

MINUTES OF THE MEETING OF JANUARY 6, 2003

The regular meeting of Canton City Council was held on Monday, January 6, 2003, at 7:30 P.M. in the Canton City Council Chamber. The meeting was called to order by President of Council Ray Denczak. The roll call was then taken (as follows) by Clerk of Council Debbie Vanckunas. The invocation was given by Councilmember Mary M. Babcock, followed by the Pledge of Allegiance led by President of Council Denczak.

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

ROLL CALL: 12 COUNCILMEMBERS PRESENT (BILL SMUCKLER, DONALD E. CASAR, MARY M. BABCOCK, GREG HAWK, KATHLEEN ALTIERI BUCHER, RICHARD A. MALLONN II, CRAIG MASSEY, JOHN R. MROCZKOWSKI, DAVID R. DOUGHERTY, RICHARD D. HART, ROSEMARY DIAMOND & JOE CARBENIA)

NO COUNCILMEMBERS ABSENT

AGENDA CORRECTIONS & CHANGES

PRESIDENT DENCZAK: Changes to your Agendas, Members of Council. You're being asked to suspend Rule 24B to add Resolutions 1 through and including #6. Number 7 had been in Council Office on time. You are being asked to retain Ordinance #7 in committee under second readings. And change ordinance referral #2, Ordinance #2 referral to Public Property Capital Improvement and Finance Committee. The Chair will now recognize Rule 24B suspension, Member Smuckler.

MEMBER SMUCKLER: Mr. President, I move we suspend Rule 24B and add Informal Resolutions 3 through 6 to the agenda; seconded.

PRESIDENT DENCZAK: Wait a minute, that's 3 to 6?

MEMBER SMUCKLER: That's correct, sir. One and two didn't receive the necessary signatures.

PRESIDENT DENCZAK: Okay. It's been moved and seconded to suspend Rule 24B to add Resolutions 3, 4, 5 and 6 to the agenda; are there any remarks?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: You're being asked to suspend Rule 22A to add the second reading of Ordinances 6 through and including #11, Member Smuckler.

MEMBER SMUCKLER: Mr. President, I move we suspend Rule 24A and add Ordinances...

PRESIDENT DENCZAK: Eight...eight through eleven.

MEMBER SMUCKLER: Eight through 11 to the Agenda; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 22A to add Ordinances 8 through and including #11 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 8, 9, 10, 11 are a legal part of your agenda. This brings your Agenda up to date, Members of Council.

PUBLIC HEARINGS

PRESIDENT DENCZAK: There are no scheduled public hearings at this time.

PUBLIC SPEAKS (ORDINANCES OR RESOLUTIONS FOR ADOPTION ONLY)

PRESIDENT DENCZAK: We have several speakers signed up for Ordinances or Resolutions for Adoption. The first speaker is Adam Artimez.

MR. ARTIMEZ: Hello everybody. Adam Artimez, I'm employed in the City of Canton Code Enforcement Office. It's not necessary to go into detail...

PRESIDENT DENCZAK: State your address, Mr. Artimez.

MR. ARTIMEZ: 1971 State Street N.E. It's not necessary to go into detail tonight because it was removed from the agenda. I just wanted to go on record to speak out against the proposal. I think I'll leave it at that, being that it was removed from the agenda until it's present again. Thank you.

PRESIDENT DENCZAK: I understand that Rick Hoffman doesn't want to speak, is that correct? (*FROM THE AUDIENCE, MR. HOFFMAN DECLINES TO SPEAK*) Jim Robinson scratched his name out, is that correct?... (*INAUDIBLE RESPONSE*) The next speaker is Rick Zengler.

MR. ZENGLER: Rick Zengler, 940 Los Olas NW. And I understand that Resolution #7 has been withdrawn from the agenda tonight. I'd still like these comments placed on the, for the record. First, the title that's on the agenda should be amended for Resolution #7. It states that Council supports the idea of merging two departments. That supposedly is not now the intent, that the resolution is only to encourage the exploration of an idea. I think that the title should reflect what the actual resolution is about so that there is no confusion down the road. Secondly, as for the last paragraph about exploration, this speaker on more than one occasion, has requested just that exact action. Now someone steps forward and shirt-tails it on proposed actions that this Local finds abominable and again, reaction instead of action. Will this be the first in a series of helter-skelter attempts to rectify problems with here an idea, there's an idea, and everywhere's an idea. That is why AFSCME's many weeks ago to form a committee was done when it was to have a systematic approach to all of the...to the issues that are confronting us today. The proposal that was submitted by someone to someone did not include input from the Code Department, the Building Department, nor the Building Department Supervisor, nor the AFSCME Local directly involved. In fact, it does not at this time have the blessing of the Board of Health, nor its top administrators. They knew of the proposal being

formulated, but they did not endorse its being submitted, nor had they studied its ideas or any cost factors that they would have encumbered upon them. In fact, shouldn't an idea of this magnitude have come from at least one of the heads of the departments that are being effected? Without debating the merits of the proposal in its entirety, the proposal that some people have obtained, some people have not, have contained erroneous information that they're basing their decisions on. And this proposal has only now served to cause panic and low morale among Code Enforcement employees. This, when the current Code Department has been the envy of cities across the State of Ohio. Many of those city officials having asked members of the Building and Code Department and its former supervisor how they could copy it. Also as Mr. Picard addressed to you tonight in Council committee that this could have a serious impact on the recently ratified contract between the City and Local 3449 with the erosion of the work force. I find it a sorry state of affairs to see that Council must approve investigating something on its own especially when the final decisions will be made by the Administration. I believe it would have been more apropos to do the exploring of the proposal and then come forth with a recommendation of endorsement or non-endorsement. This Local stands ready, again, to join with the Administration, with City Council, to formulate cost-saving measure and the dreaded reorganization work. We have never backed down from that. But it should be done with a total picture in mind, not just becoming members of the idea of the month club. And I have to put in one form of alliteration for Mr. Martuccio or he would be very upset at me tonight. In closing, concerning the proposal, I would say that beware a plate of food when it is covered with sauces of self-servitude. Thank you.

PRESIDENT DENCZAK: The next speaker is Tim Cugini.

MR. CUGINI: Good evening. Tim Cugini, 2610 Market Avenue North. I also understand that Resolution #7 has been tabled, however, I wish to go on record also. I'm a lifelong resident of the City of Canton. I've been employed by the City of Canton for 15 years, 8 of those years as a Building Code Enforcement Office. I come here tonight to oppose a resolution concerning the merging of the Building Code Enforcement function and to the Health Department's environmental function. I feel this resolution was created on unproven facts and half truths. As you know, the Building Code Enforcement Department not only handles nuisance complaints, but the majority of the work is responsible for the registration and inspection of residential rental property in the City of Canton. This system was put into place to provide decent, safe and sanitary housing for all citizens of Canton. Building Code Enforcement employs 5 Code Officers of which 4 are certified by the State of Ohio. The City of Canton has approximately 35,000 total housing units, of which approximately 15,500 being rental units. This resolution doesn't even address that aspect of Building Code Enforcement Department—which was the main reason the Code was enacted. We all know that changes are needed and are welcome to help us serve the citizens of Canton more efficiently. Let's gather all the facts. Let's put our heads together and come up with a real solution to this problem. Thank you.

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

PRESIDENT DENCZAK: Well, this is really Public Speaks. You can under Miscellaneous Business. You should have started to talk with the gentleman when he was at the mike. The next speaker is Roman Bennett, is that correct?...

MR. BENNETT: My name is Roman Bennett, I live at 1729 Cedar Street. I too am employed by the City of Canton and Tim kind of took away some of what I was going to say. The resolution has many situations in it that are not correct. At the bottom of page 3, it says the Canton City Housing Code response to complaints in reference to vacant homes not owner-occupied and owner-occupied, they do more than respond to complaints...

MEMBER SMUCKLER: Point of order, Mr. Chairman.

PRESIDENT DENCZAK: State your point of order.

MEMBER SMUCKLER: That is nowhere in my resolution.

MR. BENNETT: I have the proposal...

MEMBER SMUCKLER: Well, that's not my proposal. That is nowhere in my resolution. My resolution just called for the investigation. That is a city employee's report. But nowhere in there is that is my resolution--Member Hawk's resolution and my resolution. And that's the misnomer that's going on here. We asked for an investigation and just like the last speaker, my resolution only asked for the investigation of this, but that is not in my resolution. That's a city employee's report on the subject. But my resolution only asks for the investigation of this possibility and nothing else more than that.

MR. BENNETT: Well, then I am to stand here and be corrected by you and I do not expect you then to do anything more than explore this.

MEMBER SMUCKLER: That's all I ever asked for.

MR. BENNETT: Well let's make sure that's all that ever happens. Thank you.

PRESIDENT DENCZAK: The next speaker is Nicholas Buch, is that correct....? I'm sorry, sir...

MR. BUCH (*SPEAKING FROM THE AUDIENCE*): That's correct but I'm not involved with this particular topic.

PRESIDENT DENCZAK: Yes, I seen you signed the wrong place. So I'll recognize you under the other Public Speaks...next...near the end of the Council, there's another portion. This ends the Public Speaks portion for City Business only.Let's just have one meeting here please.

INFORMAL RESOLUTIONS

PRESIDENT DENCZAK: Informal Resolutions; it will not be necessary to excuse members. Let the journal show that all Members of Council are present. Resolution 7...Resolutions 1 and 2 are retained in committee.

1. SUBMITTING BY THE PERSONNEL COMMITTEE: APPROVING THE REAPPOINTMENT OF MS. JULIE DANNEMILLER TO THE BOARD OF ZONING APPEALS EFFECTIVE 1/1/03-12/31/05. - **RETAINED IN COMMITTEE**
2. SUBMITTED BY THE PERSONNEL COMMITTEE: APPROVING THE REAPPOINTMENT OF STEVEN LAMIELLE TO THE BOARD OF ZONING APPEALS EFFECTIVE 1/1/03-12/31/05. - **RETAINED IN COMMITTEE**

PRESIDENT DENCZAK: Resolution #3 please.

PRESIDENT DENCZAK CALLED UPON CLERK OF COUNCIL VANCKUNAS TO READ RESOLUTIONS #3 THROUGH #6 BY TITLE, AS SHOWN BELOW. THE RESOLUTIONS ARE ON FILE IN THEIR ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS FILE

DATED January 6, 2003.

3. SUBMITTED BY THE PERSONNEL COMMITTEE: APPROVING THE REAPPOINTMENT OF MR. RON LEMMO TO THE CANTON RECREATION BOARD EFFECTIVE 1/1/03-12/31/07. - ADOPTED BY COUNCIL

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #3; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #3; are there any remarks under this resolution?... If not, by voice vote please, all those in favor, signify by saying aye—those opposed, no.

NO REMARKS

ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #33 is adopted...number 3, I'm sorry.

4. SUBMITTED BY THE PERSONNEL COMMITTEE: APPROVING THE REAPPOINTMENT OF MR. JERRY SIMPSON TO THE INCOME TAX BOARD OF REVIEW RETROACTIVE 3/1/02-2/28/06. - ADOPTED BY COUNCIL

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #4; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #4; 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

ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #4 is adopted.

5. SUBMITTED BY THE PERSONNEL COMMITTEE: APPROVING THE REAPPOINTMENT OF MS. SARA STRATTAN TO THE INCOME TAX BOARD OF REVIEW RETROACTIVE 3/1/02-2/28/06. - ADOPTED BY COUNCIL

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #5; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #5; are there any remarks under this resolution?... If not, roll call....I'm sorry, by voice vote, all those in favor, signify by saying aye—those opposed, no.

NO REMARKS

ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #5 is adopted.

6. SUBMITTED BY THE PERSONNEL COMMITTEE: APPROVING THE REAPPOINTMENT OF MR. CHARLES DEGRAFF TO THE SARTA BOARD RETROACTIVE 9/1/02-8/31/05. - ADOPTED BY COUNCIL

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #6; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #6; are there any remarks under this resolution?... Very well, by voice vote, all those in favor, signify by saying aye—those opposed, no.

NO REMARKS

ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #6 is adopted.

7. SUBMITTED BY BILL SMUCKLER, COUNCILMEMBER-AT-LARGE, & GREG HAWK, WARD 1 COUNCILMEMBER: SUPPORTING EXPLORING THE MERGING OF THE HEALTH DEPARTMENT'S ENVIRONMENTAL DIVISION WITH THE BUILDING CODE DEPARTMENT. - **POSTPONED INDEFINITELY**

MEMBER SMUCKLER: Mr. President, I move we postpone Resolution #7 indefinitely; seconded.

PRESIDENT DENCZAK: Moved and seconded to postpone this indefinitely; are there any remarks?... If not, by voice vote, all those in favor, signify by saying aye—those opposed, no.

NO REMARKS

MOTION APPROVED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #7 is postponed indefinitely.

COMMUNICATIONS

PRESIDENT DENCZAK: Under Communications, all Communications are received as read.

NOTE: ALL COMMUNICATIONS WHICH FOLLOW, LISTED BY AGENDA TITLE, ARE ON FILE IN THEIR ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS FILE DATED January 6, 2003.

1. AUDITOR KIM R. PEREZ, CITY OF CANTON: REQUEST FOR ADDITIONAL AMENDED CERTIFICATE DATED 12/30/02. - CLERK OF COUNCIL
2. AUDITOR KIM R. PEREZ, CITY OF CANTON: MONTHLY REPORT BY FUND FOR 12/01/02-12/31/02. - RECEIVED & FILED
3. AUDITOR KIM R. PEREZ, CITY OF CANTON: YEARLY REPORT BY FUND FOR 1/01/02-12/31/02. - RECEIVED & FILED
4. LIQUOR CONTROL DIVISION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTIFICATION THAT SAMUEL MANN, DBA CITY LANES AT 4311 W. TUSC, HAS REQUESTED A TRANSFER OF OWNERSHIP OF THE D2, D2X, D3 LIQUOR LICENSE FROM DONNA LENO, DBA COUNTRY FAIR LANES. - INTERGOVERNMENTAL & PUBLIC SERVICE COMMITTEE

5. LIQUOR CONTROL DIVISION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTIFICATION THAT RONNIE & REBECCA ESTEP, DBA WHITE CROWN CAFÉ @ 2528 9TH STREET SW, HAS REQUESTED A TRANSFER OF OWNERSHIP OF THE D2, D2X, D3 LIQUOR LICENSE FROM WILLIAM LEDGER. - INTERGOVERNMENTAL& PUBLIC SERVICE COMMITTEE
6. MAYOR RICHARD D. WATKINS, CITY OF CANTON: REQUESTING AUTHORIZATION OF THE REAPPOINTMENT OF MS. JULIE DANNEMILLER TO THE BOARD OF ZONING APPEALS EFFECTIVE 1/1/03 - 12/31/05. - PERSONNEL COMMITTEE (See Resolution #1)
7. MAYOR RICHARD D. WATKINS, CITY OF CANTON: REQUESTING AUTHORIZATION OF THE REAPPOINTMENT OF MR. STEVEN LAMIELLE TO THE BOARD OF ZONING APPEALS EFFECTIVE 1/1/03 - 12/31/05. - PERSONNEL COMMITTEE (See Resolution #2)
8. MAYOR RICHARD D. WATKINS, CITY OF CANTON: REQUESTING AUTHORIZATION OF THE REAPPOINTMENT OF MR. RON LEMMO TO THE CANTON RECREATION BOARD EFFECTIVE 1/1/03 - 12/31/07. - PERSONNEL COMMITTEE (See Resolution #3)
9. MAYOR RICHARD D. WATKINS, CITY OF CANTON: REQUESTING AUTHORIZATION OF THE REAPPOINTMENT OF MR. JERRY SIMPSON TO THE INCOME TAX BOARD OF REVIEW RETROACTIVE EFFECTIVE 3/1/02 - 2/28/06. - PERSONNEL COMMITTEE (See Resolution #4)
10. MAYOR RICHARD D. WATKINS, CITY OF CANTON: REQUESTING AUTHORIZATION OF THE REAPPOINTMENT OF MS. SARA STRATTAN TO THE INCOME TAX BOARD OF REVIEW RETROACTIVE EFFECTIVE 3/1/02 - 2/28/06. - PERSONNEL COMMITTEE (See Resolution #5)
11. MAYOR RICHARD D. WATKINS, CITY OF CANTON: REQUESTING AUTHORIZATION OF THE REAPPOINTMENT OF MR. CHARLES DEGRAFF TO THE STARK AREA REGIONAL TRANSIT AUTHORITY RETRO- ACTIVE EFFECTIVE 9/1/02-8/31/05. - PERSONNEL COMMITTEE (See Resolution #6)
12. PENSION BENEFIT GUARANTY CORP, VINCE SNOWBARGER, ASSISTANT DIRECTOR FOR LEGISLATIVE AFFAIRS, 100 K STREET NW, WASHINGTON, DC 20005-4026: ACKNOWLEDGING RECEIPT OF COUNCIL RESOLUTION #82 RE: EMPLOYEES PENSIONS AT REPUBLIC'S 8TH STREET PLANT. - RECEIVED & FILED
13. SERVICE DIRECTOR MICHAEL L. MILLER & SAFETY DIRECTOR JOSEPH J. CONCATTO, CITY OF CANTON: REQUEST TO ADVERTISE, RECEIVE BIDS & ENTER INTO CONTRACT FOR SUPPLY ITEMS, MATERIALS & PROFESSIONAL SERVICES EXCEEDING \$15,000 FOR 2003 CALENDAR YEAR - LAW DIRECTOR (See O#1, 1st Rdg)
14. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: DUE TO REJECTION BY THE UNION, REQUEST TO WITHDRAW LEGISLATION APPROVING TENTATIVE AGREEMENT WITH AFSCME LOCAL 2937. - RECEIVED & FILED
15. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO ENTER INTO CONTRACT WITH TAB CONSTRUCTION FOR SHORB & 4TH NW ROADWAY

IMPROVEMENT, ESTABLISH A FUND, & MAKE A SUPPLEMENTAL APPROPRIATION IN AMOUNT OF \$924,989. - LAW DIRECTOR (See O#2, 1st Rdg)

16. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO ACCEPT LAND DONATION FROM ODOT FOR THE RELOCATION OF THE PUBLIC DRIVE TO THE HALL OF FAME. - LAW DIRECTOR (See O#3, 1st Rdg)
17. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO ESTABLISH \$250,000 FAIR MARKET VALUE OF PARCELS AND NEGOTIATE PURCHASE OF SAID PARCELS FROM BLOOD, SWEAT & GEARS, LTD., IN CONJUNCTION WITH THE SCENIC RAILROAD STATION PROJECT. - LAW DIRECTOR (See O#4, 1st Rdg)
18. STARK COUNTY PROPERTY OWNERS' ASSOCIATION, MIKE RUKAVINA, PRESIDENT, PO BOX 8103 CANTON, OHIO 44711: REQUESTING A MEMBER OF THE SCPOA BE PLACED ON THE BUILDING BOARD OF APPEALS. - MAYOR, BUILDING DEPT & PERSONNEL COMMITTEE

ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING

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

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #1 THROUGH #6 FOR THE FIRST TIME BY TITLE ONLY AND ANNOUNCED THE COMMITTEE REFERRAL, AS FOLLOWS.

- #1 (1ST RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE AND/OR DIRECTOR OF PUBLIC SAFETY TO ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR SUPPLY ITEMS, MATERIALS AND PROFESSIONAL SERVICES FOR THE CITY OF CANTON'S OPERATIONS DURING THE 2003 CALENDAR YEAR; AUTHORIZING ALTERNATIVELY THE PURCHASE OF SAID ITEMS PURSUANT TO THE STATE COOPERATIVE PURCHASING AGREEMENT AND/OR ODOT PURCHASING AGREEMENT; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Public Property Capital Improvement & Finance Committees
- #2 (1ST RDG) AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO ESTABLISH THE 4547 SHORB AVENUE & 4TH STREET, N.W. ROADWAY IMPROVEMENT G.P. 1050 FUND; AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Public Property Capital Improvement & Finance Committees
- #3 (1ST RDG) AN ORDINANCE AUTHORIZING THE CITY OF CANTON TO ACCEPT DONATION OF REAL PROPERTY; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Public Safety & Thoroughfares and Community & Economic Development

Committees

- #4 (1ST RDG) AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF REAL PROPERTY IN CONJUNCTION WITH THE SCENIC RAILROAD STATION PROJECT; AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO NEGOTIATE AND PURCHASE SAID PARCEL AT THE ESTABLISHED FAIR MARKET VALUE; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Community & Economic Development and Finance Committees
- #5 (1ST RDG) AN ORDINANCE AMENDING EXHIBIT A TO ORDINANCE NO. 236/2002; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Parks & Recreation and Finance Committees
- #6 (1ST RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT RENEWAL WITH THE OHIO MUNICIPAL LEAGUE JOINT SELF-INSURANCE POOL IN AN AMOUNT NOT TO EXCEED \$160,000.00 FOR GENERAL LIABILITY AND COMPREHENSIVE AUTOMOBILE LIABILITY INSURANCE COVERAGES; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to the Finance Committee

ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING

PRESIDENT DENCZAK: Ordinances & Formal Resolutions for their Second Reading. Ordinance #7 was retained in committee. Ordinance #8 please.

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #8 THROUGH #11 FOR THE SECOND TIME BY TITLE, AS FOLLOWS. ORDINANCE #7 WAS RETAINED IN COMMITTEE.

- #7 **RETAINED** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO **IN CMTE:** ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR AN INDOOR FIRING RANGE; AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR A MECHANICAL SYSTEM FOR THE FIRING RANGE; AND DECLARING THE SAME TO BE AN EMERGENCY
- #8 (2ND RDG) AN ORDINANCE APPROVING A CANTON CITY WATER MAIN EXTENSION TO HOLY CROSS LUTHERAN CHURCH; AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT FOR THE EXTENSION OF SAID WATER MAIN; AND DECLARING THE SAME TO BE AN EMERGENCY
- #9 (2ND RDG) AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF ONE PARCEL OF CITY-OWNED REAL PROPERTY; AUTHORIZING THE SALE AND CONVEYANCE OF SAID PROPERTY PURSUANT TO THE CITY'S RESIDENTIAL LAND DISPOSITION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY

#10 (2ND RDG) AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF ONE PARCEL OF CITY-OWNED REAL PROPERTY; AUTHORIZING THE SALE AND CONVEYANCE OF SAID PROPERTY PURSUANT TO THE CITY'S RESIDENTIAL LAND DISPOSITION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY

#11 (3NF RDG) AN ORDINANCE ESTABLISHING THE FAIR MARKET VALUE OF ONE PARCEL OF CITY-OWNED REAL PROPERTY; AUTHORIZING THE SALE AND CONVEYANCE OF SAID PROPERTY PURSUANT TO THE CITY'S RESIDENTIAL LAND DISPOSITION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY

ORDINANCES & FORMAL RESOLUTIONS FOR THIRD READING

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

NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #12 THROUGH & INCLUDING #14 FOR THE THIRD & FINAL TIME BY TITLE, AS FOLLOWS. ORDINANCE #14 WAS AMENDED & THEN POSTPONED TO 1/13/03.

#12 (3RD RDG) **ADOPTED AS ORDINANCE NO. 1/2003** AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO ESTABLISH THE 2424 LEGAL RESEARCH FUND; AND DECLARING THE SAME TO BE AN EMERGENCY

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

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #12; are there any remarks under this ordinance?... If not, roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #12 is adopted.

#12 ADOPTED AS ORDINANCE NO. 1/2003

#13 (3RD RDG) **ADOPTED AS ORDINANCE NO. 2/2003** AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE ECONOMIC DEVELOPMENT AGREEMENT WITH CANTON TOWNSHIP ON PROPERTY LOCATED IN THE GEORGETOWN ROAD/FORD MOTOR COMPANY ANNEXATION AREA; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER SMUCKLER: Mr. President, I move that 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

PRESIDENT DENCZAK: Ordinance #13 is adopted.

#13 ADOPTED AS ORDINANCE NO. 2/2003

#14 (3RD RDG) **AMENDED & POSTPONED TO 1/13/2003** AN ORDINANCE AMENDING ORDINANCE NO. 126/2002; AND DECLARING THE SAME TO BE AN EMERGENCY

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

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 14; are there any remarks under this ordinance?...

MEMBER SMUCKLER: Mr. President, I move we amend Ordinance 14 by the amendment before every member of City Council; seconded.

AMENDMENT: Pursuant to Rule No. 36, I hereby move to amend Item No. 14 on the Agenda by substituting the ordinance attached to this Amendment for the one currently pending before Council. The attached version reduces the number of police officers and firefighters effective January 1, 2003, abolishes two Lieutenant and five Sergeant positions through attrition effective March, 2003, and abolishes three Captain positions through attrition effective August 28, 2004.

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

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

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

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

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

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

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

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

*Position Group 10 PO Police Division (10-20-01)
Reduce the number of authorized employees in the classification of Police Officer from 141 to 132 effective at the close of business January 1, 2003.*

Reduce the number of authorized employees in the classification Lieutenant from 18 to 16

pursuant to the Collective Bargaining Agreement between the Fraternal Order of Police and the City. Two Lieutenant positions shall be abolished through attrition effective March 13, 2003.

Reduce the number of authorized employees in the classification Sergeant from 24 to 19 pursuant to the Collective Bargaining Agreement between the Fraternal Order of Police and the City. Five Sergeant positions shall be abolished through attrition effective March 19, 2003.

The foregoing amendments are contained in Exhibit A attached hereto.

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

Reduce the number of authorized employees in the classification Firefighter from 135 to 133 effective at the close of business January 1, 2003.

Reduce the number of authorized employees in the classification of Captain from 34 to 31 pursuant to Chapter 124 of the Ohio Revised Code and any other applicable laws. Three Captain positions shall be abolished through attrition effective August 28, 2004.

The foregoing amendments are contained in Exhibit B attached hereto.

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

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

PASSED:

President of Council

ATTEST:

APPROVED:

Clerk of Council

Mayor

PRESIDENT DENCZAK: Moved and seconded to amend this ordinance per the copy before each of you. Are there any remarks under the motion to amend?

MEMBER SMUCKLER: Mr. President, question. And I want to make sure I do this right because I'm going to ask for this to be split and that's why I'm asking this again. Is this...this only has to deal with the officers, correct? ...with the time element of the officers, this amendment?...

SAFETY DIRECTOR CONCATTO: Mr. President, that's correct.

MEMBER SMUCKLER: Thank you.

PRESIDENT DENCZAK: Are there any more remarks under this amendment?... The question you're voting on now is the amendment. By voice vote, all those in favor, signify by saying aye; those opposed, no.

NO FURTHER REMARKS

AMENDMENT APPROVED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: The amendment has passed. The question before you now is the ordinance as amended. Are there any remarks under this as amended?

MEMBER SMUCKLER: I would request you to please divide the question of the 2 forms in here. One being the officer and two being the staffing.

PRESIDENT DENCZAK: Members of Council, it is going to be much easier to amend this ordinance rather than to divide the question since there's two points in this entire ordinance that are being challenged. So the Chair is going to recognize a motion to amend as the Law Director is proposing the amendment here. Member Smuckler, will you come here and pick up your amendment so you can read it to Council. (PAUSE AS HE DOES SO)_ What Council is going to be doing is deleting two sections in the ordinance, because there are several sections in there, it's going to make it a lot easier and simpler to simply amend this ordinance, deleting these two. Okay, the Chair will now recognize a motion to amend. Member Smuckler?

MEMBER SMUCKLER: Mr. President, pursuant to Rule No. 36, I hereby move to further amend Ordinance No. 14 on the Agenda as follows: Paragraph numbers 3 and 8 of Section 1 are to be deleted to eliminate references to the reduction of authorized employees in the classifications of Police Officer and Firefighter. Exhibit A is also amended to reflect the above deletions. So moved; seconded.

PRESIDENT DENCZAK: Moved to amend as stated by Member Smuckler, it is in writing. Are there any remarks under this amendment?

MEMBER SMUCKLER: Mr. President, for the record, I just want to repeat for the record what I said in the committee meetings and the caucus. There's always a way to do things and you choose which way you want to do them. I believe that the reduction in the fire and police based on the number of personnel they have to serve is a legitimate concern. I've always felt in some areas sometimes there's too many officers for the number of patrol and fire people that are on the front line. But I do believe that if I had my choosing, that police and fire are not the way to reduce the number of personnel. I believe there's other possibilities to look into in the reduction of personnel in this City. And the overall numbers of people, I want to leave the opening and the possibility that we redesign, reshape, reform...whatever you want to call it, City government, and I would just like to see that the numbers be left there.

MEMBER DIAMOND: Mr. President, I know that Member Smuckler understands this and I know that Councilmembers do, but just so the public is aware, reducing the authorized strength of both the fire and police department does not eliminate any of our fire or police employees. As a matter of fact, the authorized strength is higher than our actual personnel. And I think what the Safety Director has tried to do is to give not only City Council and the Administration, but the public as well, a realistic view of what our safety forces are going to look like both now and in the future. There isn't anybody on this Council nor in the Administration that would not like to see 200 firefighters and 200 police officers; however, when you are faced in 2004 back up to a \$3 million, possibly \$4 million deficit, we have to be able to hire...or we have to be able to pay the people that we hire. So I think that what the Administration has tried to do is to realistically reflect the number of employees that we will have and that we currently have. And I think it's important that we look throughout all our departments for any waste or any way that we can streamline government duties. We've gotta save money, but while we need to do that, we need to still make

up our deficit. We cannot think of using that money until the deficit problem has been solved on new employees. And if the numbers are to remain as they were, as Member Smuckler has indicated, it doesn't really matter what that number is, if you only have enough money to pay 170 people, you can only pay 170 people. So whether the authorized strength is at 200 or 180 or 170, it doesn't actually matter. Because we don't have the funding right now to pay the employees that we have. Hopefully we will in the future. Thank you.

MEMBER CASAR: Mr. President, although I really don't have any objections to Member Smuckler's resolution, my intent is not to support the ordinance in the whole, so I will not support the resolution I mean the amendment. I cannot understand how this Council, the times that we're in with the terrorists and the crime on the street and the world that we live in that we could even consider reducing fire and policemen, our safety forces. And I understand and I know that we, our budget crunch is very serious, but I feel that we have to look other places to, if we have to cut, we'll have to look other places. Hopefully we don't have to cut. Hopefully we can bring this City back by bringing in new employment, bringing in like the ordinance number tonight on the joint agreement with Canton Township. Do things like this that are positive and this will bring more jobs in the City of Canton and then we can maintain the services that we have, especially in our safety forces. Because in the world we live in today, there's no way that we can support or I can support cutting one policeman or one fireman and I will not do it.

MEMBER CARBENIA: Mr. President. Yes, sir, I echo the words of Councilman Casar. I just also would like to say that I'm not in favor of this amendment or the ordinance. I'm in favor of voting against the ordinance. We're already at the numbers and it's been proven that we do not have to hire anybody. We can stay at those numbers. We don't have to reduce them.

SAFETY DIRECTOR CONCATTO: Mr. President, I don't disagree with comments from Member Casar and Member Smuckler and Member Carbenia. I don't want to cut police and fire either. However I believe that we need to be realistic to where we're going to be and how we're going to plan for the next couple years and further, probably, I look at strategic plan in the neighborhood of five years. And I think you have to plan around realistic numbers. I do not believe that you can have a plan out there or you can have an authorized strength higher than what your plan is going to represent. I've looked at other ways, I've talked to other directors. I would love to find other ways of paying it. And if this Council has a way of funding 176 firefighters and 182 policemen, then so be it, you can show me that way. But I have not found that way. And if we're going to plan and have a plan for the next five years, we have to do it with realistic numbers and numbers that are consistent with not only Administration, but legislation. I've been there. This is not something I desire to do, it is something I think we have to do. These are the numbers that represent the minimum amount of the force that we can have to protect our community. But again it's how best we can manage risk for the amount of money that we have. This is based on our budget. And that's why these numbers are here.

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

LAW DIRECTOR MARTUCCIO: Mr. President. Thank you, Mr. President. For members of Council, I'd like to help clarify the issue before you vote on the amendment. What you have in front of you is a substituted amendment. That substituted amendment does two things. One, it reduces the total number of employees who are classified as police officers from 141 to 132; it also reduces the total number of authorized employees who are classified as firefighters from 135 to 133--by two. It does not effect the total numbers of the other bargaining units. However if you vote yes as proposed by Member Smuckler--if you vote yes to the amendment, you will be saying taking those parts out. So if you vote yes to Member Smuckler's amendment, you are saying take those parts out. What will be left, then, for you to vote on are the provisions that reduce the number of Lieutenants by two pursuant to the Collective Bargaining Agreement with their union, the F.O.P., and reducing the number of Sergeants from 24 to 19,

pursuant to the Collective Bargaining Agreement. And on the fire side, in the Fire Division, it will reduce the number of captains from 34 to 31. So, again, the repeat, if you vote yes for the amendment, you take out the totals of authorized numbers in the positions of firefighter and police officer, and you go ahead with the reductions in supervisors. If you vote no, then all the issues come before you.

PRESIDENT DENCZAK: Any other remarks?... The question you're voting on now is the amendment as proposed by Member Smuckler. Roll call vote please.

NO FURTHER REMARKS

ROLL CALL: 3 YEAS, 9 NAYS

(SMUCKLER, BABCOCK & HAWK VOTED YES. CASAR, ALTIERI, MALLONN, MASSEY, MROCZKOWSKI, DOUGHERTY, HART, DIAMOND & CARBENIA VOTED NO)

PRESIDENT DENCZAK: The amendment has been defeated. The Chair, the ordinance stands before you as originally submitted and amended. Are there any further remarks under the ordinance as amended?

SAFETY DIRECTOR CONCATTO: Mr. President, you're taking the ordinance now as a whole. And I'm assuming that some members of Council did that to vote against the entire ordinance. Two sections of this ordinance were, maybe I'm assuming wrong, but two sections of this ordinance was already negotiated in a contract between officers of the Police Department and the Administration. The officers of the Police Department agreed to reduce their numbers in strength by contract. And those numbers were set by date after the existing list was, would expire. That's the not the same as the Fire Department, there was no contractual issue with the Fire Department. The reason for the reduction in officers is that in fact, we have reduced the number of firefighters and policemen. Every time we promote, we lose one more patrolman or we lose one more firefighter. If we are to shrink and if our fire departments and police departments are going to get fewer in numbers, we have to shrink that department or we have to also consider reducing the numbers of officers. Again, this was already negotiated and approved by, in negotiations and these reductions. I believe it's necessary to reduce the number of officers because we've reduced the number of firefighters and patrolmen. That's why this ordinance was set up.

MEMBER CASAR: Mr. President, may I ask the Law Director a question.

PRESIDENT DENCZAK: You may.

MEMBER CASAR: Law Director, indeed if this is true what Safety Director Concatto said, then why is that even in this ordinance?

LAW DIRECTOR MARTUCCIO: Mr. President, Member Casar. I suspect it's to reinforce the date that was agreed to with the F.O.P. It brings up new issues in authorized strength as we already discussed and it brings up the three captains in the Fire Department anew. Those weren't negotiated.

MEMBER CASAR: I agree, but those were not agreed, and I say they should be in the ordinance so we can vote accordingly. But if the unions agreed to this, which would be in Section 1, reduction of the numbers and so forth, I mean I don't feel that it should even be in the ordinance. And I think it should be deleted.

SAFETY DIRECTOR CONCATTO: Mr. President, the contract, the F.O.P. contract was passed by Council, this Council, that included this. And it wasn't a hidden agenda, it was put out there and I stated that in our meeting when we talked about it. The reason that we need to, in my opinion, we need to do this by Council, because in ordinance, Civil Service law would prevail, and if there is a position open that we may have done through collective bargaining,

yet it's still open through Council or it's still there through Council, there may be a Civil Service issue concerning whether we need to fill it or not. And, Mr. Law Director may help me out.

LAW DIRECTOR MARTUCCIO: Mr. President, if I can dovetail on that, Member Casar, under Civil Service law, as I understand it, in order to reduce supervisory position, you have to actually promote someone into it first and then abolish it. This was an agreement negotiated between the union supervising police officers in the City that was approved by the union and by Council which does it through attrition and it's date specific. So I would agree, I think that this would make the task that both sides agreed to less complicated to accomplish. I believe that's why that's in here now that I'm hearing that in review.

MEMBER CARBENIA: Mr. President, then what I would say then, what happened there was Mr. Smuckler tried to satisfy everybody and take the officers out. And it looks like everybody...some people let it go, instead of saying split this and vote on the police side and vote on the fire side, they tried to get all the officers voted on rather than split it and have one go down and one go up. Now they want to play and have it split and then vote on the police side and vote on the other side. Cause the police accept it...the police officers accepted it. But they didn't accept the reduction in numbers though. They accepted reduction of two lieutenants and so many sergeants or something.

MEMBER SMUCKLER: Mr. President, approximately 1985 I sat down here with the State Bargaining Bill in its inception and I was told by the Law Director at the time the State Bargaining Bill supercedes any legislation that we pass down here. And anything negotiated in the contract, I was told, supercedes anything that we pass down here. So why, now, are we involved in this, and based on the advice I got in there, is there not a union that represents the officers and are, is Council setting a precedent by getting involved in issues that are union-negotiated? Because you can't have it one way and then on another ordinance have it another way. Now I asked for something as simple as investigating something and I got it shoved in my ear. But I'm not going to sit here and vote yes on this because you didn't negotiate it with the fire people. Now either you're negotiating or you're not negotiating—but you're not going to dump this all in Council's lap.

SAFETY DIRECTOR CONCATTO: Mr. President, we were not, we negotiated this under a contract that expired. This was not, we didn't come to the table to the F.O.P. specifically for this issue. This was part of a total negotiated package. We aren't up to negotiate with the firefighters until the end of this year. So this is, this was just part of a total package.

MEMBER SMUCKLER: Mr. President, but am I going to get an unfair labor practice shoved down my throat similar to what you cautioned me for in there because we're dealing with issues that should be dealt with at the bargaining table?

SAFETY DIRECTOR CONCATTO: Mr. President, I'm, right now I'm not sure why Council would not want to accept something that both the union and the Administration accepted.

MEMBER SMUCKLER: I'm talking about the firefighter side.

SAFETY DIRECTOR CONCATTO: That's a different issue...

MEMBER SMUCKLER: That is part of the issue I'm voting on here tonight. And that is a negotiable issue from what you're telling me since you negotiated it with the F.O.P.

SAFETY DIRECTOR CONCATTO: That is not on the table for the firefighters; that is something we put on the

table. That is not mandatory negotiation or a mandatory subject of negotiation. We put it on the table.

MEMBER SMUCKLER: Mr. Law Director???

LAW DIRECTOR MARTUCCIO: Mr. President, Member Smuckler. To get back to your original question, in most cases, which is collectively bargained under Chapter 4117 of the Ohio Revised Code and reduced to writing in collective bargaining contracts, does often supercede State law. However, the Supreme Court of Ohio has carved out numerous exceptions—one of them being for example, your contract between your City and your union cannot supercede public records laws—to make records private—they should be public. That's an example. There are certain areas in Civil Service law that still supercede local collective bargaining law. So, to answer as plainly as I can, the City, through the Administration and through Council, has the right to abolish positions, that's a management right under State law. How some of it takes place, has to be bargained. What you have here, you're correct, is a mixture. You've got some ingredients in this pot that come from the Fraternal Order of Police negotiations and they and the City agreed as to how they would abolish these positions through attrition. That's one part of what's in this pot. Another part is you have separated it out correctly, is with fire. And that is the reduction of three captains. The City has the right to reduce those positions and abolish them once they're promoted into. If Council so chooses, they can further divide the question; another option may be to postpone this and author two separate ordinances if enough Councilmembers feel strongly enough.

MEMBER SMUCKLER: Mr. President...

PRESIDENT DENCZAK: Member Smuckler, you still have a minute and 23 seconds of your time.

MEMBER CARBENIA: Point of order. Point of order.

PRESIDENT DENCZAK: State your point of order.

MEMBER CARBENIA: Just before I forget, the Law Director has said that there was some things done by law that have caved out niches, but is a collective bargaining agreement...supercedes ordinances at this time?

LAW DIRECTOR MARTUCCIO: Mr. President, Member Carbenia. Again, in some cases, a collective bargaining agreement can change State minimums to make them more generous, for example. In some cases, collective bargaining, no matter how much both sides want it, cannot trump State law. And Civil Service may be one of those areas.

MEMBER CARBENIA: Well this is my point of order. My point of order, with Civil Service...Civil Service in the collective bargaining law, 4117, does...they are the arm that gives tests and certifies those tests to people, right? They give it the entrance test, the promotional test, and they certify who has passed those tests to the Safety Director or to whoever hires. Also, under that, Civil Service if it's not I guess if it's not, how would you say, spoken to in your contract, then they might be able to do something. But otherwise if it's in the contract and voted on by both sides, even though you're saying you can't do this, so if you can't do it, you don't put that in the contract, if law says you can't. But otherwise, your collective bargaining agreement, your contract supercedes that Civil Service in a lot of areas.

PRESIDENT DENCZAK: Member Smuckler, do you yield now...you've got 45 seconds yet.

MEMBER SMUCKLER: That was the longest point of order I've ever heard in this place.

PRESIDENT DENCZAK: I only got one timer here.

MEMBER SMUCKLER: I'm just, like I said, you can tell me some do. My question is, I'll be even more specific, does this, in your estimation, does this, do we have the authority?...F.O.P. contract's already been negotiated, what if we vote this down? Where does this leave it? What supercedes the F.O.P. contract or by ordinance what we do here tonight?

LAW DIRECTOR MARTUCCIO: Mr. President, Member Smuckler. What's been negotiated and agreed to by both sides in the contract stands as written. I believe this was an attempt to, an agreed attempt to make the process a smoother transition. It will still proceed and it will follow Civil Service laws...

MEMBER SMUCKLER: So no matter what we vote here tonight, there's going to be a reduction of police officer personnel, is that correct?

LAW DIRECTOR MARTUCCIO: That's correct. And supervisors.

MEMBER SMUCKLER: Is, is...now I gotta get specific, 'cause is the number of officers in the Fire Department negotiable based on the contract or is this something that we can pass here tonight?

LAW DIRECTOR MARTUCCIO: Mr. President, Member Smuckler. In other words, you're asking...

MEMBER SMUCKLER: The same as the Police.

LAW DIRECTOR MARTUCCIO: Does City Council have the right to reduce the number of captains by 3?... Yes.

MEMBER SMUCKLER: Why? If we don't in the Fire to change it, or if we don't in the Police to change it, why do we have the authority in the Fire?

LAW DIRECTOR MARTUCCIO: What's at issue is how you're doing it, not that you can do it. You can, as a management right, the City has the right, especially in dire financial circumstances, to reduce numbers of employees. How you do it though can be subject to negotiation and how they were doing it with Police would be a smoother way. If I can, Mr. President, I'd like to add one more comment. These issues are excellent questions, and they're tough issues. I wish they'd been brought up at committee; I wish I'd been put on warning so I could have done the requisite amount of research and brought a specialist along in Civil Service law. It's difficult when things are brought out on the floor for the first time.

MEMBER SMUCKLER: These questions that were asked led to other questions.

PRESIDENT DENCZAK: Member Smuckler, your three minutes are up.

MEMBER CARBENIA: Mr. President, I would ask that the Majority Leader split this thing, get it voted on, get it over with.

MEMBER DIAMOND: Mr. President....

PRESIDENT DENCZAK: First of all, let the Chair ask a question of the Law Director. Is it necessary to pass this this evening?

LAW DIRECTOR MARTUCCIO: There are some, I believe not...there are some dates that we can make retroactive; there are some dates that have yet to materialize. So in a word, no.

PRESIDENT DENCZAK: I think it behooves Council to probably postpone this so that Council can get their act together because this is a complex question and deserves further study I believe. It would be doing Council a service to postpone this. Please consider it.

MEMBER DIAMOND: Well, that was going to be my suggestion before you took over. I was going to say that since the Law Director has not had the benefit of researching these questions that just came up, rather than, and there is some controversy over whether something is in our arena or not, it would only make sense to do that.

PRESIDENT DENCZAK: Copycat, copycat.

MEMBER DIAMOND: And you copied off of me, not the other way around.

PRESIDENT DENCZAK: Are there any further remarks under this ordinance?

MEMBER CASAR: Back to my original question, which we're debating now, why is this in the ordinance? I'm prepared to vote on it this evening, to vote no on the ordinance, so postpone it, fine—I'll vote no not to postpone 'cause I think it's not going to change my mind.

MEMBER SMUCKLER: Mr. President, I move to postpone the ordinance as amended for one week; seconded.

PRESIDENT DENCZAK: It's been moved and seconded to postpone Ordinance 14 as amended until January 13th.

MEMBER DIAMOND: Mr. President, didn't we vote down the amendment, so it's no longer amended?

MEMBER SMUCKLER: We passed the first amendment, Member Diamond.

PRESIDENT DENCZAK: You passed the first amendment; that was the substituted ordinance. You passed that; you turned down the other amendment. That's not a question. Postpone until January 13th—are there any remarks?... If not, by voice vote, all those in favor, signify by saying aye—those opposed, no. (*INCONCLUSIVE*)Roll Call Vote Please.

NO FURTHER REMARKS ROLL CALL: 8 YEAS, 4 NAYS
(SMUCKLER, BABCOCK, HAWK, ALTIERI, MASSEY, DOUGHERTY, HART & DIAMOND VOTED YES. CASAR, MALLONN, MROCZKOWSKI & CARBENIA VOTED NO)

PRESIDENT DENCZAK: This ordinance is postponed as amended until January 13th, year 2003.

ANNOUNCEMENT OF COMMITTEE MEETINGS

PRESIDENT DENCZAK: Announcement of Committee Meetings please.

MEMBER MASSEY: Mr. President, Community & Economic Development will meet January 13th at 6:15.

PRESIDENT DENCZAK: Six-fifteen, was that?... (*AFFIRMATIVE UNIDENTIFIED RESPONSE*)

MEMBER MALLONN: Mr. President, Parks & Recreation and Finance will meet January 13th, 6:00.

PRESIDENT DENCZAK: Six o'clock?

MEMBER MALLONN: That's correct, sir.

MEMBER DOUGHERTY: Mr. President, Public Property Capital Improvements will also meet that evening, 6:15.

PRESIDENT DENCZAK: Anybody else?

MEMBER BABCOCK: Mr. President, Public Safety & Thoroughfare will also meet next Monday at 6:15.

PRESIDENT DENCZAK: Any others?

MEMBER MROCZKOWSKI: Mr. President, Finance Committee will meet at 6:15 next Monday.

PRESIDENT DENCZAK: Anybody else?... (*NO RESPONSE*)

PUBLIC SPEAKS (OPEN FORUM--CITY BUSINESS ONLY)

PRESIDENT DENCZAK: Public Speaks, Open Forum. We have two people signed up—the first speaker is Wendy Bodenschatz.

MS. BODENSCHATZ: Good evening. Wendy Bodenschatz, 1919 - 32nd Street. I trust you all had a great holiday and you had sugar plums dancing in your head. While your sugar plums were dancing, we got porn. On Friday, December 13th, the Fashion Freak Boutique became our greatest new adventure. And we're down here asking our elected officials and the Mayor that you have the courage to step forward and be the leader that we have expected and that we voted into this office—to set a good example, and not use the current lawsuit as your scapegoat. We, your constituents, feel that you must come to the aid of the Mt. Vernon neighborhood and to the City of Canton. There's not a judge in the world, nor in Federal court, nor in State court who would put you in jail for standing up for your city that you currently reside in, possibly even the neighborhood that you reside in. Not to mention the people who voted for you. Now, how can you help? Well, we're having a meeting on January 21st at 7 p.m., a neighborhood meeting and you're all invited—lawsuit or not. And we have lots of room left on our picket line and plenty of signs to share. Knowing we, the residents of the City of Canton, respected all of you enough to vote you into office, we are asking that you all respect us enough and come out and help us shut down the Fashion Freak Boutique, save not only Mt. Vernon neighborhood, but the City of Canton from getting one more of those stores. Thank you.

PRESIDENT DENCZAK: The next speaker is Nicholas Buch.

MR. BUCH: Thank you, Mr. President, Members of Council. I look around this evening and recognize a few people—John over there and Bill Smuckler and Safety Director, Joe...

PRESIDENT DENCZAK: State your address, sir.

MR. BUCH: My address is 2025 - 32nd Street NW, Canton, Mt. Vernon area.

PRESIDENT DENCZAK: Okay.

MR. BUCH: I've been a citizen for 66 years and I can appreciate, before I even mention along with Wendy's comments, about our situation. The situation you folks must face every day. I see the legal expertise, the talent, the integrity that most of you certainly exhibit. The question is that with the police reductions and some of the things I see happening in Canton—over 300 or plus students that were not enrolled in the school system I understand as of a year ago. It seems like we are losing income, are we not? And before you answer the question, whoever I may direct it to, so perhaps we're not doing some of the things that we should be doing and I question, what are those things?... Are we losing citizens, are we losing property buyers? But along with that, and some of you having in front of you, I'm sorry I didn't have enough, there was a thing simple called pornography—some \$13 billion industry, which I'm sure many of you know about—and that's more than the combined revenues of the Coca-Cola Company and the McDonald Douglas Corporation put together. Now I realize in many cases, this is a silent or not even visual thing, but if I could cite just a couple of things that's again, some of you I'm not here to try to insult your intelligence, may already know about—but I happen to take these simply by a novice on the Internet, and throw at you a few questions. What will happen if more of these video stores come into this community? As some of them have already done, Garden Grove, California, 1981 to 1990, on Garden Grove Boulevard, 7 adult businesses accounted for 36% of all crime in the area. In one case, a bar opened within 500 foot of an s.o.b. and serious crime within 1,000 feet of that business rose 300%. Now there's a whole list, I could go on with Phoenix, Indianapolis, Austin. I asked I believe Joe there earlier how many we had, 3 is that correct Joe?...in the City of Canton. And Mr. Martuccio, I asked you what the crime rate has been within the 3 to 5 year period so far. It's very silent and when you look at some of the documentation, if this continues, it certainly isn't going to enhance the community. It certainly isn't going to bring in new people into this community. Because it will and does effect property values, it effects businesses. I could go on and say, in fact I had asked I believe briefly to Joe here, what can we do about it. And I would form a question to you, Mr. Law Director and any others, what in the future can we do because the First Amendment of course gives a lot of rights to these individuals. I can understand that. And it really comes down to what is, what can we do to prevent the second or to help show in documentation the secondary costs of these establishments? And so my question is to either Mr. Law Director or anyone who likes to answer this, is what will we do in the future? There are some states, including...cities, including Los Angeles that has (*WORDS HERE NOT UNDERSTANDABLE*)...I don't want to take any more of your time to list all of these things that have happened. So if I may ask...

PRESIDENT DENCZAK: The Law Director will respond.

LAW DIRECTOR MARTUCCIO: Mr. President. I can answer those questions, hopefully, briefly. As a result of the surprise of the XTC store coming into your neighborhood, we, the City, passed a couple of new ordinances. One of them had to do primarily with zoning and as of the time it was passed in May, any future sexually-oriented businesses, including video stores and several other kinds of sexually-oriented businesses, will not be able to locate within 1,000 feet of a neighborhood, school, church, nursing home—there's a whole list of things that they have to stay 1,000 feet away from. And that's primarily aimed towards zoning. We also passed after that a regulatory ordinance that's now being challenged in Federal court and we're fighting over where we, the City, are attempting to closely regulate sexually-oriented businesses, find out who owns them, who runs them, criminal background checks, hours of operation, all sorts of ways of regulating them. That's what's being challenged and fought in Federal court—the three existing pornographic stores, the video stores, joined together and sued the City. I can't comment on the merits of that because we're in litigation over it. Other than to say that there is a case conference scheduled in another week or two. I believe I've answered your questions.

MR. BUCH: You did.

LAW DIRECTOR MARTUCCIO: Oh, one other point, if I can. The secondary effects, the adverse secondary effects you're referring to, we did adopt them as a City Council after having read them from other cities. The current state of the law is that we don't have to do our own, we can adopt those from other cities, and we have indeed adopted those from other cities. That's one of the things that's being challenged in Federal court, our right to do that.

MR. BUCH: One quick question, Mr. President, can I ask him?... One, have you heard of a form called the restrictive covenant or deed and lease? That particular form has been used in Los Angeles and it simply begins by contacting all local commercial property managements and ask them to consider adding this lease or deed restriction to prevent s.o.b.s from leasing, buying property for sexually-oriented uses.

LAW DIRECTOR MARTUCCIO: I have heard of restrictive covenants and deeds. Certainly the private owner has to agree to insert that in their deed before they convey it to the subsequent buyer. Presuming it's legal, it's a good idea.

MR. BUCH: Thank you, I just ask all of you to do as much as you can on this issue. Thank you and God bless you.

MISCELLANEOUS BUSINESS

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

MEMBER MASSEY: Mr. President, something for Mr. Miller, the Service Director. I would like to have a meeting with you and Dan Milsap to walk through Peel Coleman Center by Thursday, hopefully. Cause there are a lot of problems down there that need to be addressed. One right now is there's no water fountain and there are hundreds of kids that come through that building every day and at this time they're going into the restroom, drinking out of the sinks.

SERVICE DIRECTOR MILLER: I will arrange that meeting. I'm aware of the water fountain, that was called to my attention by Mr. Nate Cooks. I have talked to Mr. Nate Cooks about it and I've also talked to Mr. Milsap. We're addressing that as quickly as possible. We don't have the parts on hand, those parts are on order.

MEMBER MASSEY: So, is there a way we can meet by Thursday?

SERVICE DIRECTOR MILLER: We can meet whenever you want to meet. That's something that can happen anytime, at any point in time, you don't have to do it on Council floor, you can do it privately. You come to my office on a regular basis. We can have a meeting down there at that facility and talk about the water fountain.

MEMBER MASSEY: Okay, let's meet at the facility then Wednesday at 1?

SERVICE DIRECTOR MILLER: I don't have my calendar here with me; I'll have to give you a call at home tomorrow and arrange that specifically.

MEMBER MASSEY: That's fine.

PRESIDENT DENCZAK: Is there any other Miscellaneous Business?

MEMBER CASAR: Mr. President, can I ask the Law Director a question please.

PRESIDENT DENCZAK: You may.

MEMBER CASAR: Law Director Martuccio, my question is in regards to the first speaker on...in regards to picketing and in regards to our position on the law suit. Could you give myself as a Councilperson an answer, would we be in fact jeopardizing our position if we chose, if any member of Council did choose to go picket, I would like to have that in writing so we make sure that we do not, if it is not any jeopardizing...in regards to the law suit, I would personally like to know this. If you would do that for me, I'd appreciate it.

PRESIDENT DENCZAK: Is there any other Miscellaneous Business?

SAFETY DIRECTOR CONCATTO: Mr. President, there's been a lot of discussion earlier in this meeting concerning the document that was given to me by a member of the Health Department, Mark Adams. And I think I just want to clear it up, not to let everybody get down on Mark Adams. This document was merely a suggestion from him, put in writing, given to me as a way of possibly combining the Code Enforcement Department with the Health Department. It wasn't a proposal, it wasn't even a draft. It certainly was put in a draft form, one that I could understand, points that he even made that said, you know, this may or may not work. But he would just offer it up for discussion and at that point, and it is still that, it is not...and I understand the concern of Code Enforcement and the fact that that proposal recommended possibly losing positions there. But it would still, it was just an idea. And I just don't, I am not going to refuse any employee who has an idea. I am not going to refuse to look, or I am not going to refuse to look at that. I will always look at their ideas and I will take it and I'll sit down with them and discuss it. But that's basically where this, which is now a proposal, which is now something people think is going to be drafted and accepted. I just wanted to clear that up because I don't want to see any employee in this City not bring their ideas to the table. I want to hear them. I'll look at them. I'll, they may not be good, they may have some merit, they may not. But I don't want to deter any employee who has an idea how to better do their job, because they know best how to do their job. I don't want to deter that. And that's basically what this document was.

MEMBER HAWK: Mr. President, I would like to thank Director Concatto for clarifying that. It was simply an idea and it was not ever meant to be a firm proposal. It simply opened the door for discussion. I sat in on this meeting and I encouraged this idea. I look forward to other input into it. There's room to do this in a more orderly fashion. And I think the Safety Director did point it out, it was just simply an idea at this point in time. And we are looking for more input into it. Ideas are valuable. We all need them in order to make this City go forward. I thank him for clarifying that point.

MEMBER MROCZKOWSKI: Mr. President, I think we need to look at a couple things and I need to give some credit to the Finance Committee for a job well done over last year. And I want to go over a few things. I think we also need to thank a lot of the people who believed in what we were trying to do as far as saving money, saving jobs and looking at a different way of doing it. Unencumbered funds from the total of last year brought back to us \$945,000. But the real secret of what was done in a year when we had a lot of turmoil, a lot of people questioning, and a lot of misunderstanding, was a year when income, that when revenue coming in decreased by \$1,876,000...we were able to decrease our expenses by \$797,000. That's paramount in what we started with. But it's far from being over. I was a little upset in the newspaper when I seen that we were only \$200,000 in debt and that we were real close to coming out of this. That is so far from being actual that it is almost laughable, except for those of us who have to live this each day. I've asked the Auditor and, if he would, go through an explanation of exactly where the funding is so there is no misunderstanding of exactly where our debt is and what we need to do, even more so this year than we did last year. Because I do not see the expenses as far as revenues increasing and we definitely still

need to save even more on the expense side. Thank you. Gary, if you would.

DEPUTY AUDITOR YOUNG: Mr. President, first of all, I think I'd like to just summarize a few things. Sunday's article did a really good job of trying to narrow down some of the things that this Council has acted upon, that the Administration has acted upon to narrow that gap. A \$5.8 million deficit does not become \$200,000 through osmosis. So, it was a strategic effort to, through the passing the legislation to do the buyout, which redirected monies from the Capital Improvement to allow the older individuals to leave and save some of the younger peoples' jobs. The breakdown, to come up to the \$200,000 that was indicated in Sunday's paper is as follows. Between the buyout projected at 75% of the net effect of that buyout, so even if 25% of the people are replaced, coupled with the layoffs that occurred, that is a savings of 1.75. In addition, as many you know, the sales tax failed. We are contractually mandated to fund SCOGs wholly, with no out clause for the City of Canton if in fact the sales tax would have passed. As a result of that failing, the County once again reduced its portion, which is a savings of \$450,000. Third, the Clerk of Courts increased fees, which generated revenue that was not anticipated of \$750,000. In addition, when you passed the original appropriations for funding for 2003, it included a moving of \$2.46 million from the Benefits & Insurance Fund, of which 1.23 would be allocated this year. In the final draw on the Workers Compensation for \$575,000. When you add that up, that comes to \$4,755,000. This did not happen as a result of people sitting on their hands. It happened as a result of the actions that you took, the actions of the unions agreeing to concessions, an unprecedented negotiation for F.O.P. and 3449. And those should be applauded. In all of those Finance Committee meetings, everyone said well when are they going to step up, when is somebody going to step up. It happened and I think that they should be commended and we should be commended and the Administration be, should be commended for that happening. Cause all of those incremental steps is what's going to get you to that number. In addition to that, the \$900,000 that Mr. Mroczkowski had indicated, if you recall when we reduced the certificate by \$1,750,000, everybody was required to trim their budget. They trimmed it. It was very unlikely that they would continue to, I mean we didn't anticipate them trimming their budget even beyond that, but the layoffs that occurred, and specifically, you know, Mr. Miller's Office, the M.I.S. Department, a number of departments did that as well. They returned salary line items, discretionary line items to the tune of \$945,000 above what was anticipated. And I think that the managers and the employees who are taking these hits and taking these concessions should be commended, not (*WORDS HERE ARE NOT UNDERSTANDABLE*)...it's where it is because of the word you did, this Administration's done, the concessions the employees have taken. And they all should be commended for that.

PRESIDENT DENCZAK: Mr. Young, I'm sorry, your 3 minutes are up. Let me see if somebody else has something to say. Anybody else have anything....to say?... Okay, Mr. Young.

DEPUTY AUDITOR YOUNG: The only other thing that I'd like to point out is despite revenue declining \$1.8 million, and the gentleman had asked where's the revenue, what is our problems. Income tax declined by only \$382,000. A number of these businesses, such as Republic, Danner, some others...we received revenue this year we're not going to get next year. So revenue, aside from the \$750,000 from Clerk of Courts, has increased or will increase as a result of the fee increases, we are still on the decline. Interest rates are still going nowhere. We lost over \$850,000 there. State Undivided Local Government, we lost \$550,000. Those things, and inheritance tax, we lost \$750,000 and it is outside of our control. So while the Finance Committee controls the expense side, and the Administration controls the expense side, the revenue, aside from what the Clerk of Courts can do, because they have some leeway that nobody else in this room has, the revenue is still going south. And that is the biggest problem. Leading into 2003, so in 2002 the revenues less expenditures, we had a deficit expenditure of \$3.7 million. That was subsidized by transfers and beginning cash. With what you've done and the revenue generated by the Courts, that deficit is 1.9. The way it gets to 200,000 is in Ordinance 1, you authorized 1.23 to be used from Benefits & Insurance and 575 which ends up in the General Fund there. That's how the 200,000 is done. So while we have a long way to go, the expenditures that we had in 2002 was 3.7 in the red. Next year, the steps that have already been

taken brings it to 1.9. That's not everything, but it's a step in the right direction. So I would commend the Finance Committee, Members of Council, Members of the Administration, Presidents of Local 3449, its members, F.O.P. and hopefully we can get a few more deals where it's zero and we can get a handle on this. Because the steps are going in the right direction. And I think that oftentimes everyone on this panel gets lambasted and everybody and the employees get lambasted for what they do or do not do, but the fact is that through all the rhetoric, there was a number of good things that was done to narrow this gap. And we can get through it, if we continue on this path and pattern. That's all I have and I'm sorry.

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

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

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

NO REMARKS PERMITTED ON THIS MOTION -- ROLL CALL VOTE: 12 YEAS, 0 NAYS

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

ADJOURNMENT TIME: 9:18 P.M.

ATTEST:

DEBRA VANCKUNAS
CLERK OF COUNCIL

APPROVED:

RAY DENCZAK
PRESIDENT OF COUNCIL