

MINUTES OF THE MEETING OF MAY 24, 2004

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

The regular meeting of Canton City Council was held on Monday, May 24, 2004, 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 Ward 4 Councilmember Kelly Zachary, followed by the Pledge of Allegiance led by President of Council Ray Denczak.

PRESIDENT DENCZAK: Roll call please.

ROLL CALL TAKEN BY CLERK OF COUNCIL VANCKUNAS:

12 COUNCILMEMBERS PRESENT: (DONALD E. CASAR, JOE CARBENIA, MARY M. BABCOCK, THOMAS M. BERNABEI, GREG HAWK, THOMAS E. WEST, RICHARD A MALLONN II, KELLY ZACHARY, TERRY PRATER, DAVID R. DOUGHERTY, RICHARD HART, & ROSEMARY DIAMOND)

PRESIDENT DENCZAK: Members of Council, Ladies and Gentlemen in the audience, the City of Canton received disturbing news this morning when a young city employee, 32 years of age, leaves a wife and 3 kids, he worked for the Traffic Engineer's Department. He was changing a light in his bucket truck and was hit by a garbage truck and killed instantly. I asked that you all stand for a moment of silent prayer for Don's son, Don works in the Auditor's Department, his son, Peter Milbrodt. *(A MOMENT OF SILENCE WAS OBSERVED IN REMEMBRANCE OF PETE MILBRODT, A CITY EMPLOYEE WHO WAS KILLED ON-THE-JOB ON MAY 24, 2004)* Thank you. Mayor, I understand you wanted to make some comments.

MAYOR CREIGHTON: Mr. President and fellow citizens. I, you know, this morning when we all woke up we started out with the new hope and a new dream of a bright sunny day and, you know, a gentleman today gave his life unexpectedly, left that poor widow Melanie and the 3 young sons. We stayed at the hospital with the family today and, um.....*(A LONG PAUSE AS THE MAYOR FOUND IT DIFFICULT TO CONTINUE WITH HER COMMENTS)*I just hope I never have to do that again..... I would just hope that you remember them in your prayers and thank him for the job well done by Pete for the last 7 years and also by his father Don, who has worked for Auditor Perez for well over 16 years, and I think we need to take time to reflect that city employees are human beings too and that we should feel their loss. Thank you.

AGENDA CORRECTIONS & CHANGES

PRESIDENT DENCZAK: Members of Council, Agenda Corrections and Changes. You're being asked to suspend Rule 22AB to add second reading of Ordinances 10 through and including #27. The Chair will now recognize that motion, Member Casar.

MEMBER CASAR: Mr. President, I move we suspend Rule 22A in order to add Ordinances #10 through 27 and excepting Ordinances #19 and 22; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 22A to add the second reading of Ordinances #7,

MINUTES OF THE MEETING OF MAY 24, 2004

10 through and including #27 to the Agenda. Are there any remarks...? If not, roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Rule 22A has been suspended and Ordinances 10 to and including #27 are a legal part of your Agenda. You're being asked to suspend Rule 24B to add Resolution 65 to the Agenda. The Chair will now recognize that motion now, Member Casar.

MEMBER CASAR: Mr. President, I move Rule 24B be suspended to add Resolution #65 to this evening's Agenda; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 24B to add Resolution 65 to the agenda. Are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Rule 24B has been suspended and Resolution #65 is a legal part of your agenda. To further bring your Agenda up to date, Members of Council, Ordinance #2 on the first reading is withdrawn. You're going to be asked to adopt Ordinance #8 on the first reading and Ordinances 19 and 22 will be held in Committee under second reading. This brings your Agenda up to date, Members of Council.

PUBLIC HEARINGS

PRESIDENT DENCZAK: There is no scheduled public hearing at this time.

PUBLIC SPEAKS (ORDINANCES OR RESOLUTIONS FOR ADOPTION ONLY):

PRESIDENT DENCZAK: Public Speaks, under Ordinances and Resolutions for Adoption. Let me bring the audience's attention here. Some of you who want to speak on this Colonial project, signed up under the wrong sheet. You signed up under the sheet for 'City Business Only' which appears later on in the Agenda. So, the Chair's going to simply transfer your names to the portion of the meeting now, for the public speaks in regards to this matter. The first person to speak under this AMC Land Company issue is Pat Caticchio. (*MR CATICCHIO WAIVED HIS RIGHT TO SPEAK TO HIS ATTORNEY MR. RAMBACHER*) The next speaker is John Rambacher.

MR. RAMBACHER: Thank you Mr. President. My name is John Rambacher. I'm legal counsel for the developer, AMC Land Company. Good evening to you all. I'm certainly sorry to hear about the young man with 3 children and we'll remember him and his family in my prayers tonight. It's a sobering thing and it harkens us back as to what really is important in our lives. This development, as you all should be aware, has been pending for quite some time. My client, through his engineer, through me and our office, has, we believe, made every effort to comply with this conflictable sub-division regulations. There are no issues on the sub-division regulations. We complied with every one of them. There were issues that were related to storm water control. We have worked closely with the City of Canton engineer, we've designed for a 100 year flood event; in fact, our management plan will take the water that naturally flows south, onto

MINUTES OF THE MEETING OF MAY 24, 2004

neighboring properties, and will divert it northwest into the retention system and so, we'll in fact, alleviate conditions that have existed for quite some time. That being said, it's my understanding that Council's inclined to refer this matter back to the Planning Commission. In the first respect, we're not a, we can't, of course, control how this Council votes, but we aren't agreeable to it and I don't want to come out of left field on any one. There are time limitations on reviews and approvals and denials of plats and we're, we're past that. It is not our intention or desire to have to go to court. We've made efforts to address issues that some of the neighbors have had, relative to quality and value of the homes. We have submitted and I've distributed to all members of this Council last week, voluntary restrictions that would assure quality control and values, very representative to this surrounding neighborhoods and very comparable to perhaps the Montabella, which this Council approved. So, as I said, it would be regrettable if this Council, does in fact, send it back to Commission. I can offer no further compromises. I, I, I've done everything. I've met the sub-division regs. I've designed a storm water plan that, in fact, alleviates previously existing storm water flooding. I've offered, voluntarily, the restrictions that are before all of you members. There just simply is nothing else that we, as the developer, can do. We, we are a property owner in the City of Canton. We are constituents of this body as well as the City of Canton. Just as every other citizen in this City is entitled to a fair and reasonable result and to have fair and reasonable expectations, just are we. Where I've met your sub-division regs, where I've prepared a plan that your Engineer has reviewed, approved and even stated would be adequate to handle the events that we experienced a year ago, which were highly atypical in any event....

PRESIDENT DENCZAK: Sir, your 3 minutes are up, I'm going to ask that you bring your remarks to a close.

MR. RAMBACHER: I thought Mr. Caticchio deferred his 3 minutes, Mr. Chairman.

PRESIDENT DENCZAK: If Council participates in discussion with you.

MR. RAMBACHER: Yes, sir.

MEMBER BERNABEI: Mr. President, Mr. Rambacher, I would appreciate it if you would continue your comments for an additional 2 minutes, if I may do so.

PRESIDENT DENCZAK: Yes, as long as you start the diatribe here, I have to extend his time by 12 minutes, so, yes, that's permissible. You can have another 12 minutes.

MR. RAMBACHER: Twelve minutes or 2 minutes? I don't need all 12, if that's what he said.

PRESIDENT DENCZAK: Did he say 2 minutes?... Oh, all right.

MR. RAMBACHER: Thank you, sir.

PRESIDENT DENCZAK: Well, I'll have to have a vote on that if you want to do that, Member Bernabei, so, make that, put that in the form of a motion, if you go to limit the person's time.

MR. RAMBACHER: I could have been done by now.

MINUTES OF THE MEETING OF MAY 24, 2004

MEMBER BERNABEI: Mr. President, I would move that we extend this speaker's public speaks time for an additional 2 minutes; seconded

PRESIDENT DENCZAK: Moved and seconded that there is a 2 minute extension. Are there any remarks?... If not, by voice vote, all those in favor, signify by saying aye. Those opposed no. Okay, sir, you have 2 minutes.

NO REMARKS

MOTION ADOPTED BY UNANIMOUS VOICE VOTE

MR. RAMBACHER: Thank you sir. As I said, I, I can't think of any single thing that we can do. We have not have any other issues identified to us although we've asked for those issues to be brought forth and, and we are accessible. As I understand it, it would go back to the Commission if that's the will of this Council for discussion and compromise. As I said, there's nothing further that we can do. I believe that there's some legal issues with respect to that but I'll defer you to, to Mr. Martuccio. Regrettably, that action would leave us but no choice to file litigation. That certainly isn't desirable from our viewpoint. We don't wish it upon the City. As I said, we're just not seemingly getting a fair shake here, under the circumstances. Mr. Ashman is here, he's our Engineer. I believe he's next on the public speak list and Mr. Ashman can address any questions or issues these members may have relative to storm water. I welcome any questions also but as I said, I've invited questions, I've invited issue presentation before and I've not met with anything but resistance. I think the members of this Council (*INAUDIBLE*)

PRESIDENT DENCZAK: The next speaker is Bryan Ashman.

MR. ASHMAN: My name's Bryan Ashman. I'm a partner at Cooper and Associates and I'm a Design Engineer for the developer AMC Land.

PRESIDENT DENCZAK: State your name and state your address.

MR. ASHMAN: Oh, address, 1359 Market Avenue North in Canton. I have a hand-out for the Council members. Can I do that?

PRESIDENT DENCZAK: Yes, you may.

MR. ASHMAN: (*Mr. Ashman Presented hand-outs to Councilmembers*) What I've presented to the Council is a map of the adjacent area to the Colonial, the proposed development of Colonial Village Development. I'd like to go through a couple issues and it's my understanding that the only issues of concern, with regards to the residents here and the Planning Commission, had to do with drainage for the proposed sub-division. Colonial Village is approximately 9 acres in size. It's located in the center of a drainage basin that consists of property to the north, which is in the Monticello Development and property to the south which is in the City of Canton. If the Councilmembers would please take a look of their maps, I'm going to make a reference to a couple of areas and just try to put a couple of things in perspective. The area highlighted in green is in the City of North Canton, it's 56 acres. It consists of the property that is in the Monticello Development. The Colonial Village area is the area highlighted in yellow, being 9 acres. The area that is highlighted in orange is property which is within the City of Canton and it consists of approximately 49 acres of drainage. All of the drainage from all of these basins which is in the neighborhood of 115-16 acres, works it's way over to the south... over to the west of the Colonial Village property and discharges into a 36 inch storm sewer which then proceeds

MINUTES OF THE MEETING OF MAY 24, 2004

to the west. I'd like to bring it to the attention that the City of Canton currently has coming out of the 42 acres down at the south end of the property, they have a storm sewer pipe discharging onto the Colonial Village property, which is a 42 inch storm sewer. This property, this drainage is directed through the southwest corner of the property and over to that 36 inch outlet pipe. We do have this other drainage that is coming into this basin and what we have proposed to do with the improvement plans here is create a detention basin. There is currently an existing storm water management basin located northwest of Colonial Village. It was designed to handle the 25 year storm event for drainage that was coming off of the AMC Property, which would be the green and the yellow portions of the, actually the green portion of the development because the yellow was not even designed or developed at that time. Last year, we had a few storm events which caused the basins to be exceeded. That is quite evident because the storm events that we had exceeded the 25 year design rainfall that these basins were designed to accommodate. Since those rainfall events and the concerns that prompted, the concerns that followed thereafter, due to some flooding issues downstream, the City of Canton issued a mandatory item that the, that all future detention basins be designed for a 50 year reoccurrence interval storm. What we have proposed to do and have submitted our plans through the City Engineer and have gotten approval of all the design improvement plans from the City Engineer...(TIMER SOUNDS)

PRESIDENT DENCZAK: Sorry, sir, but your 3 minutes are up. This....

MR. ASHMAN: Can I ask for an extension please?

PRESIDENT DENCZAK: You can ask but I don't know if you'll receive. Does any body want to...?

MR. ASHMAN: I ask for just 3 minutes more, if that would be possible.

MEMBER BERNABEI: Mr. President, I would move that we extend the speaker's time an additional 2 minutes; seconded.

PRESIDENT DENCZAK: Moved and seconded that the speaker's time be extended another 2 minutes. Are there any remarks?... If not, by voice vote, all those in favor, signify by saying aye. Those opposed no.

NO REMARKS

MOTION ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: All right sir, you've got 2 minutes.

MR. ASHMAN: Thank you very much Council. All of the drainage is going to be designed for a 100 year storm event which exceeds the design requirements of the City of Canton. Keep in mind, your own City Engineer has reviewed all the drawings, all of the calculations and everything has been submitted and approved through him. In addition, the City of North Canton has reviewed these plans and has also agreed with all the calculations and the designs. Therefore, the basin is going to be a substantial improvement to the general drainage for all properties to the west of the Colonial Village property. There have been a couple residents to the south, down along 48th Street, that have expressed concern with their rear yards staying wet and being flooded. If you take a look at the map which I have provided to you, the area highlighted in pink represents the drainage area that comes into those rear yards from the north and from the northeast. There's approximately 9 and a half or 10 acres of drainage that's going to come down, that currently comes down into those rear yards. With the proposed improvements, that drainage will be intercepted by the storm sewers that are put

MINUTES OF THE MEETING OF MAY 24, 2004

into Colonial Village and directed to the detention basin to the west and what we will be doing is intercepting 90, 96% of that drainage basin and discharging that over to our new detention basin. We will only have 4/10ths to half an acre of ground that actually will end up discharging down onto these property owners to the south. I feel the improvements that we have represented in our plans are very beneficial to the entire drainage district of this area and I would ask that the Council would approve these plans because we have met all the requirements of your City Engineer and all the requirements of the sub-division standards. Thank you very much. Any questions?... Thank you.

PRESIDENT DENCZAK: The next speaker is Jerry Jacob.

MR. JACOB: Thank you Mr. President, Members of City Council and City Officials.

PRESIDENT DENCZAK: State your name and your address, Mr. Jacobs.

MR. JACOB: Okay, my name is Jerry Jacob. I live at 4803 Frazier Avenue NW. I'm here tonight because I care about my neighborhood, a Canton city neighborhood. For almost 6 years we have dealt with AMC, an out-of-town development seeking to put \$125,000 housing in Canton while they are building adjacent to this property, \$300 to \$600,000 houses in North Canton. In this same 6 years, we have experienced increased water problems throughout the neighborhood, without this proposed development even taking place. During this time, we have bargained in good faith to protect our neighborhood from flooding, over-crowding and decreased property values. In 1902, we were urged, and this was a legal case with the City and Judge Brown, to reach, to negotiate, which we did and reached a tentative agreement with AMC. Unfortunately, the Chief Executive Officer said no, after the agreement was made with no explanation. Therefore, we are requesting that Council uphold that April 20th decision of the Planning Commission. They made the decision based on facts as well as legitimate and crowding concerns. In short, they did their jobs trying to plan for present and future communities in the City of Canton. We realize this is a complicated issue but we feel that planning means planning, not simply rubber-stamping the requests of out-of-town developers who do not reflect the best interests of Canton City neighborhoods. In conclusion, a modification of this plan that takes into consideration the flooding and property concerns of our neighborhood and other neighborhoods is all that is needed. There is another City neighborhood which has already suffered flooding and loss of home owner's insurance due to this AMC Development and we do not want to join them. The City has recently stated to realtors they want to prevent over-crowding so it's logical that this plan does not fit with the City's goals. We feel that Council has the opportunity tonight to protect it's citizens. As Council, as Councilpeople, what would you do to protect your property and your family? Thank you.

PRESIDENT DENCZAK: The next speaker is Steven Schwartz.

MR. SCHWARTZ: Members of Council, Members of the Administration, thank you for the opportunity to speak here this evening. I'm not going to go into detail and...

PRESIDENT DENCZAK: State your name and address sir.

MR. SCHWARTZ: Steven Schwartz, 623 48th Street NW, immediately south of the proposed Colonial Village. I'm not going to stand here and relay every detail that's been covered already. I hesitate in the drainage issue to say it's water over the dam, but needless to say, you are all familiar with this proposed development and how it will impact on the surrounding area. I do want to say, and it's not a done situation yet, but if Council chooses to send this matter back to

MINUTES OF THE MEETING OF MAY 24, 2004

the Planning Commission, I say hallelujah. The residents are more than willing to sit down with Members of Council, Members of the Administration, with the Planning Commission and work to resolve whatever differences there may be and if you notice, Mr. Caticchio and Mr. Rambacher and Mr. Ashman chose to walk out during Jerry Jacob's presentation, so that may tell you something about their commitment to resolve these issues. I do want to say that my back yard is a swamp. I know we've had a lot of rain but I also know that we never had these problems until Mr. Caticchio leveled a great majority of the trees that are in the proposed Colonial Village area and considering that there is an elevated area there, I can only think that the drainage problem will, if not get worse, at least continue to the point where we won't be able to use our back yards. I would ask that Council send this matter back to the Planning Commission for further review and, again, there is a solid commitment on behalf of the neighbors, to work towards resolving the issues that separate us at this time. Thank you.

PRESIDENT DENCZAK: The next speaker is Wilson Clark.

MR. CLARK: Good evening, President Denczak, Ladies and Gentlemen of the Council, Honorable Mayor and all the other executives here, and our neighbors. My name is Wilson Clark and I live at 4836 Vernon Avenue NW. I am representing my neighbors in the East Glenwood Property Owners Association area. We are here because we have an interest in, and are very concerned about the second detention basin that has been designed and approved by both Canton, North Canton Engineers and EPA. We have been advised by a letter dated October 24, 2003 that the intent was to complete construction of this modified basin by the Fall of 2003. Note, nothing has been done to date. This basin is to alleviate the water problems from Monticello Development for both us and the proposed Colonial Village Development which is causing water problems for Jerry Jacob's neighbors. You, no doubt, are aware of our drastic water problems caused by the heavy rain that overflowed in the, from the inadequate detention basin from Monticello Development May 15th and then again July 27th. I, myself, had over \$35,000 worth of damage. Rosemary Diamond, our Ward Council Lady has been very diligently working with us and we commend her for that fact. We do not want to see our good neighbors, the Jerry Jacob neighborhood, face the same problems that we have. Therefore, we, may we respectfully, but strongly, recommend this basin be constructed as soon as possible. We support the Jerry Jacob's neighbors. May we also, though, commend the AMC developer for the beautiful Monticello and is designated a gated community. However, may we learn from the inadequate detention basin in handling the water problem. We encourage you not to make the same mistake in the Colonial Village project. Enhance the area; remember, we live here. We ask them to design it that even you would like to live here. By working together in harmony and everyone can be happy, then another area of Canton would be inviting and will encourage people to desire to live here. A good motto to go by is do good unto others as you would have others to do unto you. Thank you for your consideration.

PRESIDENT DENCZAK: The next speaker is Dan Busken.

MEMBER DIAMOND: Mr. President...this is the section that the power point slide show.

PRESIDENT DENCZAK: Oh, this is where you want the ...?

MEMBER DIAMOND: Movie, the movie.

PRESIDENT DENCZAK: Ah, wait a minute.

MINUTES OF THE MEETING OF MAY 24, 2004

MEMBER DIAMOND: Do I need to make a motion to allow him to present the slide show?

PRESIDENT DENCZAK: Yes, because this is a, I thought this was going to be presented under the Ordinance but, you can do it now if you want to, but, how long is the move going to, how long is this going to last?

MEMBER DIAMOND: Less than 10 minutes.

PRESIDENT DENCZAK: The only way that the Chair can do this fairly and impartially is to have Council move to allow this person to show this movie and designate a time limit. The Chair will recognize that motion.

MEMBER DIAMOND: Mr. President, I make a motion to allow a presentation of the slide show in reference to drainage problems on 49th Street for 5 to 7 minutes; seconded.

PRESIDENT DENCZAK: Moved and seconded to provide this speaker the time to speak and make a movie presentation from 7 to 7 min..., for a time period of 7 minutes. Are there any remarks?... If not, by voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS

MOTION ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Ok sir, you have 7 minutes to make a presentation. Do you need the lights off? One of my Engineer's over there turn off the lights.

(SLIDE/POWER POINT PRESENTATION GIVEN AT THIS TIME - 8:02PM, AS MR. BUSKEN IS SPEAKING)

MR. BUSKEN: What I did was I put together a little montage of what we've been experiencing. The first part, wait until I get to a microphone here. My name is Dan Busken and I live at 1229 49th Street NW and you're now looking at my house. This is actually the flood that was in July. The flood that was in May was actually much worse. This is what my back yard looked like about, most of last summer. What you'll see in just a few minutes is what it looked like the last, as late as yesterday, so, I think some of the confusion here is that we are actually much further south than the proposed development in Colonial Village and the retention basins that they've built from Monticello are obviously not sufficient. That should be obvious, right? In a minute, I'm going to walk back behind my property here and you'll see what the retention basin looks like and most of us here aren't engineers but you should be able to figure out that this is not working. So, our contention here is, is to keep people who want to develop in the City of Canton, responsible for what they do and accountable, and they'll get up there and tell you that they meet all these regulations and they have no choice but to go to court but, this should be evidence enough that they're not doing it right and, all we ask is fix it. That's, this is what I cleaned out of my trees about 4 or 5 times last year. Each time, \$50.00 worth of mulch I put down, each time, washed down the street. That's my back yard as of Saturday. So, that happened at least a dozen times last year. As we move back here, this is the, actually, I was trying to build up some beds where maybe I could pull some of the water back, but it just washed them away. All that I bought, 8 yards of dirt, and put it back there and it still didn't help. There's obviously another view of my backyard. So, my kids can play in the swamp and you guys can go ahead and just approve it because, and, well, I'm not going to say anything else. Let me just, they put this in, that's the path, basically, that the water used to come through my yard. There again is my yard. This is back, this is, there's about a hundred yards of trees that you saw there, then this is the Monticello basin, and if you could hear my audio, basically what I'm

MINUTES OF THE MEETING OF MAY 24, 2004

saying is, is that the elevation at the top is much high than the elevation at the bottom. It's like it's designed to drain into my yard. This is the trees behind my yard and then in a moment, you'll see the new eco system that they put back there as well. This is just the view of the retention basin from the other side. You can side how, it's almost shallow on this end. There's almost no water in it but as you come down, it's still draining, to this day, out on the other side. That's how it was designed, on a, built into the side of a hill so that it collects the water there and pushes it down. This is the path that the water takes and then it goes into the wooded area, which is a swamp. That's at least 300 feet wide. Always, always, almost always there, always there today. I went and talked to Mr. Caticchio. I think I want to take a little moment to say something about that. When we first started having these flooding problems, I brought it to his attention like a gentleman. He came to my house and said I'll get back to 'ya. Never heard from the man again. But, I didn't leave his office without getting cussed out and told basically to go pound salt. This is illustrating where they put a sill fence in, which, obviously has not been up for at least a year, and there's also a piece of clay tile that when they put this fence in, they just cut it, and it just drains water into our yard. There's the swamp from the other angle. This, this situation exists all year long. This is the clay tile that they cut to put the sill fence in and it just drains water. That's maybe a hundred feet from my yard. So, all we're asking is that they act responsibly and hold them accountable. Simple as that. They can sit here and tell you we did this and we did this, and we did everything that we possibly could. We asked them to talk to us about it. He won't, he's too arrogant to speak to us. I also, for the, for the members of my neighborhood that couldn't attend, I have 42 signatures that oppose this as well. I'd like to submit this. So, I think the video speaks for itself, and, that's all I have to say. *(AUDIENCE APPLAUSE)*

PRESIDENT DENCZAK: Mr. Busken, is that swamp located in the City limits of Canton?

MR. BUSKEN: I don't believe it is because, I believe it's at the property right behind my house.

PRESIDENT DENCZAK: Speak into the microphone.

MR. BUSKEN: I'm not for sure, I don't know for sure, but I believe the property, just on the other side of our house is North Canton. That our, that our, the back of our property is the North Canton property.

PRESIDENT DENCZAK: Rosemary Diamond...do you know, Member Diamond?

MEMBER DIAMOND: Mr. President, their property, they live on 49th Street. You go back through their swampy backyard, and you go through the woods and then you see this swamp. The swamp is not in the City of Canton city limits, and then beyond the swamp, you see the non-effective detention basin and then you see a home, it's phase IV of Monticello, which is North Canton. The swamp causes problems for the City of Canton residents. I mean, I can't imagine a better mosquito breeding area. This swamp, for those of you who have not been there, 'ya need to go and walk it. One of the neighbors, 2 of the neighbors and I were there Saturday, the muck is so bad on the path, she not only lost her shoe, it sucked her sock off too. Walking, you cannot walk, it's nothing but a, it's exactly that, a swamp, and the basin works backwards. It works backwards. It makes no sense and what I, it's a confusing issue because we have 2 basins and we have 2 developments and we have Canton and North Canton but, this is showing you what potentially will happen in another section of our City and we are not asking or demanding that this developer correct what he's done to the people on 49th Street, but there are people telling me that because they are fearful of potential litigation, which does not intimidate me, that we should allow another neighborhood to fall under the same problems and that's wrong. They're showing you what has happened.

MINUTES OF THE MEETING OF MAY 24, 2004

PRESIDENT DENCZAK: Member Diamond, I'm sorry but you know this is a public speaks portion and I have this question because this is a mosquito breeding ground and I don't know why no one of the Health Departments is, isn't involved in this issue if it's the Stark County Health Department. I didn't realize we had a swamp in Stark County.

MR. BUSKEN: I will even give guided tours. (*AUDIENCE APPLAUSE*)

PRESIDENT DENCZAK: Member Diamond, the Chair will recognize you under the Ordinance to express your views.

MEMBER DIAMOND: Mr. President, has everyone spoken that wishes to speak?

PRESIDENT DENCZAK: Yes. Yes.

MEMBER DIAMOND: Okay, I would make a motion that we go to Ordinance #28 for a vote.

PRESIDENT DENCZAK: You don't have to do that, Member Diamond, the Chair will exercise that prerogative.

MEMBER DIAMOND: Are you asking me for more comments?

PRESIDENT DENCZAK: No, we're going to the Ordinance now so you can make your comments.

MEMBER DIAMOND: Do I need to ask...Mister, Member Casar, to make a motion?

PRESIDENT DENCZAK: No, I will go to the Ordinance portion of the agenda; for a small fee of \$25.00 (*AUDIENCE LAUGHTER*)

MEMBER CASAR: Mr. President, could I request a 5 minute recess please?

PRESIDENT DENCZAK: Yes you may. The Chair will grant a 5 minute recess.

(COUNCIL RECESSED AT 8:13 PM AT THE REQUEST OF MEMBER CASAR. THE MEETING WAS RECONVENED BY PRESIDENT DENCZAK AT 8:21PM.)

INFORMAL RESOLUTIONS

PRESIDENT DENCZAK: The 5 minute recess is over. The Chair understands you want to go into an Executive Session, however, I would like to have attendance recorded in the journal please, first. We had the Public Speaks over with; the Informal Resolution excusing members...it will not be necessary to excuse members. Let the journal show that all members of Council are present.

MEMBER CASAR: Mr. President, I move that we go into Executive Session for 5 minutes to further discuss the Colonial plat; seconded.

MINUTES OF THE MEETING OF MAY 24, 2004

PRESIDENT DENCZAK: Moved and seconded that you go into Executive Session for 5 minutes to discuss the Colonial Project. Are there any remarks?...

MEMBER BERNABEI: Mr. President, a point of order on this, and Mr. Martuccio, to keep it correct please, again, the minutes of this meeting will be scrutinized. I would request that the motion be restated in compliance with the State Sunshine law.

LAW DIRECTOR MARTUCCIO: Yes, in order to discuss imminent litigation with your attorney over the approval or denial of the Colonial Plat, and please name the people that you would like to include in the room.

MEMBER CASAR: Mr. President, did I not say to discuss the Colonial Plat?

LAW DIRECTOR MARTUCCIO: Mr. President, yes, you did Member Casar, but if you add the phrase to discuss imminent litigation concerning the Colonial Plat and then also name the people that you would like to include in the room.

MEMBER CASAR: Okay, Mr. President, I move that Council go into Executive Session not to exceed 5 minutes to discuss imminent litigation in regards to the Colonial Plat and that the Members of Council, all 12 members present, be included and that also the Mayor, Chief of Staff, Service Director, Safety Director and President of Council also attend and our Clerk of Courts and Secretary.

PRESIDENT DENCZAK: Clerk of Courts?

MEMBER CASAR: Clerk of Council, I'm sorry; seconded.

PRESIDENT DENCZAK: Moved and seconded that you go into Executive Session to discuss this matter. Are there any remarks?... If not, roll call vote.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

(COUNCIL RECESSED FOR EXECUTIVE SESSION RE: COLONIAL VILLAGE AND LITIGATION AT 8:23 PM. THE MEETING WAS RECONVENED BY PRESIDENT DENCZAK AT 8:32 PM.)

MEMBER CASAR: Mr. President, I move we move out of Executive Session please; seconded.

PRESIDENT DENCZAK: Moved and seconded that Council return from Executive Session. Are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Council has returned from Executive Session. We'll proceed with the meeting now.

ORDINANCES AND FORMAL RESOLUTIONS FOR THIRD READING

PRESIDENT DENCZAK: The Chair is going to exercise a prerogative here and go from the original place on the

MINUTES OF THE MEETING OF MAY 24, 2004

agenda, which is a Resolution from the Personnel Committee, to Ordinances, under third reading. Go directly to Ordinance #28. Let the journal show that all Ordinances are being given their reading tonight in accordance with State Law. Ordinance #28 please.

#28 (3rd RDG) **ORDINANCE DEFEATED:** AN ORDINANCE APPROVING AND ACCEPTING THE FINAL RECORD PLAT OF COLONIAL VILLAGE IN THE CITY OF CANTON; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #28; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #28. Are there any remarks under this Ordinance?... Member Diamond.

MEMBER DIAMOND: Mr. President, I want to thank City Council for taking an interest in something that's very important to the residents of the 8th Ward, and my residents have been battling this for years. I applaud them for not giving up even when they were told they couldn't fight City Hall and they couldn't fight City Engineering and they couldn't fight the City Law Department. I thank the Planning Commission because they looked beyond an 8-1/2 X 11 piece of paper as to what works and what doesn't work and they voted no because they're in charge of planning and until we start looking beyond numbers and figures that we see on paper and we look at neighborhoods and we look at the effect that new developments have upon existing neighborhoods, we aren't going to be a city where people want to move to. If we don't protect the people that are already here paying tax dollars, then we can't expect anything other than those people to leave. We have here a very unique situation where we have 2 developments, developed by the same person, one with a problem that we see as there and rather than the City requiring them to fix it first, we find ourselves in a position where the City and our Engineer is recommending that we approve something very similar and that's wrong. That does a disservice to the people here. It's unfortunate that these, there are residents here that are suing my City and my Law Department because they have damages. Mr. Clark has had his insurance canceled, he's had over \$30,000, not from just one storm, but from 2 storms and as we sit here today, that detention basin is the same size as it was when it flooded his house, twice, and yet, we sit here, as a City, not protecting these people, and I would ask everybody on City Council to agree with the Planning Commission and to deviate from what we often do not deviate from, which is a recommendation from experts. Experts aren't always right. Our City Engineer approved the Monticello basin. You saw it does not work. I won't allow another decision by an Engineering Department to cause that same problem for the people on 48th & Frazier so I would ask you all to agree with the Planning Commission and to defeat this final plat. Thank you. (AUDIENCE APPLAUSE)

PRESIDENT DENCZAK: Are there any other remarks?...

MEMBER CASAR: Mr. President, the reason we discussed this is we decided we were going to send it back to Planning but after the testimony I saw here, heard here today, and the video that I saw, there's no doubt in my mind that there, we're gonna, hopefully, do the right thing and that's to defeat this and don't even take a chance of sending it back to the Planning Commission. (AUDIENCE APPLAUSE)

PRESIDENT DENCZAK: Are there any other remarks?

MINUTES OF THE MEETING OF MAY 24, 2004

MEMBER HART: Mr. President, I guess a picture is worth a thousand words and I represent Ward 7 and when you come off of Route 62 onto Market there at 29th Street behind Market Avenue Church of Christ, you can see a retention basin and, I guess when I heard the term retention basin, I was assuming it could hold water and it was designed to hold water and I think I could safely say my goldfish pond can probably retain more water than that does. If that was approved as a retention basin, a mistake was made and unless something's done right to hold water and to retain it and to allow water further down to drain, you know, the problems are going to keep coming and unfortunately, they end up in my Ward, you know, from the water that does run off, and again, somebody made a mistake somewhere.

PRESIDENT DENCZAK: Are there any other remarks?...

LAW DIRECTOR MARTUCCIO: Mr. President. Thank you, Mr. President. In this case, digital video is worth a million words. Ordinarily, matters of approving plats, recommending them, modifying them, denying them, is very dry-going. It's very scientific, it's about lines, it's about engineering. In this case, it's obviously more than that. It's about emotions, it's about trying to protect one's home and one's yard. We, as lawyers, are charged with looking at researching the law and understanding the law. What is before you, is a Planning Commission recommendation. The Planning Commission heard the testimony from the Engineer and other effective persons and the Planning Commission recommended denial of the proposed plat for the Colonial Plat. If you want to go along with that denial, as the President will instruct you, you will be asked to vote no to the Ordinance. The ordinance is written in the positive. The ordinance would override the Planning Commission if 9 or more of you chose to do that. I must, though, however, as your Lawyer for the City and your taxpayers, repeat again, we will abide by the wishes by our clientele, being you officials and the taxpayers. Be advised, as our lawyer said at the Planning Commission, being that that allotment met all sub-division regulations, being that that allotment had drainage that would go to a 100 year storm event, our lawyer anticipated that to vote it down would lead to litigation and possibly litigation that we, the city, could lose. We are afraid to litigate, we've already litigated once with some of the parties involved here this evening and we're involved in yet another one. However, be advised that should we lose this litigation, we are exposing ourselves to some damages. Those damages would come from the 2% that is taking, taken out of all of your salaries if you live in the City or you work in the City. Now, knowing that, knowing that you understand that, and I fully disclose that we're going to litigation, whether you send it back to the Planning Commission or whether you agree with the Planning Commission and vote against the approval of Colonial Plat, knowing that, if that's your decision, that's fine. We'll respect it and we'll go to court and we'll try to serve your wishes, and persuade the court to affect justice, whether it's through a compromise, mediation or outright litigation. As long as you're all fully aware of that and you vote as is your prerogative as legislators, we will abide by your wishes. I wanted to make sure you all understood that. Again, in closing, if you want to go along with the Planning Commission and vote against the Colonial Plat, you vote no.

PRESIDENT DENCZAK: Are there any other remarks?... The Chair would just like to state one thing. I am getting sick and tired of hearing these design criteria, 25 year storm, 50 year storm, 100 year storm. Last year we had two 100-year storms. I don't know where these engineers come up with these terms, or these, (*AUDIENCE APPLAUSE*) please...these terms. There's no one on this earth can tell what Mother Nature is going to do in the way of a storm. We should all be learning that lesson by now, especially engineers. I won't explain it to members of Council because the Law Director did a good job of how you should vote on this issue. Are there any further remarks on this Ordinance?... If not, roll call vote please.

ROLL CALL

ROLL CALL VOTE: 0 YEAS, 12 NAYS

MINUTES OF THE MEETING OF MAY 24, 2004

PRESIDENT DENCZAK: I wish there would have been a tie vote so I could have voted on this. The ordinance on the Colonial Village is being denied their record plat. (*AUDIENCE APPLAUSE*) We're going to go back to our regular place on the agenda now members of Council and that's to Resolution #65.

INFORMAL RESOLUTIONS

THE PRESIDENT OF COUNCIL CALLED UPON CLERK OF COUNCIL VANCKUNAS TO READ RESOLUTION #65 BY TITLE, AS SHOWN BELOW. THE RESOLUTION IS ON FILE IN ITS ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS DATED May 24, 2004.

65. PERSONNEL COMMITTEE, CITY OF CANTON: CONFIRMING MAYOR'S APPOINTMENT OF DR. MARC FIORENTINO TO A YEAR TERM ON THE BOARD OF HEALTH EFFECTIVE MARCH 31, 2004 THROUGH MARCH 30, 2009. - ADOPTED BY COUNCIL

MEMBER CASAR: Mr. President, I move we adopt Resolution #65; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #65. Are there any remarks under this Resolution?... If not, by voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS

RESOLUTION # 65 ADOPTED BY UNANIMOUS VOICE VOTE

COMMUNICATIONS

PRESIDENT DENCZAK: All Communications are received as read, filed and referred.

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 May 24, 2004.

292. AUDITOR KIM R. PEREZ, CITY OF CANTON: REQUEST FOR ADDITIONAL AMENDED CERTIFICATE DATED 5/17/04. - CLERK OF COUNCIL

293. COURT ADMINISTRATOR MICHAEL E. KOCHERA, CITY OF CANTON: ANNUAL REPORT OF MUNICIPAL COURT FOR 2003. - RECEIVED & FILED

294. DIAMOND, ROSEMARY, WARD 8 COUNCILMEMBER, CITY OF CANTON: REQUESTING LEGISLATION ENABLING THE CITY OF CANTON TO IMPOSE & COLLECT AN ADDITIONAL 3% MUNICIPAL LODGING TAX. - JUDICIARY CMTE

295. DIMMERLING VENTURES, LLC, 3728 MIDDLEBRANCH AVE., NE, CANTON, OHIO 44705: REQUEST TO REZONE OUTLOT #517 LOCATED @ 1131 WERTZ AVENUE FROM B-3 TO PB-4 TO PERMIT STORAGE IN THE EXISTING BACK BUILDING. - PLANNING COMMISSION

MINUTES OF THE MEETING OF MAY 24, 2004

296. LIQUOR CONTROL DIVISION (STATE OF OHIO), 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: REQUEST FOR NEW C1, C2 LIQUOR PERMIT BY JONGS TRADING CORP. dba JONGS MARKET LOCATED @ 440 N MARKET. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
297. LIQUOR CONTROL DIVISION (STATE OF OHIO), 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: REQUEST FOR STOCK TRANSFER OF D2, D2X LIQUOR PERMIT BY HOUSDEN, INC., dba MIKES AGAIN LOCATED @ 1037-39 BEDFORD AVE SW. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
298. LIQUOR CONTROL DIVISION (STATE OF OHIO), 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTICE OF HEARING SET 6/14/04 @ 1:00 PM @ STARK COUNTY JOB & FAMILY SERVICES, 220 E TUSC, ON TRANSFER OF C1, C2 LIQUOR PERMIT REQUESTED BY BAIT NABALAH, dba BEST FOR LESS LOCATED @ 1100 12TH ST NW. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
299. LIQUOR CONTROL DIVISION (STATE OF OHIO), 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTICE OF HEARING SET 6/14/04 @ 10:00 AM @ STARK COUNTY JOB & FAMILY SERVICES, 220 E TUSC, ON REQUEST FOR NEW C1, C2, D6 LIQUOR PERMIT BY WAYNE EDWARD MARION, dba DUEBER DRIVE THRU LOCATED @ 1037 DUEBER AVE SW. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
300. LIQUOR CONTROL DIVISION (STATE OF OHIO), 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTICE OF HEARING SET 6/14/04 @ 9:00 AM @ STARK COUNTY JOB & FAMILY SERVICES, 220 E TUSC, ON TRANSFER OF C1, C2, LIQUOR PERMIT REQUESTED BY BELLA 7 LLC, dba MAGGORIE'S DRIVE THRU 15 LOCATED @ 1037 DUEBER AVE SW. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
301. LIQUOR CONTROL DIVISION (STATE OF OHIO), 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: REQUEST FOR TRANSFER OF C1, C2 LIQUOR PERMIT FROM SPEE D FOODS, INC. TO K&S PATEL, INC., dba MINI MART LOCATED @ 1120 15TH ST NE - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
302. LIQUOR CONTROL DIVISION (STATE OF OHIO), 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: REQUEST FOR TRANSFER OF D2, D2X, D3, D3A LIQUOR PERMIT FROM BENNETT'S PUB, INC. TO DIANA L. ALBERT, dba CORNER POCKET LOCATED @ 2400 WINFIELD WAY NE. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
303. MAYOR JANET WEIR-CREIGHTON, CITY OF CANTON: REQUESTING AUTHORIZATION FOR APPOINTMENT OF DR. MARC FIORENTINO TO THE CANTON CITY HEALTH DEPT BOARD RETROACTIVE FROM 3/31/04 THROUGH 3/31/09. - PERSONNEL CMTE (See Re#65)

MINUTES OF THE MEETING OF MAY 24, 2004

304. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING APPROVAL OF ZONE CHANGE REQUESTED BY NICHOLAS W. CONLEY, SR. FROM B-2 TO PB-3 LOCATED AT 504 15TH ST NW TO PERMIT OFFICE BUILDING WITH STORAGE & PARKING OF TOW TRUCKS AT EXISTING STRUCTURE. - LAW DEPT (See O#1, 1st Rdg) PUB HRG 6/21/04 @ 7:30 PM
305. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING APPROVAL OF REQUEST BY ACCURATE TECHNOLOGIES FOR THE TIMKEN COMPANY TO REPLAT 11 LOTS (5760-5770) INTO ONE RECONFIGURED OUTLOT ON THE WEST SIDE OF CLARK AVE SW SOUTH OF 18TH ST SW. - PUBLIC SAFETY & THOROUGHFARES CMTE
306. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING APPROVAL OF REQUEST BY ACCURATE TECHNOLOGIES FOR THE TIMKEN COMPANY TO REPLAT 11 LOTS (7452-7462) INTO ONE RECONFIGURED OUTLOT ON THE EAST SIDE OF DUEBER AVE SW SOUTH OF 15TH ST SW. - PUBLIC SAFETY & THOROUGHFARES CMTE
307. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING APPROVAL OF PROPOSED AMENDMENTS RE: ELECTRONIC SIGNS PREPARED BY THE LAW DEPT TO THE OFFICIAL ZONING ORDINANCE INCLUDING CHANGES DISCUSSED AT THE 5/11/04 PLANNING COMMISSION MEETING. - LAW DEPT. PUB HRG 7/12/04 @ 7:30 PM
308. SERVICE DIRECTOR TAD ELLSWORTH, CITY OF CANTON: REPORT UPDATING COUNCIL ON THE STATUS OF THE EMERGENCY REPAIR WORK AT 12TH ST & MONUMENT RD NW & THANKING MEMBERS FOR THEIR ASSISTANCE IN SECURING A LOCAL CONTRACTOR TO PERFORM THE WORK. - RECEIVED & FILED
309. SERVICE DIRECTOR TAD ELLSWORTH, CITY OF CANTON: REQUESTING AUTHORIZATION TO ENTER INTO \$66,849.00 CONTRACT W/ENVIRONMENTAL DESIGN GROUP FOR ALL ENVIRONMENTAL MANAGEMENT SERVICES INVOLVED W/PERMIT RENEWAL PROCESS FOR THE WPCC'S SEWAGE SLUDGE INCINERATORS UNDER THE CLEAN AIR ACT; & REQUEST \$66,849.00 SUPPLEMENTAL APPROPRIATION FROM 5410 SANITARY SEWER FUND. - ENVIRONMENTAL & PUBLIC UTILITIES & FINANCE CMTES
310. SERVICE DIRECTOR TAD ELLSWORTH, CITY OF CANTON: REQUESTING AUTHORIZATION TO ADVERTISE, RECEIVE BIDS & ENTER INTO \$72,500.00 CONTRACT FOR REPLACEMENT OF THE NORTH WALKING TRACK BRIDGE IN STADIUM PARK, \$35,000.00 CONTRACT FOR REPLACEMENT OF THE WINDOWS ON THE GARDEN CENTER BUILDING IN STADIUM PARK, & \$25,000.00 CONTRACT FOR PURCHASE OF A MINI-HALF PIPE FOR THE SKATE BOARD PARK AT HARMONT PARK. - PARK & RECREATION & FINANCE CMTES

MINUTES OF THE MEETING OF MAY 24, 2004

311. TREASURER ROBERT SCHIRACK, CITY OF CANTON: COMPARATIVE REPORT OF INCOME TAX CASH RECEIPTS AS OF 4/30/04. - RECEIVED & FILED

ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING

PRESIDENT DENCZAK: Ordinances for their first reading, please.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #1 THROUGH AND INCLUDING #9 FOR THE FIRST TIME BY TITLE & ANNOUNCED THE COMMITTEE REFERRALS, AS FOLLOWS. ORDINANCE #2 WITH WITHDRAWN. ORDINANCE #8 WAS ADOPTED.

- #1 (1ST RDG) AN ORDINANCE AMENDING O.55/77 AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to 2ND Rdg, Next Agenda
- #2 (1ST RDG) **WITHDRAWN FROM THE AGENDA:** AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE CANTON REGIONAL CHAMBER OF COMMERCE TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$160,000.00 FOR A COMPREHENSIVE DOWNTOWN DEVELOPMENT PLANNING ASSISTANCE PROGRAM AND AN ECONOMIC DEVELOPMENT PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to Community & Economic Development and Finance Committees
- #3 (1ST RDG) AN ORDINANCE AMENDING SECTION 339.08, LOADS DROPPING OR LEAKING, REMOVAL REQUIRED, TRACKING MUD, OF THE CODIFIED ORDINANCES OF THE CITY OF CANTON
Referred to Judiciary Committee
- #4 (1ST RDG) AN ORDINANCE APPROVING AND ACCEPTING THE REPLATTING OF LOTS NOS. 24501-24503 AND 27078; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to Public Safety and Thoroughfares Committee
- #5 (1ST RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 1/2004, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATION HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to Marketing & Development Grant and Finance Committees
- #6 (1ST RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CHANGE ORDER WITH R.G. SMITH COMPANY, INC. IN AN AMOUNT NOT

MINUTES OF THE MEETING OF MAY 24, 2004

TO EXCEED \$13,470.00 TO COMPLETE THE SLUDGE REMOVAL FOR THE WATER POLLUTION CONTROL CENTER DIGESTER PROJECT; AMENDING APPROPRIATION ORDINANCE NO. 1/2004; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to Finance Committee

- #7 (1ST RDG) AN ORDINANCE APPROVING A CANTON CITY WATER MAIN EXTENSION TO PERRY TOWNSHIP; 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
Referred to Environmental and Public Utilities Committee
- #8 (1ST RDG) **ADOPTED AS ORDINANCE NO. 86/2004** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A PURCHASE AGREEMENT WITH MYTHICS, INC. IN A TOTAL AMOUNT NOT TO EXCEED \$147,104.00 FOR ORACLE LICENSES AND SUPPORT SERVICES PURSUANT TO OHIO REVISED CODE SECTION 125.04; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to Finance Committee
- #9 (1ST RDG) A RESOLUTION APPROVING THE STATEMENT OF SERVICES TO BE PROVIDED TO THE PROPERTY OWNER IN THE AUTO ELECTRIC SERVICE COMPANY ANNEXATION AREA UPON ITS BEING ANNEXED TO THE CITY OF CANTON, OHIO; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to Annexation Committee

PRESIDENT DENCZAK: At this time the Chair's going to declare an in-house recess for the Committee on Finance to discuss Ordinance #8 on your agenda tonight. You are now in recess.

COUNCIL RECESSED AT 8:47 PM FOR A FINANCE COMMITTEE MEETING ON ORDINANCE #8 RE: ORACLE LICENSES & SUPPORT SERVICES. THE MEETING WAS RECONVENED BY PRESIDENT DENCZAK AT 8:49 PM.)

MEMBER CASAR: Mr. President, I move we suspend Rule 22A and add Ordinance 8 back on to the agenda; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 22A to add Ordinance 8 back to the agenda. Are there any remarks please?... If not, roll call vote please.

ROLL CALL

ROLL CALL VOTE: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #8 is a legal part of your agenda, Member Casar.

MEMBER CASAR: Mr. President, I move the Statutory Rules be suspended on Ordinance #8; seconded.

MINUTES OF THE MEETING OF MAY 24, 2004

PRESIDENT DENCZAK: You moved to dispense with the three readings of Ordinance #8. Are there any remarks?... If not, roll call vote please..

ROLL CALL

ROLL CALL VOTE: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: You've heard the three readings, Member Casar.

MEMBER CASAR: Mr. President, I move we adopt Ordinance #8; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #8. Are there any remarks under this Ordinance?... Very well, roll call vote.

ROLL CALL

ROLL CALL VOTE: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #8 is adopted.

#8 ADOPTED AS ORDINANCE NO. 86/2004

ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING

PRESIDENT DENCZAK: Ordinances and Formal Resolutions for the second reading.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #10 THROUGH AND INCLUDING #27 FOR THE SECOND TIME BY TITLE, AS FOLLOWS. ORDINANCES #19 & 22 WERE RETAINED IN COMMITTEE.

RULE 22A WAS SUSPENDED TO ADD #10 THROUGH #27 EXCEPTING #19 & #22:

- #10 (2ND RDG) AN ORDINANCE WAIVING THE ANNUAL ADJUSTMENT TO THE BASE SEWER RATE AS ESTABLISHED BY THE CONSUMER PRICE INDEX, PURSUANT TO SECTION 947.06 SEWER RATES OF THE CODIFIED ORDINANCES OF THE CITY OF CANTON; AND DECLARING THE SAME TO BE AN EMERGENCY
- #11 (2ND RDG) AN ORDINANCE WAIVING THE ANNUAL ADJUSTMENT TO THE BASE SANITATION RATE AS ESTABLISHED BY THE CONSUMER PRICE INDEX PURSUANT TO SECTION 975.08, SANITATION RATES OF THE CODIFIED ORDINANCES OF THE CITY OF CANTON; AND DECLARING THE SAME TO BE AN EMERGENCY
- #12 (2ND RDG) AN ORDINANCE AMENDING ORDINANCE 55/77 AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY
- #13 (2ND RDG) AN ORDINANCE AMENDING ORDINANCE 55/77 AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY

MINUTES OF THE MEETING OF MAY 24, 2004

- #14 (2ND RDG) AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN ENTERPRISE ZONE AGREEMENT W/STELCO, LLC AND SLESNICK STRUCTURAL STEEL TO PROVIDE REAL AND PERSONAL PROPERTY TAX EXEMPTIONS TO CONSTRUCT A NEW WAREHOUSE/DISTRIBUTION BUILDING; AUTHORIZING THE GRANTING OF 75% 10-YEAR REAL AND PERSONAL PROPERTY TAX EXEMPTIONS; AUTHORIZING THE AUDITOR TO MAKE PAYMENTS TO THE CANTON BOARD OF EDUCATION AS REQUIRED TO BE PAID PURSUANT TO SECTION 5709.82 (C) AND (D) OF THE REVISED CODE; AND DECLARING THE SAME TO BE AN EMERGENCY
- #15 (2ND RDG) AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE CANTON CITY SCHOOL DISTRICT TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$30,000.00 FOR THE EARLY CHILDHOOD EDUCATION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY
- #16 (2ND RDG) AN ORDINANCE AMENDING ORDINANCE NO. 17/89 AS AMENDED AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDED CONTRACT WITH THE CANTON COMMUNITY IMPROVEMENT CORPORATION TO ADMINISTER ADDITIONAL COMMUNITY BLOCK GRANT FUNDS IN AN AMOUNT NOT TO EXCEED \$60,000.00; AND DECLARING THE SAME TO BE AN EMERGENCY
- #17 (2ND RDG) AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE CANTON SYMPHONY ORCHESTRA ASSOCIATION TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$41,415.00 FOR THE 2004 CONCERT IN THE PARK; AND DECLARING THE SAME TO BE AN EMERGENCY
- #18 (2ND RDG) AN ORDINANCE AUTHORIZING THE MAYOR/AND OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE DOMESTIC VIOLENCE PROJECT INC. TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$200,000.00 FOR THE PURCHASE OF MISCELLANEOUS FURNITURE AND EQUIPMENT; AND DECLARING THE SAME TO BE AN EMERGENCY
- #19 **RETAINED IN COMMITTEE** AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT WITH THE YWCA TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$300,000.00 FOR THE PURCHASE OF A BOILER SYSTEM; AND DECLARING THE SAME TO BE AN EMERGENCY
- #20 (2ND RDG) AN ORDINANCE AUTHORIZING THE MAYOR/AND OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE YMCA TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$27,000.00 FOR ESSENTIAL SERVICES; AND DECLARING THE SAME TO BE AN EMERGENCY

MINUTES OF THE MEETING OF MAY 24, 2004

- #21 (2ND RDG) AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE YMCA TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$235,000.00 FOR A NEW SPRINKLER SYSTEM; AND DECLARING THE SAME TO BE AN EMERGENCY
- #22 **RETAINED IN COMMITTEE** AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A ONE-YEAR CONTRACT WITH THE CANTON SYMPHONY ORCHESTRA ASSOCIATION TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$40,000.00 FOR THE CHILDREN'S ARTS CONNECTION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY
- #23 (2ND RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ACCEPT A GRANT IN THE AMOUNT OF \$2,124.83 FROM THE OHIO DEPARTMENT OF PUBLIC SAFETY FOR THE FIRE DEPARTMENT; AMENDING APPROPRIATION ORDINANCE NO. 1/2004 AS AMENDED BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
- #24 (2ND RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO MAKE APPLICATION FOR AND ACCEPT A GRANT IN AN AMOUNT NOT TO EXCEED \$36,607.00 FROM THE OFFICE OF THE GOVERNOR'S HIGHWAY SAFETY REPRESENTATIVE FOR A SELECTIVE TRAFFIC ENFORCEMENT PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY
- #25 (2ND RDG) AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR PUBLIC SERVICE TO CONVEY 86 SQ. FT. OF VACANT PARK LAND TO ODOT; AND DECLARING THE SAME TO BE AN EMERGENCY
- #26 (2ND RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 1/2004 AS AMENDED BY MAKING THE SUPPLEMENTAL APPROPRIATIONS, INTER-FUND TRANSFERS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
- #27 (2ND RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR THE WOODLAND AVENUE NW RELEASE STORM SEWER PROJECT, G.P. 1062; AND DECLARING THE SAME TO BE AN EMERGENCY

ORDINANCES AND FORMAL RESOLUTIONS FOR THIRD READING

PRESIDENT DENCZAK: Ordinances and Formal Resolutions for their third reading.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING

MINUTES OF THE MEETING OF MAY 24, 2004

ORDINANCES #28 THROUGH AND INCLUDING #31 FOR THE THIRD & FINAL TIME BY TITLE, AS FOLLOWS.

#28 **DEFEATED-SEE JOURNAL PAGE #303 HEREIN:** AN ORDINANCE APPROVING AND ACCEPTING THE FINAL RECORD PLAT OF COLONIAL VILLAGE IN THE CITY OF CANTON; AND DECLARING THE SAME TO BE AN EMERGENCY; AND DECLARING THE SAME TO BE AN EMERGENCY

#29 (3RD RDG) **ADOPTED AS ORDINANCE NO. 87/2004** ; AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ACCEPT A DONATION OF \$500.00 FROM BRAD A. BLACK, VICE PRESIDENT OF DOWNTOWN FORD; AMENDING APPROPRIATION ORDINANCE NO. 1/2004, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATION HERE DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move that we adopt Ordinance #29; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #29. Are there any remarks under this ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL VOTE: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #29 is adopted.

#29 ADOPTED AS ORDINANCE NO.87/2004

#30 (3RD RDG) **ADOPTED AS ORDINANCE NO. 88/2004;** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR THE PURCHASE OF SEMI-AUTOMATIC HANDGUNS AND MISCELLANEOUS ITEMS FOR THE POLICE DEPARTMENT; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move that we adopt Ordinance #30; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #30. Are there any remarks under this ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL VOTE: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #30 is adopted.

#30 ADOPTED AS ORDINANCE NO.88 /2004

#31 (3RD RDG) **ADOPTED AS ORDINANCE NO. 89/2004** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE, RECEIVE BIDS AND ENTER INTO A LEASE OF A COMMERCIAL SPACE LOCATED AT 215 WEST TUSCARAWAS STREET; AND DECLARING THE SAME TO BE AN EMERGENCY

MINUTES OF THE MEETING OF MAY 24, 2004

MEMBER CASAR: Mr. President, I move that we adopt Ordinance #31; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #31. Are there any remarks under this ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL VOTE: 11 YEAS, 0 NAYS, 1 ABSTENTION
(HAWK ABSTAINED)

PRESIDENT DENCZAK: Ordinance #31 is adopted.

#31 ADOPTED AS ORDINANCE NO. 89/2004

ANNOUNCEMENT OF COMMITTEE MEETINGS

PRESIDENT DENCZAK: Announcement of Committee Meetings please.

MEMBER MALLONN: Mr. President, Environmental and Public Utilities will meet Monday, June 7th at 6:30.

MEMBER PRATER: Mr. President, Annexation will meet Monday, June 7th at 6:30.

MEMBER BABCOCK: Mr. President, Public Safety and Thoroughfares will also meet Monday evening at 7, or, 6:30.

PRESIDENT DENCZAK: Any other committees?...

MEMBER HAWK: Mr. President, Finance Committee will meet Monday, June 7th, 6:30.

MEMBER BERNABEI: Mr. President, Judiciary will meet on the same date, same time.

MEMBER CARBENIA: Mr. President, the Community and Economic Development Committee will meet if we have the investigation done on a couple issues that were kept within the committee, 6:30 on the same day.

MEMBER WEST: Mr. President, Marketing and Developing will meet at 6:00 on..or, same time.

PUBLIC SPEAKS (OPEN FORUM--CITY BUSINESS ONLY)

PRESIDENT DENCZAK: Public Speaks, we have one person signed up this evening, Paul Kemp.

MR. KEMP: My name is Paul Kemp. I live at 227 Chicago Place NW, Canton, Ohio 44703. What do you do, keep the best for the last? I was here last year....

PRESIDENT DENCZAK: Typical Ford employee. Go ahead.

MR. KEMP: I was here last year about Chicago Place. Now, Chicago Place was sinking for 2 years and nothing was

MINUTES OF THE MEETING OF MAY 24, 2004

done. After I came up here last year, within 2 days, they started digging, filling, digging and filling. Now they, after they filled it all in, they blacktopped it. They spent 2 days blacktopping Chicago Place and both days they left at 1:00 in the afternoon, but, they never finished it. Now, if they'd have just spent 1 more hour resurf, putting another layer of blacktop on there, they would have had it all done. But, now, a year later, and it still hasn't been done, and you know what? The orange barrel is still there. Now, I'd like to know how long, how much longer it's going to take to fix Chicago Place.

MAYOR CREIGHTON: Mr. President, I will have a meeting with that department tomorrow morning and if I have to come out and remove the barrel myself and fix the hole, I will. Because that is...what is...?

MR. KEMP: It's not a hole. It's not a hole.

MAYOR CREIGHTON: It's a sink hole...?

MR. KEMP: It's a half of, well, it didn't take long to do that down on Monument Road, did it?

MAYOR CREIGHTON: No, it didn't. Sir, did this....and I don't, and I'm not pointing fingers, I just need to know. This happened last Fall? I mean, is that when the first....

MR. KEMP: Well, the road was sinking for 2 years and nothing was done about it until last year. Now last year, they re-dug it, filled it back in, spent 2 days blacktopping it but never finished the blacktop.

MAYOR CREIGHTON: So, no one has done anything yet this year? Is that a correct statement?

MR. KEMP: Pardon?

MAYOR CREIGHTON: There's been no work on it this year. Is that a correct statement?

MR. KEMP: That's right.

MAYOR CREIGHTON: Thank you and I'll need your phone number before we leave here tonight.

MR. KEMP: Thank you.

MISCELLANEOUS BUSINESS

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

MEMBER WEST: Mr. President, I'd like to ask the Safety Director a question. In reference to the account, the fund 2760, it's a Federal-funded account that purchased the semi-automatic handguns, they said there was an enormous amount of money that was left in that account. I guess my question is, is it possible that we could look into, maybe purchasing some things or some signs, or maybe some video cameras that, to monitor some of the drug activity that's going on in certain wards, in certain neighborhoods where we're having problematic behavior, and I guess that's for Bernie Hunt.

MINUTES OF THE MEETING OF MAY 24, 2004

SAFETY DIRECTOR HUNT: The Federal (*INAUDIBLE*) Fund #2760 presently has \$306,940.25 in it. I will contact the necessary department... (*INAUDIBLE*)

PRESIDENT DENCZAK: How much is left in that fund?

SAFETY DIRECTOR HUNT: (*INAUDIBLE*) This fund was established from money that was taken from drug dealers and other individuals.

PRESIDENT DENCZAK: That's a considerable amount of money. See if you can get a couple more thermal imaging cameras for the Fire Department too, all right?

SAFETY DIRECTOR HUNT: I'll do that.

PRESIDENT DENCZAK: Any other miscellaneous business?

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

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

NO REMARKS PERMITTED ON THE MOTION TO ADJOURN ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: This meeting is adjourned.

ADJOURNMENT TIME: 9:04 P.M.

ATTEST:

APPROVED:

DEBRA VANCKUNAS
CLERK OF COUNCIL

RAY DENCZAK
PRESIDENT OF COUNCIL

