. I'm going to shorten this because evidently there seems to be a matter about police concern and how many police officers we have. But I would think that if we turn our back on these young people here and not provide, and not provide our back on our staff people here and not provide police officers, I honestly think that you people have done an just thing. Thank you very much.

SAFETY DIRECTOR CONCATTO: Mr. President, may I ask...

PRESIDENT DENCZAK: No, this is the Public Speaks portion; you can respond to that under Miscellaneous...you want to ask him a question? Yes, you may ask him a question; I have to extend his time.

SAFETY DIRECTOR CONCATTO: Mr. Kendall, you are aware of what the City does for the lower grade schools?...

MR. KENDALL: Would you...

SAFETY DIRECTOR CONCATTO: You are aware that the City provides school guards for lower grades, I'm going to call them lower grades, I'm not sure what the formal...primary, elementary school? You are aware it could

cost up to \$400,000 a year approximately, probably a little lower than that, that the City of Canton does provide that for the schools?

MR. KENDALL: Mr. Safety Director, I understand that. But that is not why I'm here. I'm here because of 2 police officers that were removed from the secondary school system. I think that that, what you're talking about needs to be discussed with the Board of Education, not me. My concern is the safety of the students and the staff, of the people in the secondary schools as well as the staff and students in the elementary level. I came to this Council Meeting to discuss why 2 police officers were removed from the secondary schools—not to discuss about the 400,000 or whatever it is of the crossing guards—I think that should be something someone else should discuss. My intention is to say that whoever made the decision to remove those police officers and not concern themselves with the fact that there are no protection or no security for the students and staff, that's what I'm concerned about. I did not come here to discuss crossing guards. Thank you.

SAFETY DIRECTOR CONCATTO: But Mr. Kendall, you have to understand that for this City, I must take the whole picture into consideration. And crossing guards are a part of that picture, because it's all part of the budget. And let me just clarify something for you now, nobody on this Council did that. That was done by myself and the Police Chief, so that we don't put blame on this Council. But in fact then sir how did you rectify the problem of us not having that police officer in the schools?

MR. KENDALL: When you say how did I rectify it...what we did is we had an emergency meeting, and right now we are paying off duty police officers to fill that.

SAFETY DIRECTOR CONCATTO: Is that done, sir, with a grant or through your...

MR. KENDALL: No, that is not done with a grant, and that's one of the things that I think that if those powers to be decided that they were going to remove those individuals, it would seem to me that it would have been, you knew that you were going to do this long before you did that. If I'm notified on a Tuesday, the 7th of this month, that those police officers were going to be removed on the 10th, there's no way you're going to get a grant put together in that short a period of time. My only concern there is that maybe the meeting of the minds would have sat down and said look this is the dilemma that we're in and we need to do something about that. We want Officer Ondo, we want Officer Zachary back because of the outstanding work that they have done. Officer Ondo spent 4 years as a school resource officer. And I think that you take that and you throw it down the line because he knows the kids, he knows the staff. Officer Zachary is another outstanding officer. I went to the Chief of Police and told him, these are 2 outstanding individuals. If you turn around and tell me that we take those people out, we turn our back on our children and we turn our back on our staff members. And I'm sorry if I've offended anyone here, but my concern is the safety for the children as well as the safety of the staff members.

SAFETY DIRECTOR CONCATTO: Mr. Kendall, did Superintendent Talarico ever inform you that we met with her before the school year started and identified a problem that we had, financial.

MR. KENDALL: There was talk of a meeting, there was also talk that there were some issues that we could do on the Board. We are talking with our legal people of what we can and cannot do. My objective is, is this—if I have 2 outstanding officers, there's gotta be a way that somehow monies can be channeled that we can keep those 2 individuals and possibly, maybe possibly that you hire 2 other individuals to fill those positions. I think the expertise of those 2 individuals and the experience that they have is just outstanding. And if I have young people that can come up to me and say why are we removing Officer Ondo or why are we removing Officer Zachary, those things concern me. And I think that we as the community need to sit down and say what is it that we can do to solve this

problem—what is it that we can do to bring Officer Ondo and Officer Zachary back? I'm not chastising anyone about that, all I'm saying is we were blind sided when we removed those officers and we had to do emergency measures to bring officers in the school system.

SAFETY DIRECTOR CONCATTO: Mr. Kendall, one final question. Do you know that the Board of Education or Superintendent Talarico ever got back to the City on how to try to work this situation out?

MR. KENDALL: Not...I'm not going to sit here and say I know that because I do not. And I'm not going to assume anything. Superintendent Talarico, there is a School Board meeting tonight. I'm sure she would have been here, but I don't, I think that we can still work this thing out. If there are grant monies out there, we need to sit down and work this thing out as to what we can do. Again, my objective is, is to bring those two particular officers back. I think the system that we're doing right now is bringing off duty policemen on their days off, that means that many of them are going to have to get to learn the kids. Many of them are going to have to understand what they did. Officer Ondo and Officer Zachary saved this City a lot of paperwork and a lot of things that we would be calling the detective juvenile bureau to come up and solve some of our problems, de-escalating many, many, many things—124 conferences with parents and everything, saving the City money, saving the Stark County court system money by not placing a lot of individuals on probation by solving a lot of the problems right there in the school. I think that's worth its weight in gold. I think those 2 individuals are worth their weight in gold and that is the reason that I am here.

MEMBER MASSEY: Mr. President. Mr. Kendall, I too would like to see the police officers back in the school, so if you could set up a meeting with the Superintendent as well as the Safety Director to see what we can do, sit down and talk, to see what we can do about this, and let me know, and let us know.

MR. KENDALL: I can take that back to the Superintendent, Councilman Massey.

MEMBER MASSEY: Thank you.

PRESIDENT DENCZAK: The next speaker is Wuyanbu Zutali...is that correct?

MR. ZUTALI: You were close, sir. My name is Wuyanbu Zutali, and I'm here to...

PRESIDENT DENCZAK: State your address.

MR. ZUTALI: 1215 - 16th Street NW, Canton. I'm here to also address my concerns with removing officers from Timken and McKinley High School. I know the City's faced a lot of budget concerns, but I think this is something we can't do at this point under any circumstances. I work at Multi-County Juvenile Attention Center. We have budget concerns there as well. And we're short, we have short staff. We can't put those kids at Multi-County. There's got to be some other way to get our kids in school in a safe environment. And removing officers certainly risks the staff and the work there. So I'd like to appeal to Council to find some way, some creative way to finance those officers and keep them into those schools. It may take something like maybe this summer when the Chamber of Commerce does the Hall of Fame, Football Hall of Fame Festival. Charge them for officers there. I understand that they have free officers' services. There's all kind of ways to try to make something happen where it doesn't seem possible. I'm just here to try to appeal to Council's collective wisdom to get those officers back into our schools as soon as possible. Thank you.

PRESIDENT DENCZAK: This ends the Public Speaks portion.

MISCELLANEOUS BUSINESS

PRESIDENT DENCZAK: We're now under Miscellaneous Business. Is there any Miscellaneous Business?...

MEMBER CASAR: Mr. President, I'd like to ask the Law Director a question if I may please.

PRESIDENT DENCZAK: You may.

MEMBER CASAR: Law Director Martuccio, last week I asked you, there was a speaker in regards to the sexually-oriented businesses that came to speak before Council and asked us if we'd participate in the form of picketing the new establishment there on Cleveland Avenue and whatever, to help them with their plight. And at that time, I asked you if that would jeopardize in any way our court cases that we have pending. And could you give me a brief answer on that, I'd appreciate it.

LAW DIRECTOR MARTUCCIO: Mr. President, Member Casar. If I could, Mr. President, I'd like to ask Mr. Kendall to wait a moment, there's something I wanted to ask him before he left if that's okay. Member Casar, to answer your question. To restate, members of Council and other public officials were invited to picket a sexually-oriented business that is in litigation with this City in two different courts—Stark County Common Pleas over a zoning ordinance that this Council passed—and in Federal Court in Akron, Ohio over a regulatory ordinance that this Council passed. This Council studied those ordinances closely, understood that those are First Amendment-protected legal businesses and that we are in litigation. So, to answer your question, each of us as political...as private officials...I'm sorry, each of us as private citizens, Councilmembers and the rest of us, as private citizens have a First Amendment right to participate. However, in weighing or balancing any adverse effects against that, I would advise against being involved in any pickets of a business that we are in litigation with. Certain things could happen during litigation that might be adverse to the City's best interests in the long run. Again, as a private citizen, and it's difficult to strip yourself, you don't wear a uniform, so it's difficult to say I'm here not as a Councilmember, I'm off duty—but as a private citizen, you have that First Amendment right. I would say, though, on the prudent side, to potentially ensure that we're zealously defending the City's interests the best we can in litigation, that I would advise against it.

PRESIDENT DENCZAK: Is there any other Miscellaneous Business?

MEMBER SMUCKLER: Mr. President, under the State Sunshine Law which provides for us to go into executive session.....can you wait til after or do we have to do it before?... (INAUDIBLE REMARKS) Okay, cause we've got to come back here anyway. I move we go into executive session to discuss pending litigation with the sexually-oriented business and also to discuss a fact finder's report for one of the AFSCME local unions. I would like everybody on this side of the aisle and including the Auditor's Office and the Budget Director to please join us in executive session; seconded.

PRESIDENT DENCZAK: Moved and seconded that Council go into executive session for the purposes as stated by Member Smuckler; are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Council now goes into executive session. Remember, as soon as you return, you have to return to the Chamber here.

****AT 8:35 P.M., COUNCIL WENT INTO EXECUTIVE SESSION TO DISCUSS PENDING***

LITIGATION IN THE SEXUALLY-ORIENTED BUSINESS LEGISLATION & THE FACT-FINDING REPORT IN THE AFSCME 2937 UNION AGREEMENT. THE COUNCIL MEETING WAS RECONVENED BY PRESIDENT DENCZAK AT 9:11 P.M.

MEMBER SMUCKLER: Mr. President, I move that we reconvene Canton City Council; seconded.

PRESIDENT DENCZAK: Moved and seconded that you reconvene from the executive session; are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: We're now under Miscellaneous Business. ...Member Smuckler, is there any Miscellaneous Business?

AUDITOR PEREZ: Mr. Chairman, Mr. President. Just quickly on the retirement party, a lot of you guys received a flyer in your desk--if you didn't, if you haven't seen it, please read it. The retirement party will be February 8th, Saturday, for 93 City workers. If you're ever asked by 5 people who retired did not get invited it's because they're still on the payroll. So we'll take care of them when they come back. When they actually retire. But there was 98 people that totally left the City of Canton last year---93 of them are no longer on the City's employment. The party will be February 8th; we're asking for \$20 donations from all department heads and elected officials. And it's 1300, it's \$1254 to cover for the price of a clock that has the City of Canton engraved in it. We have Gabe's doing the catering, and if you guys have any questions, please feel free to ask and if you can solicit any door prizes from any business people or restaurant owners or steak owners or anything out there, please feel free to do so. We'll take all donations.

PRESIDENT DENCZAK: Are you done with that commercial?

AUDITOR PEREZ: Yes, sir.

PRESIDENT DENCZAK: Since we're under commercials here, the Chair wishes to announce that we're having a retirement party for Donna Weiss who recently retired, it's this Friday, it's from 5 to 8 at Walter's Café. The Clerk of Council...the Council Office is accepting donations. This is the second party for Donna. This has been a paid political announcement. Are there any other commercials?

MEMBER HART: Yeah, Mr. President, just a quick comment. You know I've been a teacher in the Canton City Schools a long time...

PRESIDENT DENCZAK: Another commercial.

MEMBER HART: ...and, no it's not a commercial, it's just a point I'd like to make. I've always felt that the Canton City Schools have been a very safe place to work at and a very safe place for the children to learn. And over my years as a teacher and on City Council, you know, I've found that the City's been generally very good, whether it's with after school, helping fund arts programs, and I know this Administration and Mayor Purses in the past Administration had always done what they could I believe. With the Timken Regional Campus, we've done over \$2 million in infrastructure improvements and just due to the financial situation, we just can't keep subsidizing everything. And again, you know, we've got a lot of good administrators down...that I've always had the pleasure of working with that have always done their best to work with the kids and solve problems. So, you know, I think the City's

generally done an excellent job of working with the City or the City Schools.

PRESIDENT DENCZAK: Is there any other Miscellaneous Business?...or commercials?...

MEMBER SMUCKLER: Mr. President, I move we adjourn; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adjourn. Roll call please.

NO REMARKS PERMITTED ON THIS MOTION -- ROLL CALL VOTE: 10 YEAS, 1 NAY (MALLONN VOTED NO)

PRESIDENT DENCZAK: This meeting is adjourned. (SOUNDS GAVEL)

ADJOURNMENT TIME: 9:15 P.M.

ATTEST:

DEBRA VANCKUNAS
CLERK OF COUNCIL

APPROVED:

RAY DENCZAK
PRESIDENT OF COUNCIL