

MINUTES OF THE MEETING OF FEBRUARY 28, 2005

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

The regular meeting of Canton City Council was held on Monday, February 28, 2005, at 7:30 P.M. in the Canton City Council Chamber. The roll call was then taken (as follows) by Clerk of Council Debbie Vanckunas. The invocation was given by Councilmember-at-Large Donald E. Casar followed by the Pledge of Allegiance led by President of Council Denczak.

ROLL CALL TAKEN BY CLERK OF COUNCIL VANCKUNAS:

11 COUNCILMEMBERS PRESENT: (DON CASAR, JOE CARBENIA, MARY M. BABCOCK, THOMAS M. BERNABEL, GREG HAWK, THOMAS E. WEST, JAMES E. GRIFFIN, KELLY ZACHARY, TERRY PRATER, DAVID R. DOUGHERTY, & RICHARD D. HART)

1 COUNCILMEMBER ABSENT: (*ROSEMARY DIAMOND) ***Diamond preset at 7:32 p.m.**

AGENDA CORRECTIONS & CHANGES

PRESIDENT DENCZAK: Thank you Member Casar. (*Referring to giving invocation*) To bring your agenda up to date, Members of Council, you're being asked to suspend Rule 22A to add second reading of Ordinances 4 through and including 9. The Chair will recognize that motion at this time, Member Casar.

MEMBER CASAR: Mr. President, I move we suspend Rule 22A and add Ordinances #4 through 9 on tonight's agenda; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 22A to add Ordinances 4 through and including #9 to the agenda. Are there any remarks?... If not, roll call vote.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: The second reading of the ordinances are a legal part of your agenda. You're being asked to suspend Rule 24B to add Resolution #24. Member Casar, the Chair will recognize that motion at this time.

MEMBER CASAR: Mr. President, I move we suspend Rule 24B and add Resolution #24 to this evening's agenda; seconded.

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

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Resolution #24 is a legal part of your agenda. This brings your agenda up to date, Members of Council.

MINUTES OF THE MEETING OF FEBRUARY 28, 2005**PUBLIC HEARINGS****PUBLIC HEARING #1, J.R. COLEMAN SENIOR OUTREACH ZONE CHANGE**

PRESIDENT DENCZAK: We have two scheduled public hearings this evening. The first one was scheduled for 7:30 PM. The Chair opens the public hearing in regards to this matter. It's a request by the J.R. Coleman Senior Outreach to rezone 1731 Grace Avenue NE from R-1A to PR-4 to provide a 40 unit apartment complex. The Planning Commission recommends approval with certain conditions. Is there anyone in the audience wishing to speak for or against this rezoning, please come forward... Is there anyone in the audience wishing to speak for or against this rezoning, please come forward... Is there anyone in the audience wishing to speak for or against this rezoning, please come forward... Apparently not, the Chair declares the public hearing over in regards to this matter. The matter now rests in the hands of Council. The ordinance will follow later on this evening.

PUBLIC HEARING #2, J&J VENTURES FOR PAPA JOHN-S PIZZA ZONE CHANGE

PRESIDENT DENCZAK: We had a scheduled public hearing for 7:31 PM. The Chair opens the public hearing in regards to this matter. It's a request by J&J Ventures to rezone 3001 Cleveland Avenue NW from B-3 to PB-4 for installation of an electronic message sign at Papa John's Pizza. The Planning Commission recommends denial on this rezoning change. Is there anyone in the audience wishing to speak for or against this rezoning, please come forward... (A speaker approaches) Please come forward. Go to that microphone over there and state your name and address.

MR. QUIZMAN: My name is John Quizman from Rough Neon and Lighting Maintenance. Our address is 9287 Mercantile Drive, Mentor, Ohio, and I'm here to represent Dave Cottrill, owner of the Papa John's. And what we're kinda proposing to do is to remove the existing double sided cabinets that they have with changeable letters on there. They've been updating all their locations. He owns six locations and we're in the process of changing all the locations to these new electronic message centers. They've been kinda hard for them to change, you know, with the wind and stuff, they're kinda up high and stuff, and they figure that this would be a good way -- a better way of, you know, kinda tackling that problem with specials and stuff. I know there was a concern that it would be flashing and a lot of messages going by but it's -- really, it's a small message center. It's probably half the size of what he has right now. Presently they have two 4 x 8 cabinets up there with the changeable copy track on there, and these are gonna be just about two foot by almost eight foot long, like about seven and a half foot long, and like I said, they're just trying to make it a little bit easier to put their messages up there 'cause it's been a problem in the past, and the other thing is that they wouldn't flash a lot of messages up there. It's just for specials and stuff. It wouldn't be a continuous thing going on, flashing on and off. I know there was a concern also about traffic in the area from the last meeting; that's why it was rejected. But it would, really, I mean -- I've seen these, how they've actually handled them by the other installs that we've done, and they're really -- I feel that they haven't been that much of a problem or distraction because they don't flash a lot of stuff on it. They're small boards and they're just trying to solve a problem and update. That's it.

PRESIDENT DENCZAK: So, you're in favor of it?... You're in favor of the zone change?

MR. QUIZMAN: Yes.

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PRESIDENT DENCZAK: Okay. Is there anyone else in the audience wishing to speak for or against this issue, please come forward... Is there anyone in the audience wishing to speak for or against this issue, please come forward... Is there anyone in the audience wishing to speak for or against this issue, please come forward... Apparently not. The Chair declares this public hearing over in regards to this matter. The matter now rests in the hands of Council. So, you can sit down (*directed to the public speaker*).

ORDINANCES & FORMAL RESOLUTIONS FOR THIRD READING

PRESIDENT DENCZAK: At the request of some of the Councilmembers, the Chair is gonna exercise the prerogative and go now to the ordinance section of your agenda, Members of Council. Okay. We're now under Ordinances for third and final reading. Let the Journal show that all ordinances are being given their reading as required by State Law. Ordinance #10, please.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #10&11 FOR THE THIRD & FINAL TIME BY TITLE, AS FOLLOWS.

#10 (3rd RDG) **ADOPTED AS ORDINANCE NO. 26/2005** AN ORDINANCE AMENDING ORDINANCE NO. 55/77, AS AMENDED, KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY (Coleman Ctr, 1731 Grace Ave NE) **PUB HRG HELD 2/28/05 @ 7:30 PM**

MEMBER CASAR: Mr. President, I move we adopt Ordinance #10; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #10. Are there any remarks under this Ordinance?... Roll call vote, please.

NO FURTHER REMARKS

ROLL CALL 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #10 is adopted.

#10 ADOPTED AS ORDINANCE NO. 26/2005

#11 (3rd RDG) **DEFEATED** AN ORDINANCE AMENDING ORDINANCE NO. 55/77, AS AMENDED, KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY (Papa John's, 3001 Cleveland NW) **PUB HRG HELD 2/28/05 @ 7:31 PM**

MEMBER CASAR: Mr. President, I move we adopt Ordinance #11; seconded

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #11. Are there any remarks under this Ordinance?...

MEMBER CASAR: Mr. President, question please. As this is written in the affirmative, so we vote no?

PRESIDENT DENCZAK: That's correct. At the request of the ward councilman, it is written in the positive, and to his wish, he's asking that it be defeated. So you would vote no on Ordinance #11.

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MEMBER HART: Mr. President. Yeah, again, I=ve met with residents in the area up there. They had circulated a petition and within that hundred yard radius that under law, Ed say probably 90% of the people that were home did sign and ask that it not be changed. That area along Cleveland Avenue from about 21st Street on up to 34th is really one of the worst areas of the City for, you know, the rear ending and accidents, and that area up at 30th and Cleveland is extremely bad, a high rate of accidents and rear end collisions, and it=s just one of those things. Even though there may not be a lot of messages up there, when people take their eyes off the roads, you know, somebody=s not gonna be paying attention, and that was one of the big concerns that, you know, City Planning had had, and I just again ask that it be defeated and you vote no.

PRESIDENT DENCZAK: Any other remarks?... The question you=re voting on now is Ordinance #11. Roll call vote please.

NO REMARKS

ROLL CALL 0 YEAS, 12 NAYS

PRESIDENT DENCZAK: The ordinance is defeated. The rezoning request has not been granted. We go back now to the original place on the agenda. **#10 DEFEATED**

PUBLIC SPEAKS (ORDINANCES OR RESOLUTIONS FOR ADOPTION ONLY):

PRESIDENT DENCZAK: Public Speaks, no one has signed up for Resolutions for Adoption.

INFORMAL RESOLUTIONS

PRESIDENT DENCZAK: Informal Resolutions. Excusing members---It will not be necessary to excuse members. Let the journal show that all members of Council are present. Resolution #21 please.

PRESIDENT DENCZAK CALLED UPON CLERK OF COUNCIL VANCKUNAS TO READ RESOLUTIONS #21 THROUGH AND INCLUDING #24 BY TITLE, AS SHOWN BELOW. THE RESOLUTIONS ARE ON FILE IN THEIR ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS DATED FEBRUARY 28, 2005.

#21 PRATER, TERRY, WARD 5 COUNCILMEMBER: COMMENDING JERROD DOEPKER AND ERIC ELLSWORTH FOR THEIR HEROIC & COURAGEOUS RESCUE EFFORTS. - ADOPTED BY COUNCIL

MEMBER CASAR: Mr. President, I move we adopt Resolution #21; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #21. Are there any remarks under this Resolution?...

MEMBER PRATER: Mr. President, I=d like to have the Resolution read if I could, please.

PRESIDENT DENCZAK: Clerk Vanckunas, would you please read Resolution #21.

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CLERK VANCKUNAS: Submitted by Ward 5 Councilman, Terry Prater, dated February 17, 2005. Whereas, Jerrod Doepker and Eric Ellsworth were heading to work at DLH Industries on Monday evening, February 14, 2005 when they saw a red 1997 Dodge Stratus speed up as another car began to chase it on Clarendon Avenue near 13th Street SW. They estimated the car's speed at about 70 miles per hour; and whereas, at approximately 10:05 p.m., the driver of the Stratus lost control at Clarendon & Navarre, sending the vehicle off the right side of the road and slamming head-on into a concrete bridge rail. The car caught fire immediately. When Jerrod and Eric arrived, they saw smoke and then flames begin to consume the car with both the driver and passenger still inside; and whereas, as they pulled the driver from the wreckage, smoke and flames began to fill the car. The driver began yelling that his cousin was still inside. Eric hopped in the driver's side and reached over to pull the latch on the passenger door so that Jerrod could pull it open & move the passenger to safety. Neither the driver nor passenger could walk. Jerrod tried to keep both men awake until paramedics arrived; and whereas, Jerrod and Eric, both residents of Ward 5 in the City of Canton, deserve the recognition of City Council and the entire Canton community. Now, Therefore, Be It Resolved that we the Members of the Council of the City of Canton, State of Ohio, do hereby commend Jerrod Doepker and Eric Ellsworth for their heroic and courageous rescue efforts at the February 14th car fire at Clarendon & Navarre Road SW, and for the example they set for all citizens of Canton that care and concern for human life outweigh the threat of personal risk.

PRESIDENT DENCZAK: Are there any remarks under this Resolution?... If not, by voice vote, all those in favor signify by saying aye. Those opposed no. You gonna present the...?

NO REMARKS

RESOLUTION #21 APPROVED BY UNANIMOUS VOICE VOTE

MEMBER PRATER: I'd like to have Mr. Ellsworth and Mr. Doepker come to the podium for a moment. On February 14th, an accident occurred that could have had a very tragic outcome if it had not been for these two individuals on their way to work. So we're here today to congratulate them and show them our appreciation for their courage and heroic acts. So on behalf of the Ward Councilman, all of City Council and everybody in this Chamber, we thank you and we appreciate your efforts. *(APPLAUSE)*

PRESIDENT DENCZAK: All you old people out there, you're future's in good hands. *(Referring to the young ages of the recipients)*

#22 WEST, THOMAS E., WARD 2 COUNCILMEMBER: SUPPORTING PROPOSED CANTON AREA YMCA PERMANENT SUPPORTIVE HOUSING TAX CREDIT DEVELOPMENT. - ADOPTED BY COUNCIL

MEMBER CASAR: Mr. President, I move we adopt Resolution #22; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #22. 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

RESOLUTION #22 APPROVED BY UNANIMOUS VOICE VOTE

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PRESIDENT DENCZAK: Resolution #22 is adopted.

#23 ZACHARY, KELLY, WARD 4 COUNCILMEMBER: SUPPORTING PROPOSED HOUSING CREDIT APPLICATION OF MV COMMUNITIES, LTD FOR AN APARTMENT DEVELOPMENT ON THE NORTH SIDE OF 17TH ST SE, EAST OF ALLEN AVE, KNOWN AS RENAISSANCE SENIOR VILLAGE. - ADOPTED BY COUNCIL

MEMBER CASAR: Mr. President, I move we adopted Resolution #23; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #23. 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 RESOLUTION #23 APPROVED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #23 is adopted.

SUSPENDED RULE 24B TO ADD RE#24:

#24 WEST, THOMAS E., WARD 2 COUNCILMEMBER: RECOMMENDING PLACEMENT OF A STREET LIGHT IN FRONT OF 705 NEY PLACE NW & SE CORNER OF 16TH & MAPLE AVE. - ADOPTED BY COUNCIL

MEMBER CASAR: Mr. President, I move we adopt Resolution #24; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #24. 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 RESOLUTION #24 APPROVED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: The Resolution is adopted. The Clerk of Council will forward a copy of this Resolution to the Sidewalk and Street Light Committee of Council.

COMMUNICATIONS

PRESIDENT DENCZAK: All communication are received as read, filed and properly 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 FEBRUARY 28, 2005.

106. AUDITOR R.A. MALLONN, CITY OF CANTON: CERTIFICATE OF THE TOTAL AMOUNT FROM ALL SOURCES FOR 2005 DATED 2/14/2005. - CLERK OF COUNCIL

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107. BAKER, CAROL, CONCERNED CITIZEN: EXPRESSING CONCERNS RE: PRIORITIES RELATING TO THE POSSIBLE RELOCATION OF FOOTBALL HOF & SUMMIT SCHOOL HOUSING ISSUES. - RECEIVED & FILED
108. CANTON PROFESSIONAL FIREFIGHTERS ASSOCIATION, LOCAL #249, PO BOX 20430, CANTON OH 44701-0430: NOTIFICATION OF ONE DAY FIRE GROUND OPERATIONS ORIENTATION FOR CIVILIANS, ELECTED OFFICIALS & MEDIA PARTICIPATION ON MAY 6, 2005 FROM 8:00 AM TO 2:00 PM AT STARK STATE COLLEGE OF TECHNOLOGY. - RECEIVED & FILED
109. CANTON-STARK COUNTY CRIME LABORATORY: 2004 ANNUAL REPORT. - RECEIVED & FILED
110. COMMUNITY DEVELOPMENT & PLANNING DIRECTOR MARGY POORMAN, CITY OF CANTON: REQUEST LEGISLATION AUTHORIZING MAYOR TO ENTER INTO AN ENTERPRISE ZONE AGREEMENT WITH PRECISION POWDER COATINGS, INC., dba PPC, INC., FOR EXPANSION OF FACILITY @ 1530 RAFF ROAD SW. - COMMUNITY & ECONOMIC DEVELOPMENT AND FINANCE CMTES
111. COMMUNITY DEVELOPMENT & PLANNING DIRECTOR MARGY POORMAN, CITY OF CANTON: REQUEST APPROVAL FOR CITY OF CANTON TO ACCEPT PARCEL #02-46570 FORMERLY OWNED BY FAMILY SERVICES LOCATED ON E. TUSCARAWAS STREET FROM THE CANTON COMMUNITY IMPROVEMENT CORPORATION. - COMMUNITY & ECONOMIC DEVELOPMENT AND FINANCE CMTES
112. COMMUNITY DEVELOPMENT & PLANNING DIRECTOR MARGY POORMAN, CITY OF CANTON: REQUEST TO SELL 17 PARCELS OF LAND AT FAIR REUSE VALUE IN ACCORDANCE WITH O.190/97 LAND DISPOSITION PROGRAM TO ABCD TO CONSTRUCT UP TO 40 LEASE-TO-PURCHASE HOMES. - COMMUNITY & ECONOMIC DEVELOPMENT CMTE
113. COMMUNITY & ECONOMIC DEVELOPMENT CORP., 218 WEST MAIN ST, RAVENNA OH 44266: NOTIFICATION THAT COMMUNITY & ECONOMIC DEVELOPMENT CORPORATION OF RAVENNA WILL DEVELOP A 146 SINGLE ROOM MULTIFAMILY RESIDENTIAL DEVELOPMENT AT CANTON YMCA, 405 SECOND STREET NW, FOR HOUSING THE HOMELESS. - RECEIVED & FILED (See Re#22)
114. COWAN, RALPH J., 138 DAISY ST, HOMOSASSA, FL 34446: REQUEST TO REZONE 1934 NAVARRE ROAD SW FOR PITA BREAD BAKERY - PLANNING COMMISSION
115. LAW DIRECTOR JOSEPH MARTUCCIO, CITY OF CANTON: ADVISING THAT COUNCIL MAY COMMENT UPON SID PETITION PROPOSING THE RENEWAL OF THE OPERATING ASSESSMENT; THE SID REQUESTS THAT COUNCIL PROMPTLY CONSIDER THE PETITION FOR RENEWAL. - RECEIVED & FILED

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116. LIQUOR CONTROL DIVISION, 6606 TUSSING RD, PO BOX 4005, REYNOLDSBURG OH 43068-9005: REQUEST BY LAKHANI CORP FOR NEW C1, C2 LIQUOR PERMIT LOCATED @ 2201 9TH STREET SW - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
117. LIQUOR CONTROL DIVISION, 6606 TUSSING RD, PO BOX 4005, REYNOLDSBURG OH 43068-9005: REQUEST BY RICK A. TUCKER dba EL JALAPENO @ 315 CLEVELAND AVE NW FOR LOCATION & OWNERSHIP TRANSFER OF D5 LIQUOR PERMIT FROM JIMMY E. BALL dba BALLROOM @ 331 CLEVELAND AVE NW - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
118. LIQUOR CONTROL DIVISION, 6606 TUSSING RD, PO BOX 4005, REYNOLDSBURG OH 43068-9005: REQUEST BY BELLA 7 LLC dba MAGGIORES DRIVE THRU 15 @ 1037 DUEBER AVE SW FOR OWNERSHIP TRANSFER OF C1, C2 LIQUOR PERMIT FROM KENNETH WILCOX JR. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
119. LIQUOR CONTROL DIVISION, 6606 TUSSING RD, PO BOX 4005, REYNOLDSBURG OH 43068-9005: REQUEST BY FREEWAY TAVERN INC. dba FREEWAY TAVERN @ 1316 NAVARRE RD SW FOR OWNERSHIP TRANSFER OF D2, D2X, D3 & D3A LIQUOR PERMIT FROM RAY BERTRAM INC. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
120. LIQUOR CONTROL DIVISION, 6606 TUSSING RD, PO BOX 4005, REYNOLDSBURG OH 43068-9005: REQUEST FOR STOCK TRANSFER OF D5 LIQUOR PERMIT REQUESTED BY JUNCTION TAVERN INC. @ 3009-13 WEST TUSCARAWAS ST. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
121. MAYOR JANET CREIGHTON, CITY OF CANTON: IN ANOTHER STEP TOWARD REORGANIZING CITY OPERATIONS, REQUEST TO AMEND CLASSIFICATION PLAN FOR MANAGEMENT & NON-BARGAINING UNIT EMPLOYEES TO DELETE THE DEPT OF TRAFFIC ENGINEERING & RENAME CIVIL ENGINEERING TO CITY ENGINEERING DIVISION. - PERSONNEL CMTE
122. MAYOR JANET CREIGHTON, CITY OF CANTON: REQUEST TO ACCEPT THE CONTRACT AMENDMENT BETWEEN CITY OF CANTON & LOCAL 3449/OHIO COUNCIL 8 OF AFSCME RETROACTIVE TO 1/1/05 RE: WAGE SCHEDULE OF PLANNING TECHNICIAN. - PERSONNEL CMTE
123. MAYOR JANET CREIGHTON, CITY OF CANTON: REQUEST TO COMPENSATE CURTIS BUNGARD, TEMPORARILY APPOINTED AS CITY CIVIL ENGINEER, AT GRADE 2 STEP 3 SALARY OF \$66,633 RETROACTIVE TO 2/1/05; ALSO COMPENSATE HIM FOR HOURS WORKED, HOLIDAYS, SICK LEAVE, VACATION &/OR COMP TIME. - PERSONNEL CMTE
124. OHIO EPA, LAZARUS GOVERNMENT CENTER, 122 S FRONT ST, COLUMBUS OH 43215: PUBLIC NOTICE (No. 05-02-031) OF NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT RE: DISCHARGE OF POLLUTANTS FROM MARATHON ASHLAND CANTON REFINERY @ 2408 GAMBRINUS AVE SW WITH COMMENTS BEING ACCEPTED THROUGH 3/12/05. - RECEIVED & FILED

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125. SAFETY DIRECTOR BERNARD L. HUNT, CITY OF CANTON: REQUEST FOR POLICE DEPT TO CO-APPLY FOR & ACCEPT BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT; REQUESTING AUDITOR TO RENAME 2773 LAW ENFORCEMENT BLOCK GRANT TO 2773 BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT; REQUEST \$73,532 SUPPLEMENTAL APPROPRIATION FROM 2773 BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUND. - FINANCE CMTE
126.
127. SERVICE DIRECTOR JOSEPH J. CONCATTO, CITY OF CANTON: REQUEST TO ADVERTISE, RECEIVE BIDS & ENTER INTO CONTRACT FOR TAPPING & LINE STOPPING SYSTEM & VALVE INSERTION SYSTEM FOR WATER DEPT; REQUEST \$80,000 SUPPLEMENTAL APPROPRIATION. - ENVIRONMENTAL & PUBLIC UTILITIES AND FINANCE CMTE
128. SERVICE DIRECTOR JOSEPH J. CONCATTO, CITY OF CANTON: REQUEST TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT PROVIDING STOP-LOSS INSURANCE COVERAGE RETROACTIVE TO 2/1/05 WITH NATIONWIDE LIFE INSURANCE CO. IN LIEU OF TRUSTMARK INSURANCE COMPANY AUTHORIZED BY O.10/2005. - FINANCE CMTE
129. STARK COUNTY COMMISSIONERS, 110 CENTRAL PLAZA S, #240, CANTON OH 44702-2202: SUBMITTING ALL PERTINENT DOCUMENTS PURSUANT TO THE GRANTING OF THE ANNEXATION OF 54.8231 ACRES IN PLAIN TOWNSHIP KNOWN AS PLEASANT VIEW/EASTRIDGE ANNEXATION AREA. - RECEIVED & FILED
129. TREASURER ROBERT C. SCHIRACK, CITY OF CANTON: SUBMITTING NOTIFICATION OF \$18,999.13 REVENUE COLLECTION FOR 4TH QTR. TAX RECEIPTS AS RESULT OF TRANSIENT LODGING TAX. - RECEIVED & FILED

ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING

PRESIDENT DENCZAK: We are now under Ordinances for the first reading. Ordinance #1 please.

NOTE: PRESIDENT OF COUNCIL DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #1 THROUGH AND INCLUDING #3 FOR THE FIRST TIME BY TITLE & ANNOUNCED THE COMMITTEE REFERRALS, AS FOLLOWS.

- #1 (1ST RDG) AN ORDINANCE NAMING AN UNNAMED ALLEY IN THE CITY OF CANTON, H. CARSON COURT
Referred to the Public Safety & Thoroughfares Committee
- #2 (1ST RDG) AN ORDINANCE APPROVING AND ACCEPTING THE REPLATTING OF LOTS 30910, 30909 AND PART OF LOT 30908; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Public Safety & Thoroughfares Committee

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- #3 (1ST RDG) AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO PAY A MORAL OBLIGATION IN THE AMOUNT OF \$8,134.00 TO 3-D SERVICE; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Finance Committee

ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING

PRESIDENT DENCZAK: Ordinances and Formal Resolutions for the Second Reading.

NOTE: PRESIDENT OF COUNCIL DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #4 THROUGH AND INCLUDING #9 FOR THE SECOND TIME BY TITLE, AS FOLLOWS.

- #4 (2nd RDG) AN ORDINANCE AUTHORIZING THE MAYOR OR SERVICE DIRECTOR TO ENTER INTO A LEASE AGREEMENT WITH STARK STATE COLLEGE OF TECHNOLOGY; AND DECLARING THE SAME TO BE AN EMERGENCY (Coleman Community Ctr)
- #5 (2nd RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 253/2004, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS, REDUCTIONS AND APPROPRIATIONS AND INTERFUND TRANSFER HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY (\$16.42 Summer time Fund Kid Grant, etc.)
- #6 (2nd RDG) A RESOLUTION CONSIDERING AND APPROVING THE PETITION FOR RENEWAL OF THE OPERATING ASSESSMENT OF THE DOWNTOWN CANTON SPECIAL IMPROVEMENT DISTRICT; AND DECLARING THE SAME TO BE AN EMERGENCY
- #7 (2nd RDG) AN ORDINANCE APPROVING A CANTON CITY WATER MAIN EXTENSION TO THE VILLAGE OF MEYERS LAKE; 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
- #8 (2nd RDG) AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF REAL PROPERTY IN CONJUNCTION WITH THE MARKET AVENUE NORTH SANITARY/SEWER REPLACEMENT PROJECT, GP 1070; AUTHORIZING THE MAYOR TO DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND PURCHASE SAID PARCELS AT THE ESTABLISHED FAIR MARKET VALUES; AND DECLARING THE SAME TO BE AN EMERGENCY
- #9 (2nd RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH VALLEY FORD TRUCK SALES, INC. IN THE AMOUNT OF \$22,729.12 FOR THE PURCHASE OF A FORD F350 CHASSIS AND

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CAB PURSUANT TO O.R.C. SECTION 125.04; AND DECLARING THE SAME TO BE AN EMERGENCY

ORDINANCES AND FORMAL RESOLUTIONS FOR THIRD READING

PRESIDENT DENCZAK: Ordinances and Formal Resolutions for the third and final reading. Ordinances 10 and 11 have already been acted on. Ordinance #12, please.

NOTE: PRESIDENT OF COUNCIL DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE REMAINING ORDINANCES #12 THROUGH AND INCLUDING #21 FOR THE THIRD & FINAL TIME BY TITLE, AS FOLLOWS. ALL ORDINANCES WERE ADOPTED FOLLOWING THEIR 3RD READING.

#12 (3rd RDG) **ADOPTED AS ORDINANCE NO. 27/2005** AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN ENTERPRISE ZONE AGREEMENT WITH REPUBLIC ENGINEERED PRODUCTS, INC. TO PROVIDE REAL AND PERSONNEL PROPERTY TAX EXEMPTIONS; AUTHORIZING THE AUDITOR TO MAKE PAYMENTS TO THE CANTON LOCAL BOARD OF EDUCATION AS REQUIRED TO BE PAID PURSUANT TO SECTION 5709.828 AND (D) OF THE REVISED CODE; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: 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?... Very well, roll call vote please.

NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #12 is adopted. **#12 ADOPTED AS ORDINANCE NO. 27/2005**

#13 (3rd RDG) **ADOPTED AS ORDINANCE NO. 28/2005** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A PROFESSIONAL SERVICE CONTRACT WITH AMOS DATA SYSTEMS, INC. IN AN AMOUNT NOT TO EXCEED \$24,000.00 TO ASSIST THE CITY IN UPGRADING OUR VOICE COMMUNICATION SYSTEM; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: 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 12 YEAS, 0 NAYS

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PRESIDENT DENCZAK: Ordinance #13 is adopted. **#13 ADOPTED AS ORDINANCE NO. 28/2004**

#14 (3RD RDG) **ADOPTED AS ORDINANCE NO. 29/2005** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR THE PURCHASE OF THIRTEEN (13) BREATHING APPARATUS; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: 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 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #14 is adopted. **#14 ADOPTED AS ORDINANCE NO. 29/2004**

#15 (3RD RDG) **ADOPTED AS ORDINANCE NO. 30/2005** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO CONTRACT WITH MOTOROLA, INC. FOR THE PURCHASE OF TWENTY-FIVE PORTABLE RADIOS AND RELATED EQUIPMENT FOR THE FIRE DEPARTMENT; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: 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 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #15 is adopted. **#15 ADOPTED AS ORDINANCE NO. 30/2004**

#16 (3RD RDG) **ADOPTED AS ORDINANCE NO. 31/2005** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ACCEPT A GRANT FROM THE BUREAU OF WORKER-S COMPENSATION SAFETY IN THE AMOUNT OF \$13,920.00; AMENDING APPROPRIATION ORDINANCE NO. 253/2004, AS AMENDED; AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR THE PURCHASE OF EIGHT STRYKER STAIR CHAIRS FOR THE FIRE DEPARTMENT; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: 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?... Very well, roll call vote please.

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NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #16 is adopted.

#16 ADOPTED AS ORDINANCE NO. 31/2004

#17 (3RD RDG) **ADOPTED AS ORDINANCE NO. 32/2005** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO CONTRACT WITH FINLEY FIRE EQUIPMENT COMPANY, INC. IN AN AMOUNT NOT TO EXCEED \$25,092.00 FOR THE PURCHASE OF 100 VOICE AMPLIFIER SYSTEMS PURSUANT TO OHIO REVISED CODE SECTION 125.04; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #17; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #17. Are there any remarks under this Ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #17 is adopted.

#17 ADOPTED AS ORDINANCE NO. 32/2004

#18 (3RD RDG) **ADOPTED AS ORDINANCE NO. 33/2005** AN ORDINANCE REPEALING CHAPTER 951, CLEANING SEWERS, OF THE CODIFIED ORDINANCES

MEMBER CASAR: Mr. President, I move we adopt Ordinance #18; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #18. Are there any remarks under this Ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #18 is adopted.

#18 ADOPTED AS ORDINANCE NO. 33/2004

#19 (2ND RDG) **ADOPTED AS ORDINANCE NO. 34/2005** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH FORT DEARBORN LIFE INSURANCE COMPANY FOR GROUP TERM LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE COVERAGE FOR ELIGIBLE CITY EMPLOYEES; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #19; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #19. Are there any remarks under this Ordinance?... Very well, roll call vote please.

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NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #19 is adopted.

#19 ADOPTED AS ORDINANCE NO. 34/2004

#20 (2nd RDG) **ADOPTED AS ORDINANCE NO. 35/2005** 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

MEMBER CASAR: Mr. President, I move we adopt Ordinance #20; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #20. Are there any remarks under this Ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL 9 YEAS, 3 NAYS
(CASAR, CARBENIA & GRIFFIN VOTED NO)

PRESIDENT DENCZAK: Ordinance #20 is adopted.

#20 ADOPTED AS ORDINANCE NO. 35/2004

#21 (2nd RDG) **ADOPTED AS ORDINANCE NO. 36/2005** AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO PAY A MORAL OBLIGATION IN THE AMOUNT OF \$10,225.25 TO COOPER AND ASSOCIATES; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #21; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #21. Are there any remarks under this Ordinance?... Very well, roll call vote please.

NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #21 is adopted.

#21 ADOPTED AS ORDINANCE NO. 36/2004

ORDINANCES AND FORMAL RESOLUTIONS - POSTPONED MATTER:

PRESIDENT DENCZAK: We have a postponed matter. Ordinance #22, Member Casar.

#22 (RECEIVED ALL 3 RDGS & POSTPONED FROM 2/7/05 & 2/14/05)

AN ORDINANCE AMENDING CHAPTER 133, FIRE DEPARTMENT, OF THE CODIFIED ORDINANCES OF THE CITY OF CANTON

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MEMBER CASAR: Mr. President, I move we adopt Ordinance #22; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #22. Are there any remarks under this Ordinance?...

MEMBER ZACHARY: I would just like to go on record as saying we had discussed this in committee, and one of the criteria for determining who would be billed would be to charge the at-fault driver. I do want to go on record as saying, as someone who is in the insurance industry as an adjuster, that to determine who was at fault for an accident is not predicated on what the police department decides. Just because the police department cites someone in an accident, doesn't mean they're 100% liable for that accident, and we put very little weight on the police reports when we do get them as far as determining who was at fault. So I just wanted to go on record as saying that. If I were not associated with the industry, my vote would be no.

PRESIDENT DENCZAK: Any other remarks?... Alright. The question you're voting on now is Ordinance #22. Roll call vote please.

NO REMARKS

ROLL CALL 8 YEAS, 3 NAYS, 1 ABSTENTION
(PRATER, DOUGHERTY & DIAMOND VOTED NO; ZACHARY ABSTAINED)

PRESIDENT DENCZAK: Ordinance #22 has passed.

#22 ADOPTED AS ORDINANCE NO. 37/2004

ANNOUNCEMENT OF COMMITTEE MEETINGS

PRESIDENT DENCZAK: Announcement of Committee Meetings please.

MEMBER BABCOCK: Mr. President, Public Safety & Thoroughfares will meet at 6:00 on March 7th.

MEMBER HAWK: Mr. President, Finance will meet Monday, March 7th, at 6:00.

MEMBER CARBENIA: Mr. President, the Economic Development Committee will meet at 6:00 next -- on the 7th, and we will be discussing the Summit Homes and the Monument Road project.

MEMBER HART: Mr. President, Recycling Committee will meet briefly next Monday after the others at 6:00.

PRESIDENT DENCZAK: Any others?...

MEMBER HART: I've been waiting a long time for that, Mr. President. Don't look so surprised. (LAUGHTER)

MAYOR CREIGHTON: Mr. President, is there such a thing as a Recycling Committee?

PRESIDENT DENCZAK: Not to my knowledge. (LAUGHTER) There should be so we can get rid of some of this trash that comes before Council. (OOH-S FROM THE AUDIENCE) What did they call me in the paper? Polished wit (CHUCKLES). At least they didn't call me a nit wit. Okay. Any other committees?...

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The Clerk reminds me to announce that there will be an annual meeting of the Chamber (*of Commerce*) with Council on March the 14th, 5:30, here in the Council Chambers.

PUBLIC SPEAKS (OPEN FORUM--CITY BUSINESS ONLY)

PRESIDENT DENCZAK: Public Speaks, Open Forum. We have two people signed up to speak this evening. The first speaker Renee Dumas.

MS. DUMAS: Hi, my name is Renee Dumas, and first of all I want to thank all of you for allowing me these few minutes to speak.

PRESIDENT DENCZAK: State your address, Ma=am, please.

MS. DUMAS: 2624 Kirby Avenue NE, Canton, Ohio.

PRESIDENT DENCZAK: Okay.

MS. DUMAS: On November 30, 2004, my 16 year old son was invited to the Louisville YMCA on a guest pass by four of his friends. I was hesitant at first because of my experience living in Louisville in 1997 which resulted in me abandoning my home. At 9:20 PM a hysterical mother pounded on my door screaming Brandon had been hurt at the Y. My son had only been gone two hours. I was not surprised nor shocked. I was afraid. Afraid for my child. When I arrived at the Louisville YMCA, the fire department was escorting my son out hands placed beneath his elbows, my son's head hanging down and tears etched in his red swollen face. The police officers first stopped me from getting to my son of defense posture I learned in the military, and knew at once it would be difficult to get to my child. My son was very unstable, angry, confused and everything in my experience as an ER tech was conclusive to a head injury. Once I quieted my child down, I looked past the two officers and Ms. Stewart and walked into the YMCA passing her frantic children, and her 15 year old child jumped over the counter to call for help because no one was at the Y, no supervision was available. James Stewart frantically tried to inform us of the events. As Ms. Stewart and I walked into the gym I noticed two tall white men and two police officers engaging in a very private comical conversation. I asked who did this to my boy. The tall 20 something blonde smiled as if he had done a good deed and replied, I did, with a smile on his face. The older white male with dark hair and a grey T shirt on looked away. As I turned, they began their comedy again. Ms. Stewart stomped away in disbelief at their actions. At one point a red haired small lady said, >who woke me up for this mess, who's this Brandon character?=- Ms. Stewart kept squeezing my hand as if to signify please be quiet. I later would learn her name was Patricia, the director of the Louisville YMCA. She called the next day to say, I took care of your son, I put ice on his wounds. I explained with as much patience as I could muster and politely said, I was the women in front of you last night at the YMCA. I was Brandon's mother. She hung up on me. You see, Brandon's friends who are white wanted to play ball. An argument ensued between Clinton McCoy and my son over the court. Clinton at one point kicked the ball to my son's head. Eventually another man grabbed my son's arms behind his back and Clinton landed the punch that laid my 16 year old out unconscious on the floor for five minutes while they continued to play ball over his unconscious body. Mind you, these two men were adults, grown men. My child was only 16. Later I learned my son suffered a concussion, amnesia and a brain bleed. Mr. McCoy went to court and a no bill was issued, not sufficient evidence. The man who held my son became invisible. I wrote a letter and faxed it to the *Louisville Herald*. Now my son surprisingly is facing a misdemeanor charge of

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disorderly conduct for his behavior in the ambulance which is consistent with a concussion and a brain bleed. He was not put on a stretcher or restrained, so he was not violent. Mr. and Mrs. Stewart and her children and my nine year old daughter tried to speak with Brandon in the squad car, and I remember the officer McCabe's comments which I do not wish to repeat. My problem is what happened to the prosecutor's responsibility to provide adequate evidence, witness statements and medical reports? Between reporters, myself, outside help and even a few residents of Louisville itself, acquired more information than anything on the police reports. Victims are defenseless and without a good defense, they are still victims. I just ask those of you with a conscience to consider my predicament and put your son in my son's shoes. A 16 year old boy barely 145 pounds laying face up unconscious while grown men played ball over his body, and a jury, a secret jury, warrants no formal charges even though two adults beat a child that led to a brain bleed and become a defenseless victim by the YMCA, by the men who beat him, and by the court. Thank you.

PRESIDENT DENCZAK: Mrs. Dumas, you're a citizen of Canton?

MRS. DUMAS: Yes, I am, sir.

PRESIDENT DENCZAK: Did you report this to the Louisville Council?

MRS. DUMAS: Yes, I did.

PRESIDENT DENCZAK: What action did they take?

MRS. DUMAS: The Mayor there -- I walked in and the Mayor came down and escorted us outside to talk to us, and she said she would look into the matter. I called her, I never heard from her again, so right now, as far as Louisville's side, they're saying it's being investigated. But, Mr. -- the man who held my son, he walked away that night without being charged, and the police statements and the witness statements, the man does exist, but they tried to make it look like the man did not exist. However, I did find him. Me and the *Akron Beacon Journal* found the man and he did confess to holding my son. And the other man -- the one man held my son, the other one beat him. And he did lay on the floor unconscious for five minutes while these men played ball over his body. I understand, I just learned about a no bill, and Mr. Vance called and said the reason it was a no bill because non sufficient evidence; however, I have a stack of medical documents supporting his brain bleed, his concussion, his teeth going through his jaw, the young men he went with, their statements as well. And I'm just -- right now I'm very disappointed in the legal system. If there was not enough evidence, you know, I have it. The reporters have it. I can't understand men who can be-- not matter what, can beat up a child and just walk away.

PRESIDENT DENCZAK: Well, Ma'am, I'm sorry, but Canton City Council can't do anything about it. We are very sympath...

MRS. DUMAS: Pardon me?

PRESIDENT DENCZAK: Canton City Council cannot do anything about it.

MRS. DUMAS: I just wanted to bring it to your attention.

PRESIDENT DENCZAK: Right, right. And we're glad you did. The Law Director, please.

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LAW DIRECTOR MARTUCCIO: Yes, Mr. President. Mrs. Dumas, Members of Council, to help shed a little more light on this. Last week I received a telephone call at home. One of my friends is a member of a local congregation. Apparently this case was discussed at the local congregation because of attendance at an NAACP meeting and the concern that was generated over what happened to your son. I began making some telephone calls and learned that the charge of disorderly conduct against your son can only be lodged by a police department or perhaps a grand jury, and it was lodged against him as a juvenile. That did not come to our office. What did come to the Canton Municipal Prosecutor's Office, which is part of the Law Department, is an assault charge against one of the adults. Our office enhanced that to a felony when we saw reports. That then was bound over or sent from the Canton Municipal Court to the Stark County Grand Jury. The Canton Municipal Court cannot entertain or finish felonies, they can only begin felonies. So a judge sent it to the Stark County Grand Jury. That's a group of nine to twelve people who meet periodically I believe once a week for a few months, in secret as you said...

MRS. DUMAS: Uh-mmm.

LAW DIRECTOR MARTUCCIO: ...and the prosecutor's office presents the evidence they have to that group of nine to twelve people. Usually it involves police testimony, records if they have them. That body can either choose to indict somebody with a felony as charged, reduce it to a misdemeanor, or what they call no bill it, which I believe is what happened...

MRS. DUMAS: Right.

LAW DIRECTOR MARTUCCIO: ...in this case, meaning choose not to indict. I did contact the Stark County Prosecutor's Office and asked them if they could find out what happened and get in touch with you or someone in your family. So, I didn't know what had happened once it left here. Insufficient evidence could be that a crucial witness failed to appear. It could be a number of reasons why it was labeled insufficient evidence. You do know you have another source of recourse, and that is through the civil courts. A lawsuit is always possible. If you and your son and your attorney feel that it is merited, you can pursue that course of action against the people that you believe tortuously or civilly hurt your son. But again, our experience with it here was very limited. We were sort of a pass through. We raised it, sent it back to the Grand Jury.

MRS. DUMAS: Right, and I didn't understand any of the processes, and like the disorderly conduct against my son, which happened 15 days -- the incident happened November 30th, and 15 days a Louisville resident knocked on my door, Mr. Kevin Ellis, and he brought a police report about Mr. McCoy which I never received, and then there was one against my son for the way he behaved in the ambulance which is conclusive to a brain bleed or a head injury. You know, of course I was upset about that, you know, 'cause now I have to go through this, I have to get his name cleared from this misdemeanor, and I just wanted to bring it here to Canton because I feel so strongly about it, and I just wanted the Mayor to know that, you know, this happens, you know, and I also have to bring up the reason why this happened, because I really do hate to say this, you know, cause it's 2005, but when my son went across that court to play ball, Mr. McCoy's words were, and I can only say-- >get the Af@ off the court, nigger.= And that's when it all ensued. The police officer at the ambulance, I sat there and listened to them talk 'cause they didn't know I was Brandon's mother. When I walked into that YMCA, Patricia, the YMCA director, didn't know I was Brandon's mother, so I heard all this 'cause they did not know who I was, and then this happens. So, sometimes if you look at somebody, you really don't know who they are, and when I walked in there, as soon as I got out of the truck, from the time Ms. McCabe, the officer, seen me, they talked and talked and talked. They did not know Brandon was my son, so I

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heard a lot of nasty words that I thought I'd never hear again. So, that's another reason I brought it here today because, like I said, I lived in Louisville before, and I abandoned my home and moved to Canton. And what happened this day was terrible, the things I heard, the word nigger over and over, and then for it to go to court as a no bill, then a misdemeanor charge for a boy who has a brain bleed who doesn't even remember anything, I feel strongly about bringing it out, and I really appreciate your giving me that chance to bring it out, I really do. Thank you so much for listening to my story.

PRESIDENT DENCZAK: Thank you. Thank you, Ma'am. (*APPLAUSE*)

MEMBER BERNABEI: Mr. President, a question for the Law Director—maybe an awkward or difficult question, but this case was investigated by the Canton Prosecutor's Office?

LAW DIRECTOR MARTUCCIO: This case was investigated by the Louisville Police Department. It was brought to the Canton Prosecutor's Office as a misdemeanor. My understanding is it was enhanced to a felony charge and bound over.

MEMBER BERNABEI: And the preliminary hearing was conducted on that, or not?

LAW DIRECTOR MARTUCCIO: That I'm not sure of. Again, I received this call last week at home between having the chills and the shakes and a fever. Today is my first day back at work. I have yet to review the file personally, but this is the best of my belief based on the officials that I've spoken with.

MEMBER BERNABEI: I guess my question to you would be, and I'm not sure of the answer to that, but the question that I would have is whether or not the city prosecutor can refile that charge as a misdemeanor given the fact that it was no billed as a felony by the Grand Jury, and proceed with that case in Municipal Court if in fact you find that, you know, probable cause and so forth exists.

LAW DIRECTOR MARTUCCIO: It's something we can look into. As you're aware, it is not likely double jeopardy. It was not decided by a jury or a judge, so that's something we can look at. Thank you.

PRESIDENT DENCZAK: The next speaker is David Reed.

MR. ROOD: (*SPEAKING FROM THE AUDIENCE*) I'll pass on speaking tonight. Thank you very much for the opportunity.

PRESIDENT DENCZAK: Is that your name, Reed?

MR. ROOD: Rood, R-O-O-D.

MISCELLANEOUS BUSINESS

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

LAW DIRECTOR MARTUCCIO: Mr. President. As I mentioned during the caucus, last week this Council passed-- two weeks ago rather, when the Council last met, it passed a couple of informal resolutions which

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extended support from this City Council of Canton to proposed ABCD Homes V and Project VI located on scattered sites throughout wards 2 and 4, proposing up to 40 single family homes each. And these would be targeted for low to mod-- or low moderate, low income folks. It mentioned that none of the homes would be market rate and none of them would be targeted for special needs population, and the development would utilize housing tax credits. Some of you, particularly Member Carbenia and Member Hawk who wrote to me, asked if that wording was appropriate. The wording being, none of the homes will be targeted for special needs population, or if it could be altered or eliminated. We have received correspondence, Member Hawk and I, from the Ohio Department of Development. They explained that when a housing project applies to get development funds, an additional 15 points are given to the applicants if they get a resolution of support from their local city council, which is the case here. A copy of the resolution has to be forwarded with the application which is the case here. The resolution according to State regulations, specifically page 29, say that the application has to specifically mention any special needs population to be served or indicate that the project is not targeted for a special needs population. So one phrase or the other must appear in the wording, that it is targeted and to what extent, or it is not. Of course, the letter from the Ohio Department of Development reminds us that a decision by the applicant not to set aside units for a special needs population does not in any way prohibit the owner from renting units to income qualified persons with special needs, no matter what elections are made in the application for the housing tax credits. All owners must comply with federal fair housing laws. These laws require for example a minimum number of accessible units, newly constructed buildings, and on a non-discriminatory leasing policy for all rental units. Failure to comply with those laws will also result in a finding of non compliance. So to sum up, the language was a necessary precondition to getting the resolutions, to getting the 15 points, to getting these homes built. No one who applies for these homes can be discriminated against on the basis of any protected class be they disability, handicap, race, ethnic origin, etc., etc. If they are, not only is the applicant in danger of non compliance, but the party who feels discriminated against can come to any one of a number of city, state or local, or federal agencies to process their grievance.

MEMBER WEST: Mr. President. Yes, on March 13th at 9:30, there will be anywhere from 70 individuals, 70 to 80 kids coming from around the country to pay it forward here in Canton, Ohio. These individuals will be giving up their Spring break to come up and clean Nimisilla Park and the surrounding area. If there=s anybody interested in coming down to Nimisilla Park to help clean up the effort, please come on down at about 9:30 on March 13th. Mayor J. Dog will be there as well.

PRESIDENT DENCZAK: The Mayor=s good at cleaning up neighborhoods. Is there any other miscellaneous business?

MEMBER ZACHARY: Mr. President, I would just like to ask the Service Director, I=ve called for the past three or four weeks, at least once a week, in reference to pot holes on East Tusc and Belden, and I do exercise patience because I know we have the entire city to look after; however, as time goes on they=re getting worse, and right now, just in that particular intersection, I do believe it=s presenting a dangerous situation because people are swerving into the turning lane to avoid the pot holes. Sometimes people don=t always exercise caution. I=m afraid there=s going to be an accident there if we don=t get some patch on those pot holes real soon. So, I would just like to know what is the normal turn around time. I know we=ve got pot holes all over the city, but just in that particular area if we could get them taken care of, I would really appreciate it.

SERVICE DIRECTOR CONCATTO: Mr. President. Councilperson Zachary, this is the first I=ve heard of it. Did you give it to Kevin?

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MEMBER ZACHARY: I've talked to Tammy at least twice. I've talked to Brenda twice because I called her again today just to get an update on what was happening with that and to report more pot holes. It is-- if you're on Tuscarawas Street by the Rite Aid, at that intersection, Tusc and Belden, it's there.

SERVICE DIRECTOR CONCATTO: I will find that out.

MEMBER ZACHARY: Thank you.

SERVICE DIRECTOR CONCATTO: They should do it within 24 hours, but obviously they didn't. I don't know, but I'll find it out. I can tell you if it's snowing tomorrow obviously they won't do it, but I will find out. They've been out. They were at -- I'll find out.

PRESIDENT DENCZAK: Is there any other miscellaneous business?

MEMBER BERNABEI: Mr. President, I would like the City Council and Administration to know that I had a very pleasurable experience yesterday morning, Sunday morning. I took my grandchildren ice skating at the city ice rink. It is a beautiful setting. I see Mr. Rood is here tonight and he maintains that skating rink, and I never met the gentleman before, he was here for another reason tonight. But the ice was cleared, it was a beautiful morning. Unfortunately, we were the only people using it. I would urge the City in one of its marketing things for winter to do to market that because it is a very nice outdoor rink in a very nice park-like setting. And a special thanks to Mr. Hawk who believe it or not at 10:30 in the morning was up cleaning his place of business, opened the doors for us and gave not only my grandchildren, but me, hot chocolate. Thank you.

PRESIDENT DENCZAK: Was it free?... I didn't know about it.

MEMBER BERNABEI: It was free, but there was a large tip left for him. *(LAUGHTER)*

PRESIDENT DENCZAK: Now that you're talking about the ice skating rink, the council office and I got a call last week from a gentleman ice skater who complained that somebody's turning the music off, and he loses his balance when the music stops playing. Does anybody know about that over there, Member Hawk?

SERVICE DIRECTOR CONCATTO: Mr. President, we're looking into that, sir. *(LAUGHTER)*

PRESIDENT DENCZAK: You heard about it too?... Yes, okay.

SERVICE DIRECTOR CONCATTO: Mr. President, on that same note. The ice skating rink however will close March 7th, will be the last -- that Sunday will be the last day for the ice skating rink, getting it ready for the Spring, and...

PRESIDENT DENCZAK: Will you still be giving hot chocolate away? *(LAUGHTER)* Is there 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.

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NO REMARKS PERMITTED ON THE MOTION TO ADJOURN

ROLL CALL: 12 YEAS, 0 NAYS

ADJOURNMENT TIME: 8:26 p.m.

ATTEST:

APPROVED:

DEBRA VANCKUNAS
CLERK OF COUNCIL

RAY DENCZAK
PRESIDENT OF COUNCIL