

MINUTES OF THE MEETING OF MARCH 24, 2003

The regular meeting of Canton City Council was held on Monday, March 24, 2003, at 7:30 P.M. in the Canton City Council Chamber. The meeting was called to order by Vice President of Council Bill Smuckler in the absence of 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 Bill Smuckler, followed by the Pledge of Allegiance led by Vice President of Council Smuckler.

CHAIRMAN SMUCKLER: With a quorum being present, I'd like to call this meeting of Canton City Council to order. Roll call.

ROLL CALL TAKEN BY CLERK OF COUNCIL:

12 COUNCILMEMBERS PRESENT: (BILL SMUCKLER, DONALDE. 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

RECOGNITION

CHAIRMAN SMUCKLER: Before we get started this evening, I'd like to recognize a group, if you'd please stand, from Troop 624 from the Boy Scouts from St. Peters School. (APPLAUSE) ...Thank you.

AGENDA CORRECTIONS & CHANGES

CHAIRMAN SMUCKLER: Member Casar, I need the rule 22A suspension.

MEMBER CASAR: Mr. President, I move we that Rule 22A be suspended and that Ordinance #1 be placed back on the agenda; seconded.

CHAIRMAN SMUCKLER: Could I get you to also say the letter A too?

MEMBER CASAR: 22A, I'm sorry.

CHAIRMAN SMUCKLER: No, 1 and A. A's the wage freeze.

MEMBER CASAR: 1 and A, sorry, Mr. President.

CHAIRMAN SMUCKLER: Member Babcock, could I get a second?

MEMBER BABCOCK: Second.

CHAIRMAN SMUCKLER: It's been moved and seconded that we add Ordinances #1 & Ordinance A to the agenda; any discussion?... Roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Ordinance A and Ordinance #1 are a legal part of the agenda.

PUBLIC HEARINGS

7:30PM PUBLIC HEARING RE: HURSH PLACE VACATION:

CHAIRMAN SMUCKLER: We had a public hearing scheduled for 7:30 PM. A request by Service Director Miller to vacate a portion of Hursh Place NW south of 2nd Street between Wertz Avenue and Junction NW on behalf of the Canton Preservation Society. Is there anyone wishing to speak for or against this vacation in the audience?..... Is there anyone wishing to speak for or against this issue in the audience?..... Is there anyone wishing to speak for or against?..... I declare this public hearing closed.

7:32PM PUBLIC HEARING RE: LAWN & STRASSER VACATIONS:

CHAIRMAN SMUCKLER: We then had a hearing scheduled for 7:32 PM. A request by Service Director Miller to vacate a portion of Lawn Avenue SW south of 7th Street SW and north of 9th Street SW, and Strasser Place SW between Lawn and Park Avenue SW, and replat of Lots 4137-4144 and 5515-5522 and 34404 located on the west side of Dueber Avenue SW on behalf of Canton City Schools. Is there anyone wishing to speak for or against this issue in the audience?..... Is there anyone wishing to speak for or against this issue in the audience?..... Going three times, anyone else wishing to speak for or against?..... I move that this public hearing is closed.

PUBLIC SPEAKS (ORDINANCES OR RESOLUTIONS FOR ADOPTION ONLY)

CHAIRMAN SMUCKLER: We are...hold on one second. Public Speaks for Open Forum for City Business for Ordinances. ...All right, no one signed up for Public Speaks. I was just trying to.... (A GENTLEMAN IS SPEAKING FROM THE AUDIENCE THAT HE WANTS TO TALK ABOUT PROPOSING A NEW ORDINANCE)No, for ordinances only. That will come later in the agenda.

INFORMAL RESOLUTIONS

CHAIRMAN SMUCKLER: Excusing Members, Member Casar.

MEMBER CASAR: Mr. President, I move that President Denczak be excused from this evening's meeting; seconded.

CHAIRMAN SMUCKLER: It's been moved and seconded that Council President Denczak be excused this evening; roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Council President Denczak is excused this evening. Resolution #28.

CHAIRMAN SMUCKLER CALLED UPON CLERK OF COUNCIL VANCKUNAS TO READ RESOLUTION #28 BY TITLE, AS SHOWN BELOW. THE RESOLUTION IS ON FILE IN ITS ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS FILE DATED March 24, 2003.

28. DIAMOND, ROSEMARY, MINORITY LEADER OF COUNCIL: RECOMMENDING COUNCIL RULE #20 BE AMENDED TO PERMIT A SUMMARY TRANSCRIPT OF COUNCIL MEETING MINUTES. - REFERRED TO THE RULES COMMITTEE

CHAIRMAN SMUCKLER: This will have a slight change. We do have a Rule Committee and this will be referred to the Rules Committee and go through the proper procedures of the Rules Committee, even though as you heard in committee meetings last week, I am wholeheartedly for this. But we do have a Rules Committee.

COMMUNICATIONS

CHAIRMAN SMUCKLER: 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 March 24, 2003.

119. AUDITOR KIM R. PEREZ, CITY OF CANTON: REQUEST FOR ADDITIONAL AMENDED CERTIFICATE DATED 3/19/03. - CLERK OF COUNCIL
120. BUDGET DIRECTOR TAD C. ELLSWORTH, CITY OF CANTON: LINE ITEM DETAIL OF 2003 GENERAL FUND APPROPRIATIONS. - RECEIVED & FILED
121. CIVIL ENGINEER G. MICHAEL COUTTS, CITY OF CANTON: SUBMITTING 2002 ANNUAL REPORT OF CITY ENGINEERING DEPARTMENT. - RECEIVED & FILED
122. HEALTH BENEFITS ADMINISTRATOR ROSE BRESSON, CITY OF CANTON: CORRECTED JANUARY 2003 MONTHLY COMPARATIVE REPORT OF INSURANCE CLAIMS & JANUARY 2003 PAID CLAIMS & COMPARATIVE REPORT. - RECEIVED & FILED
123. HEALTH BENEFITS ADMINISTRATOR ROSE BRESSON, CITY OF CANTON: FEBRUARY 2003 MONTHLY COMPARATIVE REPORT OF INSURANCE CLAIMS & JAN-FEB 2003 PAID CLAIMS & COMPARATIVE REPORT. - RECEIVED & FILED

124. LAW DIRECTOR JOSEPH MARTUCCIO, CITY OF CANTON: LEGAL OPINION RE: VERBATIM REQUIREMENT OF COUNCIL MEETING MINUTES. - RECEIVED & FILED (See Resolution #28 above)
125. LIQUOR CONTROL DIVISION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTIFICATION THAT CHRISTINE A. ADESSI, DBA KANAMS LOUNGE @ 1133 FULTON RD NW, 2ND FLOOR, HAS REQUESTED A TRANSFER OF OWNERSHIP D5 LIQUOR PERMIT FROM HARRY J. ROUBANES. - INTERGOVERNMENTAL & PUBLIC SERVICE COMMITTEE
126. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUEST TO REIMBURSE AEP \$85,000 FOR UPGRADE TO BASIC PLAN FOR RELOCATING OVERHEAD TRANSMISSION LINE IN THE SHORB & 4TH NW PROJECT IN CONJUNCTION WITH TIMKEN CAMPUS EXPANSION. - LAW DIRECTOR

ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING

CHAIRMAN SMUCKLER: Ordinance A for first reading. Let the journal show that all ordinances are being given their reading as required by state law.

- A. (1ST RDG) AN ORDINANCE SUSPENDING WAGE INCREASES FOR MANAGEMENT AND NON-BARGAINING UNIT PERSONNEL; AND DECLARING THE SAME TO BE AN EMERGENCY
Referred to Personnel & Finance Committees

ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING

CHAIRMAN SMUCKLER: Ordinances for second reading.

NOTE: CHAIRMAN SMUCKLER CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCE #1 FOR THE SECOND TIME BY TITLE, AS FOLLOWS.

- #1 (2ND RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ACCEPT AN EXISTING PRIVATE DRAINAGE EASEMENT, INVESTIGATE IMPROVEMENTS TO THE DRAINAGE SYSTEM AND ENTER INTO EASEMENT AGREEMENTS; AND DECLARING THE SAME TO BE AN EMERGENCY

ORDINANCES & FORMAL RESOLUTIONS FOR THIRD READING

CHAIRMAN SMUCKLER: Ordinances for third and final reading.

NOTE: CHAIRMAN SMUCKLER CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #2 THROUGH & INCLUDING #7 FOR THE THIRD & FINAL TIME BY TITLE, AS FOLLOWS.

#2 (3RD RDG) **ADOPTED AS ORDINANCE NO. 52/2003** AN ORDINANCE VACATING A PORTION OF HURSH PLACE N.W.; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #2; seconded.

CHAIRMAN SMUCKLER: It's been moved and seconded to adopt Ordinance #2; is there any discussion?... Roll call.

NO REMARKS ROLL CALL: 11 YEAS, 0 NAYS, 1 ABSTENTION (HART ABSTAINED)

CHAIRMAN SMUCKLER: Ordinance #2 is adopted. **#2 ADOPTED AS ORDINANCE NO. 52/2003**

#3 (3RD RDG) **ADOPTED AS ORDINANCE NO. 53/2003** AN ORDINANCE VACATING STRASSER PLACE S.W. AND A PORTION OF LAWN AVENUE S.W.; APPROVING AND ACCEPTING THE REPLATTING OF LOTS NOS. 4137-4144, 5515-5522 AND 34404; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #3; seconded.

CHAIRMAN SMUCKLER: It's been moved and seconded to adopt Ordinance #3; is there any discussion?... Roll call.

NO REMARKS ROLL CALL: 11 YEAS, 0 NAYS, 1 ABSTENTION (HART ABSTAINED)

CHAIRMAN SMUCKLER: Ordinance #3 is adopted. **#3 ADOPTED AS ORDINANCE NO. 53/2003**

#4 (3RD RDG) **ADOPTED AS ORDINANCE NO. 54/2003** AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO PAY TWO MORAL OBLIGATIONS FOR EMERGENCY WORK AT #9 FIRE STATION IN THE TOTAL AMOUNT OF \$42,225.10; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #4; seconded.

CHAIRMAN SMUCKLER: It's been moved and seconded to adopt Ordinance #4; is there any discussion?... Roll call.

NO REMARKS ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Ordinance #4 is adopted.

#4 ADOPTED AS ORDINANCE NO. 54/2003

#5 (3RD RDG) **ADOPTED AS ORDINANCE NO. 55/2003** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO CONTRACT WITH FINLEY FIRE EQUIPMENT COMPANY, INC. IN AN AMOUNT NOT TO EXCEED \$52,135.60 FOR THE PURCHASE OF FORTY-FOUR (44) SETS OF GLOBE FIRE SUITS, PBI TURN OUT GEAR PURSUANT TO OHIO REVISED CODE SECTION 125.04; AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO CONTRACT WITH FINLEY FIRE EQUIPMENT COMPANY, INC. IN AN AMOUNT NOT TO EXCEED \$1,638.56 FOR RELATED EQUIPMENT; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #5; seconded.

CHAIRMAN SMUCKLER: It's been moved and seconded to adopt Ordinance #5; is there any discussion?... Roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Ordinance #5 is adopted.

#5 ADOPTED AS ORDINANCE NO. 55/2003

#6 (3RD RDG) **ADOPTED AS ORDINANCE NO. 56/2003** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO AGREEMENT WITH THE STARK COUNTY BOARD OF COMMISSIONERS FOR THE CONSTRUCTION OF THE INTERSECTION IMPROVEMENT AT FAIRCREST STREET AND DUEBER AVENUE S.W.; AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATION HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #6; seconded.

CHAIRMAN SMUCKLER: It's been moved and seconded to adopt Ordinance #6; is there any discussion?... Roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Ordinance #6 is adopted.

#6 ADOPTED AS ORDINANCE NO. 56/2003

#7 (3RD RDG) **ADOPTED AS ORDINANCE NO. 57/2003** AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AGREEMENT WITH THE UNITED STATES DEPARTMENT OF INTERIOR NATIONAL PARK SERVICE (NPS) TO CONSTRUCT A TRAIN STATION ~~AND PLATFORM~~ ON REAL PROPERTY OWNED BY THE CITY;

ACCEPTING THE ~~PLATFORM AND~~ TRAIN STATION UPON CONSTRUCTION;
AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #7; seconded.

CHAIRMAN SMUCKLER: It's moved and seconded to adopt Ordinance #7; is there any discussion?...

MEMBER CASAR: Mr. President, I move we adopt Ordinance #7 by the amendment in place in front of all the Council people; seconded.

AMENDMENT: Pursuant to Rule No. 36, I hereby move to amend Agenda Item No. 7 as follows: *Delete the phrase "and platform", and "platform and", and "and boarding platform" from the caption, third, fourth & fifth whereases, and Sections 1 and 2 in order to reflect respective responsibilities.*

CHAIRMAN SMUCKLER: It's been moved and seconded to amend Ordinance #7; is there any discussion?

LAW DIRECTOR MARTUCCIO: Mr. President, the amendment is designed to remove the phrase "and platform" as we explained in Council committee meeting. Because of the use of brick in place of limestone, we'll be having the building built for us by the Park Service and accepting it, but we in the City will contract for building a part of the platform. So this will technically bring the language into conformity with what's actually being accepted. Thank you.

CHAIRMAN SMUCKLER: Any further discussion on the amendment?... By voice vote, all those in favor, signify by saying aye—all those opposed, no.

NO FURTHER REMARKS

AMENDMENT APPROVED BY UNANIMOUS VOICE VOTE

CHAIRMAN SMUCKLER: The ayes have it. Member Casar, you have the ordinance as amended before you. Any discussion?... Roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Ordinance #7 is adopted as amended.

ADOPTED AS ORD. NO. 57/2003

ORDINANCES & FORMAL RESOLUTIONS – POSTPONED MATTER

CHAIRMAN SMUCKLER: Postponed Matters. Ordinance Number 8.

POSTPONED FROM MARCH 17, 2003:

#8 **ADOPTED AS ORDINANCE NO. 58/2003** (RECEIVED ALL 3 RDGS) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 236/2002 TO APPROPRIATE ADDITIONAL MONEYS NEEDED FOR THE OPERATING AND CAPITAL EXPENSES OF THE CITY OF CANTON FOR THE REMAINDER OF FISCAL YEAR 2003; AND DECLARING THE SAME TO BE AN EMERGENCY

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

CHAIRMAN SMUCKLER: It's moved and seconded to adopt Ordinance #8; is there any discussion?...

MEMBER CASAR: Mr. President, I move we amend Ordinance #8 by the amendment placed before all members of Council; seconded.

AMENDMENT: Pursuant to Rule No. 36, I hereby move to amend Agenda Item No. 8 by the addition of Section 1a, which shall read as follows: *Section 2a. The City Auditor be and is hereby further authorized to execute interdepartmental Account Group Transfers upon written approval of each respective appointing authority except for Account 70506, Other Professional Services, which shall require the approval of three members of the Transfer Review Committee which shall consist of the Majority Leader, Assistant Majority Leader, Minority Leader and Finance Chairperson who shall approve any requests over \$5,000.00.* I further move to amend Agenda Item No. 8 by substituting the Exhibit A attached to this amendment for the Exhibit A attached to the ordinance currently pending before Council.

SEE EXHIBIT A BEGINNING ON NEXT PAGE!

CHAIRMAN SMUCKLER: It's been moved and seconded to amend Ordinance #8 by the amendment placed before every member of City Council in writing. Is there any discussion?...

LAW DIRECTOR MARTUCCIO: Thank you, Mr. President. Members of Council, you have two amendments before you on one sheet. I'll address the first one. This language represents the wishes of Council as it was expressed following your Finance Committee meeting. For most transfers in most of the budget, nearly all of the line items, the legal control that's been established will be the same. However, Council asked for more control with those items that concern professional services. So this language then empowers and authorizes the Auditor to execute interdepartmental account group transfers upon written approval of each respective appointing authority, as always—except for Account 70506, which is Other Professional Services. Those items, professional services, will require the approval of three members of the committee that's going to be established by this amendment, the Transfer Review Committee, which consists of the Majority Leader, Assistant Majority Leader, Minority Leader and Finance Chairperson. That committee will be approached, should this be passed, by any appointing authority who has a request to transfer more than \$5,000. That goes to the first amendment. The second one, as I understand it, is simply a substitution of some changes that were made by the Budget Director in Exhibit A to bring it in conformity with the wishes and desires expressed in the Finance Committee meeting last week. Thank you.

CHAIRMAN SMUCKLER: Any questions, concerns about the amendments?... By voice vote, all those in favor, signify by saying aye on the amendments—those opposed, no.

NO FURTHER REMARKS

APPROVED BY MAJORITY VOICE VOTE (DIAMOND VOTED NO)

EXHIBIT A*Amended***Supplemental Appropriations**

FROM:	The Unappropriated Balance of the 1001 General Fund		(\$23,425,578.98)
TO:	1001	101001 Safety Director	\$79,034.30
	1001	101501 Building & Code	\$323,278.93
	1001	102000 Police	\$7,448,549.46
	1001	102090 Police - Crime Lab	\$271,910.25
	1001	102501 School Guards	\$165,981.50
	1001	103001 Fire - Administration	\$6,858,704.31
	1001	103501 Central Communications	\$445,276.85
	1001	104010 Traffic - Parking meter	\$73,263.02
	1001	201001 Service Director	\$44,049.12
	1001	201015 Annexation	\$4,407.50
	1001	201201 Purchasing	\$141,399.10
	1001	202010 Civil Engineering	\$43,127.65
	1001	202210 Public Works	\$525,743.69
	1001	202220 Downtown Maintenance	\$53,276.10
	1001	203001 Civic Center	\$253,706.84
	1001	203010 Concessions	\$12,899.50
	1001	204010 Building Maintenance	\$396,973.37
	1001	301001 Health - Administration	\$159,405.49
	1001	303001 Health - Nurses	\$388,597.98
	1001	304001 Health - Lab	\$102,301.81
	1001	307001 Health - Env. Control	\$376,963.79
	1001	401001 Park	\$125,856.25
	1001	501001 Mayor	\$233,027.64
	1001	501101 Human Resources	\$79,610.32
	1001	501401 Word Processing	\$100,052.29
	1001	501601 Youth Development	\$87,059.44
	1001	501602 Youth Dev. - Summer	\$18,346.00
	1001	502550 Baseball Stadium	\$17,630.50
	1001	601001 City Council	\$1,539,205.78
	1001	701001 Judges	\$844,071.34
	1001	702001 Clerk of Courts	\$660,669.75
	1001	753001 Law	\$591,917.39
	1001	801001 Auditor	\$129,113.67
	1001	852001 Treasurer	\$108,662.07
	1001	901001 Civil Service	\$103,629.66
	1001	902001 Zoning Board	\$3,975.50
FROM:	The Unappropriated Balance of the 2111 Street Maintenance Fund		(\$179,216.00)
TO:	2111	202210 Public Works	\$179,216.00
FROM:	The Unappropriated Balance of the 2155 Parking Deck Fund		(\$50,000.00)
TO:	2155	Parking Deck Fund	\$50,000.00

EXHIBIT A*Amended*

FROM:	The Unappropriated Balance of the 2420 SE Community Center Fund	(\$136,329.59)
TO:	2420 SE Community Center Fund	\$136,329.59
FROM:	The Unappropriated Balance of the 2421 Canton Rail Station Fund	(\$100,000.00)
TO:	2421 Canton Rail Station Fund	\$100,000.00
FROM:	The Unappropriated Balance of the 2527 Veteran's Memorial Park Fund	(\$21,476.43)
TO:	2527 Veteran's Memorial Park Fund	\$21,476.43
FROM:	The Unappropriated Balance of the 4547 Shorb & 4th NW Improvement Fund	(\$1,031,500.00)
TO:	4547 Shorb & 4th NW Improvement Fund	\$1,031,500.00
FROM:	The Unappropriated Balance of the 5410 Sewer Fund	(\$429,571.60)
TO:	5410 206032 Odor/Corrosion Dewatering Debt	\$429,571.60
FROM:	The Unappropriated Balance of the 5412 Sewer Debt Fund	(\$429,571.60)
TO:	5412 206032 Odor/Corrosion Dewatering Debt	\$429,571.60
FROM:	The Unappropriated Balance of the 6019 Eye/Dental Fund	(\$79,745.53)
TO:	6019 Eye/Dental Fund	\$79,745.53
<i>Reductions in Appropriations</i>		
FROM:	1001 102099 Police - Metro	(\$2,349.74)
	1001 2005C1 General Government	(\$19,265.00)
TO:	The Unappropriated Balance of the 1001 General Fund	\$21,614.74
FROM:	2111 104001 Traffic Engineering	(\$62,528.77)
	2111 104010 Traffic - Sign & Paint	(\$9,777.24)
	2111 104020 Traffic - Signal	(\$1,399.64)
TO:	The Unappropriated Balance of the 2111 Street Maintenance Fund	\$73,805.65
FROM:	2112 202210 Public Works	(\$15,000.00)
TO:	The Unappropriated Balance of the 2112 Highway Maint. Fund	\$15,000.00

EXHIBIT A*Amended*

FROM:	2232 108 Guaranteed Loan Repayment Fund	(\$97,271.52)
TO:	The Unappropriated Balance of the 2232 108 Guaranteed Loan Repayment Fund	\$97,271.52
FROM:	2411 City Hall Plaza Fund	(\$81.88)
TO:	The Unappropriated Balance of the 2411 City Hall Plaza Fund	\$81.88
FROM:	2773 Law Enforcement Block Grant 2001 Fund	(\$10,760.30)
TO:	The Unappropriated Balance of the 2773 Law Enforcement Block Grant 2001 Fund	\$10,760.30
FROM:	2775 CCPS School Based Partnership Fund	(\$112,398.04)
TO:	The Unappropriated Balance of the 2775 CCPS School Based Partnership Fund	\$112,398.04
FROM:	2776 Armored Vehicle Fund	(\$50,000.00)
TO:	The Unappropriated Balance of the 2776 Armored Vehicle Fund	\$50,000.00
FROM:	2781 Thermal Imaging Fund	(\$30,825.00)
TO:	The Unappropriated Balance of the 2781 Thermal Imaging Fund	\$30,825.00
FROM:	4540 ODOT Facility Fund	(\$0.12)
TO:	The Unappropriated Balance of the 4540 ODOT Facility Fund	\$0.12
FROM:	5218 Perry Township Water Ext. Fund	(\$1,350,000.00)
TO:	The Unappropriated Balance of the 5218 Perry Township Water Ext. Fund	\$1,350,000.00
FROM:	5219 Lake-Hartville Water Ext. Fund	(\$2,200,000.00)
TO:	The Unappropriated Balance of the 5219 Lake-Hartville Water Ext. Fund	\$2,200,000.00
FROM:	5429 Odor/Corrosion/Dewatering Fund	(\$1,901,893.83)
TO:	The Unappropriated Balance of the 5429 Odor/Corrosion/Dewatering Fund	\$1,901,893.83

EXHIBIT A*Aminda****Interfund Transfer Authorization***

FROM:	2420 SE Community Center Fund	(\$21,929.59)
TO:	The Unappropriated Balance of the 1001 General Fund	\$21,929.59
FROM:	5410 206032 Odor/Corrosion Dewatering Debt	(\$429,671.60)
TO:	The Unappropriated Balance of the 5412 Sewer Debt Service Fund	\$429,671.60
FROM:	6019 Eye/Dental Fund	(\$79,745.53)
TO:	The Unappropriated Balance of the 6017 Health & Life Insurance Fund	\$79,745.53

CHAIRMAN SMUCKLER: The ayes carry it. Before you is the budget for 2003, as amended. Is there any discussion?...

MEMBER CASAR: Mr. President, I'd like to just say that although this is not a perfect piece of legislation, as far as a true, balanced budget, it's a step in the right direction and I would like to personally like to thank our Finance Committee Chairman, Member Mroczkowski, for his hard work over many, many months. I know sometimes that it seemed like it was, you know, it was a train at the end of the tunnel, but now there's a little light coming. It's not a train. So I just think that it's not, like I said, perfect, it's not a balanced budget—because we've had some things to lean on and they won't be here next year. So I think it'll have to be a continuation of what has transpired for the last 8 months. We should start, once this budget is passed today, should start for next year's budget, '04, and getting in line also. Again, I would like to publicly thank Member Mroczkowski.

CHAIRMAN SMUCKLER: Anyone else?... Roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Ordinance #8 is adopted.

#8 ADOPTED AS ORDINANCE NO. 58/2003

POSTPONED FROM 3/10 & 17/2003:

#9 **ADOPTED AS ORDINANCE NO. 59/2003** (RECEIVED ALL 3 RDGS) AN ORDINANCE AMENDING EXHIBIT A TO ORDINANCE NO. 164/2001, THE CLASSIFICATION PLAN FOR MANAGEMENT AND NON-BARGAINING UNIT PERSONNEL EMPLOYED BY THE CITY OF CANTON; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER CASAR: Mr. President, I move we adopt Ordinance #9; seconded.

CHAIRMAN SMUCKLER: It's moved and seconded that we adopt Ordinance #9; is there any discussion?...

LAW DIRECTOR MARTUCCIO: Thank you, Mr. President. Members of Council, again, on this amendment marked 1954 in the upper left-hand corner, there are two amendments. I will address the second one, which is the addition of a Section 1a. This was the language that was drawn up as a request of your Finance Committee meeting. It clearly says that any classification listed on Exhibit A, which is all of our non-bargaining unit positions, which is still vacant a year from now, April 1st, 2004, shall not be filled without Councilmanic approval. Example, I as an appointing authority want to fill a position that's been vacant from now til then, if I want to fill it after April 1st, 2004, I must come before you and justify why I want to fill it. I will pass on the first amendment and defer to Member Diamond. Member Diamond, if you want to address the first amendment, I'll defer to you.

MEMBER DIAMOND: For some reason I don't have any amendments for this evening's meeting, so I...the one that you're speaking, I mean I know my amendment, but the one you're speaking of, I don't know, other than you coming over and telling me...does somebody have that in writing?...

LAW DIRECTOR MARTUCCIO: I understand that it was placed in the mailboxes. It came down this afternoon.

MEMBER DIAMOND: Okay...no, this isn't it. That's the budget. I still don't have it. (PAUSE) Okay, I'm...Law

Director, I have in front of me one amendment that I think says two things. It deletes the Legislative Coordinator, which was my amendment, and then am I to understand you added something to my amendment?

LAW DIRECTOR MARTUCCIO: Yes. The request was made by Council as I understood the consensus following the Finance Committee meeting. The original amendment, let's get this clear again. I read the Mayor's communication during Council committee..or Council caucus rather. The original amendment...or, I'm sorry, the original ordinance has several deletions. The Mayor sent down a request to Council...in response to Council's request to delete a number of unfilled vacancies that have been unfilled for a while. There are several of them and we went over them. You requested an amendment that would add yet one more position to be deleted from the non-bargaining personnel ordinance list of positions. It was asked last week, following the Council Finance Committee general meeting that we add one more proviso as an amendment to this ordinance. And that proviso is that if any of the classifications that are carried on Exhibit A, the non-bargaining personnel unit ordinance remain listed vacant for another year and a week from now, that before any appointing could fill them, they would have to come to Council and get authority to do so. You can divide the question if you disapprove of the second one.

MEMBER DIAMOND: Mr. President. Law Director Martuccio, the several positions that the Mayor took the initiative to delete or to put before this body to delete, are you saying now that those positions, they have an entire year for them to be vacant...or are you just saying any new positions that are vacant today have a year?

LAW DIRECTOR MARTUCCIO: No, Mr. President, Member Diamond, if this ordinance passes, the positions that the Mayor asked to be deleted will be deleted. If part 1 of the amendment passes, the position you're asking to be deleted, will be deleted. Any positions that remain unfilled, that remain on the list, will be subject to this proviso. In other words, those 8 or 9 positions will be deleted. These are all non-union positions. Once these several positions, if they're deleted pursuant to the Mayor's request, they're gone. But there are a number of positions that remained in this personnel ordinance that may be unfilled a year from now. Should they be unfilled a year from now, any appointing authority wishing to fill those remaining unfilled positions must come before the entire Council to get Councilmanic approval to fill them. If you get your amendment and you add the position of Legislative Coordinator/Nuisance Inspector to the deletions, it will simply be deleted.

MEMBER DIAMOND: Mr. President. Law Director Martuccio, what is the reasoning to take 9 positions that are currently unfilled and delete them today, and allow the remaining unfilled positions the opportunity to be filled by an appointing authority over the next year? What's the rationale behind that?

CHAIRMAN SMUCKLER: Member Diamond, there were, originally on the ordinance there were only 6. Was it 6?... Hang on.

LAW DIRECTOR MARTUCCIO: I believe there were at least 6 deletions, but there were also a small number of changes. The deletions are in classifications. For example, one of the deletions is the classification of senior systems analyst, but it's two positions.

CHAIRMAN SMUCKLER: I understand, but there were a total of 6 classifications to be deleted. And there were some housekeeping changes besides that based on FSLA on the original ordinance. The amendment has you adding one of those positions and we attached with that, that if the next mayor, law director, treasurer, auditor, whoever it may be, does not fill positions, they would have to come back to this body and get positions filled. What we saw happening was, to throw out an example, that there may be a vacant position, but no money in fund. And someone may get hired and then

when the money starts running low in the department, they come back here asking for more money because they filled a vacant position that wasn't budgeted for at the beginning of the year. By having this done by April 1st, this money should also go hand in hand then with the people that are being hired, that you not only hire in the classification, but you put money in fund to do it. Sounds like a great budgetary method.

MEMBER DIAMOND: Mr. President, I guess I'm just a little confused that I'm the Personnel Chairman and those discussions and those...

CHAIRMAN SMUCKLER: Those discussions were held after you left the other night...

MEMBER DIAMOND: What people are you saying you changed the classification....oh, it was held after I left? After the meeting?

CHAIRMAN SMUCKLER: No, the classification changes for the FSLA were part of the original ordinance.

MEMBER DIAMOND: Well what was changed on the original ordinance?

LAW DIRECTOR MARTUCCIO: Mr. President, nothing is changed on the original ordinance. Nothing. The only thing that you've asked for is to add one position and we did that. The rest of Council asked us to include some language that would say if they're not filled a year from now, then the appointing authority has to get permission.

CHAIRMAN SMUCKLER: And that discussion took place after you left last week.

MEMBER MROCZKOWSKI: Mr. President, I move we separate the issues on the amendment.

CHAIRMAN SMUCKLER: Without going through the process, I'll just do one of your shots...let it be done. The first part will be the amendment of deleting the Legislative Coordinator in the office. Any discussion?

MEMBER DIAMOND: Mr. President, as I said when we had committee meetings, this Council has asked the Administration for several weeks to take a look at his personnel and to delete positions that were not necessary and that we could not afford. The Mayor took that initiative and deleted several positions. We have asked in our Finance Committee talks for each department head to look to see where they can save money. I don't know how we, as a Council, can ask other appointing authorities to delete positions and not be willing to delete them ourselves. We currently have two vacancies in City Council...or in the City Council office. I cannot imagine that we could come up with 60-some thousand dollars today, tomorrow, or during all of 2004 to fill those positions. I think this Council, through Member Mroczkowski, has taken a leadership role in trying to cut back our expenses, trying to live within our means, and at the same time providing the services to the residents of Canton. And I think we as leaders need to take the initiative to do in our office what we're asking, what we're expecting, and what the Mayor and the Administration has done. I don't know why we would keep that position open and available. So I would ask that this amendment, which has been on the table for three weeks or so, when the Mayor first came down with his, I added it. I would hope that Council would lead by example and delete this position that we certainly will not have money for in 2003 and most definitely, in anticipating a \$3 million deficit in 2004, we will not be able to fill, nor pay for. Thank you.

MEMBER CASAR: Mr. President, the reason that I will not support this amendment is because I feel we should be consistent with the other positions that are not filled and will not be deleted until April...if they're not filled before April

of 2004. And that's my contention, so I will not support this.

MEMBER DIAMOND: Mr. President, I too feel we should be consistent. I don't understand why this Council would be in favor of the Administration deleting its positions, yet hold onto its own. It seems to me it should be one way or the other. And we have no money. Any extra money we spend this year will result in a higher deficit next year and more layoffs. So we're asking the Administration to get rid of their positions, and yet we're telling the public that we're not willing to get one of our own.

CHAIRMAN SMUCKLER: Before we vote, I have consistently asked for a list of this and I'm glad the list was provided, and it would be my wish that all the positions would be deleted today that aren't filled. So this Council has total control over the ones that are filled. But I have said before, I'm willing to compromise and I know what needs to be deleted, since we don't have any money, and I'm telling you on both of these items, we gotta take a good hard look at bringing anyone else on here.

MEMBER DOUGHERTY: Mr. President, the way I see it is we need to eliminate this position and we also don't need to wait til 2004. We're the leaders right now that are here today. We're worried about who's going to be the mayor next year and give them an opportunity to fill what they want to fill. You know, if we don't stop spending money, you can forget it. I keep trying to say this, we have to start eliminating things. Do things differently and bite the bullet a little bit more than we're biting it right now.

CHAIRMAN SMUCKLER: Anyone else?...

LAW DIRECTOR MARTUCCIO: Mr. President, just so there's no confusion. I hope I didn't add to it. This amendment regarding the Legislative Coordinator/Nuisance Inspector would add that position to be deleted. It would add, it would take away, just like the others that were being taken away, it would also take that position away. I hope I haven't confused the issue.

MEMBER DIAMOND: Mr. President. You didn't change my amendment? My amendment is as it was three weeks ago? (AFFIRMATIVE RESPONSE) So we will be voting to eliminate the Council position of Legislative Coordinator, correct?

CHAIRMAN SMUCKLER: If you vote yes, you'll be voting to eliminate it--if you vote no, you'll be voting against eliminating it.

MEMBER CASAR: Mr. President, all members of this body know that we are not going to fill that position. That's a given, we do not have the funds to do so. My contention was just to be consistent because there's other positions in the City that were not on this list that are not put up for vacating them, for deleting them out. So I feel that why should the Council position be singled out? Let it take the same course as the rest of the positions are that are not filled now, that are not on the list.

CHAIRMAN SMUCKLER: Anyone else?...just on the amendment...by voice vote, all those in favor, signify by saying aye....

MEMBER DIAMOND: Mr. President, could we have a roll call vote please.

CHAIRMAN SMUCKLER: Roll call.

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

CHAIRMAN SMUCKLER: The amendment is defeated. And it will take 7 votes to put someone into that position also. The second part of the amendment that's been divided—that is a freeze for one year. You will be voting yes if after April 1st, 2003...I'm sorry 2004, that the control to fill these positions that aren't filled will fall back into Council's lap.

LAW DIRECTOR MARTUCCIO: Thank you, Mr. President. The language before you has been brought to my attention leaves open for interpretation this scenario. There may be some positions that were filled part of this year but will be vacant on April 1st, 2004 perhaps for a week, perhaps for a month or two or ten. If I understood Council's intention the other night, following the Finance Committee meeting, was that...I could write this a better way with the help of the member of the Administration—was it Council's intent that any position that is unfilled for a full year, in other words 12 solid months, that's what you'd want to have people come and get permission to fill? Was it your intent to say, something that's been vacant a full year, or every position that's vacant come April 1st, 2004?

CHAIRMAN SMUCKLER: A full year.

LAW DIRECTOR MARTUCCIO: Therefore, with that understanding, I propose this language, which we can give to the Clerk of Courts. Please listen carefully. The amendment would read “any classification listed on Exhibit A,”-- again Exhibit A being your non-bargaining unit personnel ordinance—“any classification listed on Exhibit A which remains vacant for 12 consecutive months, shall not be filled without Councilmanic approval.” Now that could be a blanket rule for any given year in a rolling calendar year, or we could say 12 consecutive months effective or upon April 1, 2004 if you want to fix a date.

CHAIRMAN SMUCKLER: Don't fix a date, just put 12 continuous months.

LAW DIRECTOR MARTUCCIO: Okay, again, my guidance from the President is any classification listed on Exhibit A, which remains vacant for 12 consecutive months, shall not be filled without Councilmanic approval. That puts the duty on me or any other appointing authority who has a vacant position for one year or longer to come to you for permission.

CHAIRMAN SMUCKLER: Member Casar, you want to change?...you have to withdraw your motion if you do.

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

CHAIRMAN SMUCKLER: Yeah, go ahead.

MEMBER CASAR: Law Director Martuccio, other than a few words changing, eliminating April 1st, clarify that...what's the difference in the amendment?

LAW DIRECTOR MARTUCCIO: I'd defer to Mr. Miller for a moment if I can, Mr. Casar.

SERVICE DIRECTOR MILLER: There are positions in there that by their definition will be vacant on April 1st. The

casual inspectors are hired during the summer for Civil Engineering; the casual inspectors that are hired for the building season in Code Enforcement; the casual workers that are hired for Park Department to cut grass and Street Department to cut grass—if you have it worded that it's vacant on April 1st period, then whatever the Administration is next year on June 1st or May 1st, is going to have to come back to Council to fill every seasonal position at that point in time. And I'm not sure that that's what Council meant the other night when we were talking about it.

MEMBER CASAR: I think with that explanation from the Service Director, I think that will be fine language.

CHAIRMAN SMUCKLER: So you're going to move to.

MEMBER CASAR: So I'll remove my amendment to 1a...and it could be submitted by Law Director Martuccio.

CHAIRMAN SMUCKLER: So the original amendment is removed; the amendment that is now before Members of Council I have in writing is "any classification listed on Exhibit A which remains vacant for twelve (12) consecutive months shall not be filled without Councilmanic approval." Do I hear a second?

MEMBER CASAR: Second.

CHAIRMAN SMUCKLER: No, you made the motion...I need a second.

MEMBER BABCOCK: Second.

CHAIRMAN SMUCKLER: Thank you. We now have a amendment for 12 consecutive months. If you vote in the positive, that will go into effect; if you vote in the negative, it won't. Do we need a roll call for this one?... Roll call.

NO FURTHER REMARKS ROLL CALL: 9 YEAS, 3 NAYS
(SMUCKLER, CASAR, BABCOCK, HAWK, ALTIERI, MALLONN, MASSEY, MROCZKOWSKI & CARBENIA VOTED YES. DOUGHERTY, HART & DIAMOND VOTED NO)

MEMBER DIAMOND: Mr. President, was there...the question any discussion on the amendment?

CHAIRMAN SMUCKLER: I thought that's what we were having was discussion.

MEMBER DIAMOND: No.

CHAIRMAN SMUCKLER:Good point, Law Director. You can discuss the ordinance as amended now if you like, including the amendment. Any further discussion?

MEMBER DIAMOND: Mr. President, this ordinance allows every department head one day less than 12 months to fill positions that we don't have any money to pay for next year.

CHAIRMAN SMUCKLER: Point of information, Member Diamond. If we don't do anything, the current ordinance allows the department head to do anything right now.

MEMBER DIAMOND: Mr. President, exactly. We should be deleting all of the unfilled positions and any department

head that can justify why we should hire that person should come before Council. Every couple days, we receive an envelope from Civil Service showing that people have been re-hired, they're being paid, and we don't have any money...we don't have any money to pay them. There have been 3 or 4 Councilmembers that complain every time they get an envelope. The buyouts were supposed to save us money. And they save you money as long as you don't continue to rehire. Passing this ordinance gives people 12 months minus a day to fill their positions. We don't have any money. And yet we're extending the time to allow people to fill their positions.

CHAIRMAN SMUCKLER: No, we're not, we're actually cutting it back. Now they have an unlimited amount of time, Member Diamond.

MEMBER DIAMOND: Exactly, we should delete the positions.

CHAIRMAN SMUCKLER: I have advocated that for months. I agree with you 100%.

SERVICE DIRECTOR MILLER: Mr. President, as I've addressed Council before about eliminating all the positions, the buyouts were never designed to eliminate hiring positions that are needed in various departments. For example, in Public Works, we did layoffs. We laid off 8 people to get a target of 65. The buyouts took us down to 54 or 53 at this point in time. That is not what we're designed to work at, although we're trying to figure out if we can work at that level and determine whether we can reorganize. If we were to come down here for every single hire, you're tying the hands of, basically what you need to do is at that point in time is be the Administration because that's what you're doing. We have departments such as Water Pollution, such as Water, such as a number of different departments that have been decimated by the buyouts and the layoffs and the combination, that if we're going to provide services to the citizens of Canton, you have to put people back into some of those positions. We're not hiring every position back, we haven't requested that we hire every position back. But we need to retain some flexibility so that we can continue to work within the budget. Every person that we hire, we sit down and check first with the Budget Director to make sure we have the money in that fund to hire that person. If we don't replace any of those folks, you'll wind up getting fined by the EPA, actually Council won't, it'll be the Administration, myself and the Mayor, that get fined by EPA because we do not treat the water correctly when it goes back into the stream—we don't treat the water correctly when it goes to peoples' homes—we don't pick up sanitation on a timely basis. There are some positions that you just can say blanket you aren't going to fill without coming back to Council. And if Council wants to sit here every week and pass an ordinance every week, on every one, then basically what they want to do is they want to be the Administration at that point in time.

MEMBER DIAMOND: Mr. President...

CHAIRMAN SMUCKLER: Hang on, is there anyone else?

MEMBER CASAR: Mr. President, in regards to Service Director Miller's answer, which was a good one, the whole problem with the buyouts is because when we offered the buyouts to the employees that, and they took the buyouts, and I said when we were discussing this, I said if it's a job or a position that must be filled, then we shouldn't be offering them a buyout. And I said that at that particular time. I also said if we offer the buyout, if they take the buyout, it's up to the Administration to determine if that position is necessary or not. And I also said, if you recall, that any position that the buyout was taken, then that job or that position should be eliminated from the personnel ordinance. But nobody saw it that way and for whatever reason I don't know. So that's why we're in the position we are now. And I'm not begrudging the fact that you need these employees. I'm just going back a month or so earlier saying some of those positions should not have been offered in the buyout. Because in essence, it's not saving us anything.

SERVICE DIRECTOR MILLER: Mr. President, the Law Director can back me up on this, but you can't offer a buyout program selectively to specific positions without offering it to everybody. That was my understanding when it was designed. It was offered that way. We indicated that unless we couldn't go through and pick people that were eligible versus people that weren't eligible based upon the position they were in at the time.

LAW DIRECTOR MARTUCCIO: Mr. President, I would agree basically with Service Director Miller. We weren't allowed to discriminate on the basis of any protected classifications in law. But we were able to discriminate on the basis of classes or as we call them grades. We opened it up to certain grades and not others. But we made the terms available similarly to all situated genders and ages and so on.

MEMBER CASAR: Mr. President, was that information given to this Council back then. I remember the gender and so forth and etc and ages, you had to have at least 5 years in, I remember all that. But I do not remember what you had just stated that we couldn't discriminate on classifications of people...I don't remember that. It's all irrelevant at this point because it's water over the dam anyhow.

MEMBER DIAMOND: Mr. President. Service Director Miller, I understand there are certain regulations, there are certain positions that have to be occupied. I also understand that this Council approves of all monies spent. We can't continue to spend more than we're taking in. Whether we need 20 employees or 40 employees or 5 employees. We are the ones that are blamed when there's not enough money to pay our bills. By an appointing authority coming down and justifying what is necessary, we have a check and balance. We have to be responsible, not the Administration, for the money because we allocate the money. We don't have enough money to pay our current employees next year. That's the point everyone seems to be missing. We don't have enough money to pay the people that are hired right now. And even if positions are justified, they have to be scrutinized and there have to be priorities because we don't have any money. And we'll have less next year. I'm not saying you can't ever hire anyone, but I'm saying this body takes the blame for the finances and we need to be informed and we need to be able to justify when we do allow someone new to be hired.

SERVICE DIRECTOR MILLER: Mr. President, this Council is informed. Every person that's been hired by the Administration and every person that's been hired by me has been posted down here, indicating not only who I've hired, if it fits in the budget, how many people I had before buyouts and layoffs, how many people I have after. This is a situation where I've worked with the Finance Director and Council for over a year in determining what we can live with and what we can't. Everyone in my department has hit its budget. You've given me a budget. I'm living within my budget, not trying to live within my budget, living within my budget with the personnel I have and trying to get the folks hired back in. It's not a question, you've given me responsibility, say Service Director, this is how much money you have to spend, that's all I'm spending and I'm spending less than that in most cases.

MEMBER DOUGHERTY: Mr. President. Service Director, you're getting touchy on this one, and taking it a little personal. You may be doing your job excellent, but we got a whole city here, just not your departments you're responsible for. And you know, you guys wanted, when we got residency and you wanted to get an extension, you had to come down to Council and ask for that. We get blamed for everything. It's our responsibility down here...we fund it...we need to take more responsibility for it then. I don't have a problem with that if I have to come down here, I'm down here every week anyways. And we'll vote on it. That's just my opinion. We have a problem here, a financial problem. And we need to take more responsibility for it. That's all.

MEMBER CASAR: Mr. President....

CHAIRMAN SMUCKLER: Anyone else?... Member Casar.

MEMBER CASAR: Mr. President, my answer to Member Diamond, I wish she was consistent in what she's saying because she voted for Ordinance #8, which was the full appropriation ordinance for the remainder of this year. And she voted yes. And she's spending more money than we're taking in. So, Member Diamond, in my opinion, you should have voted no.

CHAIRMAN SMUCKLER: Anyone else?... As I said, this was a compromise. I believe that everything should have been deleted also, and I've stated that time and time again. I do also believe that we not only have to balance the budget, but we have to take into account what we take an oath of office for and that's health, safety and welfare. And if we can't provide health, safety and welfare, it doesn't matter how money we spend one way or the other. Roll call...as, on the ordinance as amended.

NO FURTHER REMARKS

ROLL CALL: 9 YEAS, 3 NAYS (DOUGHERTY, HART & DIAMOND)

CHAIRMAN SMUCKLER: The Ordinance is adopted as amended.

ADOPTED AS ORD. NO. 59/2003

POSTPONED FROM 3/3, 10 & 17/2003:

#10 **POSTPONED TO APRIL 7, 2003** (RECEIVED ALL 3 RDGS) AN ORDINANCE AMENDING CHAPTER 787, SEXUALLY ORIENTED BUSINESSES OF THE CODIFIED ORDINANCES OF THE CITY OF CANTON; AND DECLARING THE SAME TO BE AN EMERGENCY

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

CHAIRMAN SMUCKLER: It's been moved and seconded to adopt Ordinance #10; are there any remarks under this ordinance?...

MEMBER CASAR: Mr. President, I move we postpone Ordinance #10 for two weeks, which would be April 7th; seconded.

CHAIRMAN SMUCKLER: It's been moved and seconded to Ordinance #10 until April 7th, 2003; any discussion?... Roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: The Ordinance is now postponed until April 7th, 2003. Ordinance Number 11.

ALL PORTIONS OF THE FOLLOWING ORDINANCE WERE ADOPTED AT THE DECEMBER 23, 2002 COUNCIL MEETING, WITH THE EXCEPTION OF SECTION 3 WHICH WAS POSTPONED TO JANUARY 27, 2003; AGAIN TO FEBRUARY 24, 2003; AGAIN TO MARCH 10, 2003, AGAIN TO MARCH 17, 2003, & AGAIN TO MARCH 24, 2003:

#11 **POSTPONED TO MARCH 31, 2003**

ADOPTED AS ORDINANCE NO. 246/2002 ON 12/23/2002

AN ORDINANCE

SUSPENDING WAGE INCREASES FOR MANAGEMENT AND NON-BARGAINING UNIT PERSONNEL; AMENDING CHAPTER 151, EMPLOYMENT PROVISIONS, AND REPEALING CHAPTER 152, RESIDENCY, OF THE CODIFIED ORDINANCES OF THE CITY OF CANTON; AND DECLARING THE SAME TO BE AN EMERGENCY

THE FOLLOWING SECTION 3 OF ORDINANCE NO. 246/2002 WAS POSTPONED TO THIS 3/24/2003 COUNCIL MEETING:

Section 3. Subsection (b) to Section 151.08, Overtime and Compensatory Time for Nonexempt and Exempt Employees, of the Codified Ordinances of the City of Canton be and the same is hereby amended to read as follows:

- (1) Professional, administrative, executive and other employees who are exempt from the Fair Labor Standards Act of 1938, as amended, shall be entitled to one compensatory hour for each full hour actually worked in excess of and contiguous with their regularly scheduled work day. No fractional portions of hours shall be used to compute compensatory time, except for off-duty compensatory time earned through an approved call-back, which shall be computed in quarter hours. Employees may not accrue more than 120 hours of unused compensatory time for overtime hours worked.***
- (2) Compensatory time entitlements shall be approved by the appointing authority and shall be properly recorded as to when it was earned and when it was used on a biweekly basis when the payroll is submitted. The records on file in the Auditor's office shall be final.***
- (3) Exempt employees may use accrued compensatory time with the approval of the appointing authority taking into account the scheduling needs of the department.***
- (4) Upon termination of employment, employees with unused compensatory time shall be paid at their final regular rate for a maximum of 120 hours. Any accrued but unused hours in excess of 120 hours are forfeited upon termination of employment.***

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

CHAIRMAN SMUCKLER: It's been moved and seconded to adopt Ordinance #11; is there any discussion?

MEMBER CASAR: Mr. President, I move we postpone Ordinance #11 one week til next...which would b4e April 1st; seconded.

CHAIRMAN SMUCKLER: Member Casar...

MEMBER CASAR: 31st.

CHAIRMAN SMUCKLER: March 31st. It's been moved and seconded to postpone Ordinance #11 til March 31st, 2003; any discussion?... Roll call.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

CHAIRMAN SMUCKLER: Ordinance #11 has been postponed.

ANNOUNCEMENT OF COMMITTEE MEETINGS

CHAIRMAN SMUCKLER: Announcement of Committee Meetings please.

MEMBER MROCZKOWSKI: Mr. President, Finance Committee will meet March 31st, 6:30 p.m.

MEMBER DIAMOND: Mr. President, I am with the Finance Committee, so Personnel will...that's the same meeting.

CHAIRMAN SMUCKLER: Okay, we just need you to call it. Rules Committee will also meet same time, same place. There was a request for another committee to be set up. I have...well, we'll go into this under Miscellaneous Business, I'm sorry. Any other announcement of committee meetings?.... (NO RESPONSE)

PUBLIC SPEAKS (OPEN FORUM--CITY BUSINESS ONLY)

CHAIRMAN SMUCKLER: Public Speaks, Open Forum, City Business Only. Those that have signed up to speak in the last 3 weeks have to wait til the other people get to speak by Council Rules. The first one up this evening will be Dave DeMeo. David, please state your name and address for the record.

MR. DEMEO: Dave DeMeo, 724 - 42nd Street, Canton. Mr. President, Mayor, Service Director and Safety Director and Council. I appreciate you letting me have this time to talk to you, I know you're busy people. I won't take up too much of your time. I know you're going to get around to voting on step increases, not tonight, next Monday or the Monday after. I'd just like to give you...if I didn't come up here and saying anything, I wouldn't feel like I was being fair to my wife that works in the City and pays 2% tax and my 8-year old little girl. Worked for the City of 28 years...I'm second on the seniority list general foreman. Evidently when I took this job, I was told that I was going to have 5 step increases. I knew that going in that there would be people that I supervise making more money than me for the first couple years. That happened this year because of the overtime for snow removal. If you freeze my steps, that will continue to happen. We get one more bad winter, it might be...my steps are less than \$10,000. I know the City's in financial trouble and I know that's our problem, all of our problem. The only other thing that I wanted to say while I'm up here is if there's no one else in the City but the management people and it's my understanding that there's less than 30 people, somewhere between 20 and 30 people that will have their step increases froze. There's no one in the Fire Department, no one in the Police Department, and there's no one union person that is having their steps froze. I'll still be on call 24 hours a day; in fact, I got a sewer call tonight at 5:30. If I couldn't have figured it out over the phone, I would have been there instead of being here. I don't get paid overtime, I get comp time hour from hour. I, myself, will take a wage freeze like everyone else. I, myself, will pay my benefits like everyone else. I just want there to be some fairness to this. And in my opinion, right now, there is no fairness to freezing my steps and no one else's steps. No one else at all in the City is getting their steps froze but us management people because you can. And I realize that you're going to do what you think is right no matter what, that's what you need to do and that's why I'm here. Because I needed

to come up here, give you my opinion, and I'll feel better now knowing that when you freeze my wages, you'll know that you're changing my life for the rest of my life, my retirement, and my family's life. Because my whole family pays 2% of their wages; we all live in this City, we all pay 2% of...I pay 2% of my own wages, as you all do. Thank you.

CHAIRMAN SMUCKLER: Thank you. Sir, I'm sorry, my writing is worse than this, so I understand. I think you're the next speaker but I can't read your name.

MR. KOCINSKY: Kenneth Andrew Kocinsky.

CHAIRMAN SMUCKLER: Please state your name and address.

MR. KOCINSKY: Excuse me, sir. Kenneth Andrew Kocinsky. I reside at 427 Wells Avenue NW, #3. I am running for Ward 2 Councilmember. What I wanted to do was...

CHAIRMAN SMUCKLER: Mr. Kocinsky, we don't state that here because this is not a political forum, this is a public forum. You understand?

MR. KOCINSKY: Yes, sir. Yeah, what I wanted to do was, on my way home from the Council Meeting, I noticed a PVC plastic drain pipe being installed in front of Hilscher and Clark's. So I wanted to make a suggestion that we quit using PVC pipe in place of black steel pipe in the building drains to cut down on the amount of pollution in the water table. I don't know, I was thinking, I tried checking out the 1435 building drains and sewers in the Canton City Ordinance book and I couldn't find anything about the types of materials that pipes were supposed to be used. So I would like to suggest that maybe like a new City ordinance specifying that we're not allowed to use plastic pipe in any sort of drains or water piping in the City...and get back to the old black steel drain pipe.

CHAIRMAN SMUCKLER: Anyone else?... Thank you.

MR. KOCINSKY: Thank you.

CHAIRMAN SMUCKLER: We are under Miscellaneous Business, is there any....

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

CHAIRMAN SMUCKLER: Wait a minute, I'm sorry. I jumped ahead, and there was one person that spoke in the last three weeks and I didn't let him come back up and speak. Hold on a minute. Joe Thompson. You had signed up to speak. Please state your name and address and take your 3 minutes please.

MR. THOMPSON: My name is Joe Thompson and I live at 318 Schwalm Avenue NE in Canton, Ohio. I'm here to discuss the war in Iraq. I'm here to discuss how our appointed not elected President is part of a plan for world domination at the cost and safety of us all for many, many years to come. He and his cabinet members which consist of former Project for a New America members, headed by Paul Wifowitz (NOT SURE OF SPELLING), who was acting on the part of those who would benefit from the destruction of Muslim and Arab resources and leaders by using our military for their own purposes. Other members include Dick Chaney, Donald Rumsfeld, (NOT UNDERSTANDABLE) Crystal, and 36 others. All are neo-conservative fascists fueled by corporate greed and fixated on the power of world domination, and their counterparts, or just like their counterparts, which calls it "order." These few, like in the past, are

now many and are spearheading mass slaughter and destruction across the world at the expense of innocent American lives who are just obeying orders in a war that nobody wanted other than a demented few who now have the perfect puppet to execute this diabolical tragedy. May Allah God have mercy upon us all. And may he grant us vision and wisdom and good will toward each other. And then we can lead by example instead of force. Why should billions and billions of dollars be spent on war and destruction instead of here in our cities for peace. Unfortunately we will pay the price for our own negligence as citizens and elected officials in our electoral process. But in the end I hope that we will bring about peace and tolerance to each other rather than ignorance, prejudice and destruction. We invaded Iraq...

CHAIRMAN SMUCKLER: Mr. Thompson, as a number of members have swarmed up here and some hand signals being given, I fully appreciate that you have the right to state your public opinion. I'm not sure that this is the forum to do it. It says when you signed up, you signed up to speak for City Business. I'm not sure what this has to do with running city government. I think that your forum would be better placed maybe at the Congressman's Office or some other position...

MR. THOMPSON: Oh, I've sent letters to Congress...

CHAIRMAN SMUCKLER: I understand, Mr. Thompson...

MR. THOMPSON: I understand too. Well if we have a First Amendment right for free speech, free speech should be allowed for all and not just for city business. This is city business in a way because it effects us all. We're all part of the city.

CHAIRMAN SMUCKLER: You've had about 3 minutes...if you want to bring your remarks to a close according to the Law Director, you bring them to a close. But I will have to discuss this later. We could discuss a lot of things here, but we are limiting this forum to city business.

MR. THOMPSON: Well, I'll bring it to a close. How would you feel if a Russian newspaperman or newspaperwoman would come to your country and interview you while you're being bombed by the Russians?...well that's exactly what we're doing. We are invading a country. It's effecting all of us. Our money is being spent elsewhere--instead of the city, it's being spent overseas for a war that will cost us more and more in the end. Thank you.

CHAIRMAN SMUCKLER: Thank you. Anyone else?...

MISCELLANEOUS BUSINESS

CHAIRMAN SMUCKLER: Back to Miscellaneous Business. There's several people that want to speak. Member Casar?

MEMBER CASAR: Mr. President, may I ask the Safety Director a question please. Safety Director Concatto, I know it's been 6, 8 months ago, I'm not sure when we passed the ordinance for the portable signs in the City of Canton for regulating...I see Mr. Zengler is out there, he may be able to remember when it was. Do you know when we passed that sign ordinance Mr. Zengler? (FORMER ZONING INSPECTOR ZENGLER SPEAKING FROM THE AUDIENCE)...

CHAIRMAN SMUCKLER: Whoa, whoa, whoa. (INAUDIBLE REMARKS) I understand, but this lady can't tape that. Either bring him up to my microphone or let's move on.

MEMBER CASAR: Okay, well, I think it was more than 6 months ago, so his answer didn't help me. Safety Director, I'm sure it's more than 6 months ago that we passed that and my question being these portable signs are all over the city, I have a list of them, but I don't really want to bring the list up of the business owner that has them in front of him because I don't think that would be fair to the business owner. I think it's the responsibility, as the ordinance states, for the person that supplies the signs and whoever it may be and it's particularly one corporation or one sign company. Has there been any going out and checking these signs when they're all over and they have the concrete blocks still on them, which was supposed to be taken off, they're supposed to be free standing, they're supposed to be spray painted, they're supposed to be neat in appearance. And none of these things are taking place. And I want to know, has there been enforcement to enforce our ordinance?

SAFETY DIRECTOR CONCATTO: Mr. President. Member Casar, I honestly can't answer that, but I would certainly get you an answer before next meeting.

LAW DIRECTOR MARTUCCIO: Mr. President...

MEMBER CASAR: I would certainly appreciate it.

CHAIRMAN SMUCKLER: Member Casar, could you take a reading here by the Law Director?

LAW DIRECTOR MARTUCCIO: Mr. President, Member Casar. The Zoning Inspector has been instructed by a combination of Law Department and Safety Department to examine a couple of places that we've had specific complaints on. And one of our Assistant Law Directors did file a complaint in court against the sign company for a couple of signs that were up too long. I don't know the status of those, but I know we did file a complaint.

MEMBER CASAR: Mr. President, just a continuation. I will provide a list that I've have been starting for the last 2, 3 months all over the city that nothing's being done. So I assure you I will give your office or the Safety Director's Office some places to go and it's very obvious.

LAW DIRECTOR MARTUCCIO: Thank you.

CHAIRMAN SMUCKLER: Anyone else under Miscellaneous Business?

SERVICE DIRECTOR MILLER: Mr. President, speaking very quickly to the gentleman's remark about polypropylene, and it's not PVC, it's probably propylene pipe that's going in on the 4th and Shorb Project that has been the standard for a number of years. The metal pipe, the corrugated metal pipe, even when it's coated tends to rust out and rot out. In fact, we had a repair project approximately 2 to 3 years ago, about \$50,000 where we had a 72" metal corrugated pipe rot out. The other answers would be concrete which is cost prohibitive, clay tile which is brittle, it does last but again it has some problems. The polypropylene is pretty much impervious to everything and is very easy to put in and is very cost effective.

CHAIRMAN SMUCKLER: Service Director Miller, aren't we now under a State code rather than a City code on most of these pipes and how we do things now?

SERVICE DIRECTOR MILLER: These pipes never were controlled by a code, these are storm drainage pipes. These aren't for water, these aren't for sewer, this is specifically being put in for storm water.

CHAIRMAN SMUCKLER: Is the rest of the items controlled?

SERVICE DIRECTOR MILLER: Most of those as I understand are now controlled under State regulations versus City, but the City does have its own regulations as far as water's concerned.

CHAIRMAN SMUCKLER: Okay. Any further discussion?

MEMBER BABCOCK: Mr. President, I'm complaining about the benches. There's so many benches. And Mike is it my understanding that you're going to have them removed by April 1st?

CHAIRMAN SMUCKLER: Law Director Concatto...I got thrown off...the Council President must be back from his mission of flight, so I just lost it there. (INAUDIBLE REMARKS) Is that how you view that?... (LAUGHING)

LAW DIRECTOR MARTUCCIO: Lots of vowels, I understand the confusion. Member Babcock, there's a grace period til April 1st. If those signs are not down by April 1st, we have a lawsuit in place—we've filed a lawsuit asking a judge to tell us that we have the right to get rid of them come April 1st if they're not gone. It was a sunset provision of 90 days from January 1st through April 1st. If they're not gone, we've asked the Judge for permission to take them out ourselves. That's a lawsuit that's pending.

MEMBER DOUGHERTY: Mr. President, would be handling that, Service Director?...removal of those?

SERVICE DIRECTOR MILLER: Unfortunately, I did last time. I'm anticipating that the Law Department again will ask Public Works to remove those and store those if he doesn't take them down himself.

MEMBER DOUGHERTY: Okay, just so nobody gets mad at me, you can start in Ward 6, okay? Right along that nice new trail we got before all the trees start blooming, okay?

SERVICE DIRECTOR MILLER: Understood.

CHAIRMAN SMUCKLER: Anyone else?... Before you adjourn, Don, this was said in Democratic caucus and it was said a little bit out here on the floor, but I want to publicly go on record to make sure that this is duly noted. You know, over the years I've worked with a lot of people that have been Finance Chairman, and when I had the difficult task of appointing committees with Member Casar, it didn't take us long to decide who the Finance Chairman we'd like to be. Now we may regret accepting that, but I can tell you what and I said this to you at the employee retirement party, and I mean this John Mroczkowski, I have total respect for the job that you've done. You have fashioned a way for us to at least get through another year. And I know it's not the end all. You have a bridge to the unions, you have been a bridge to the Administration, and you have put more time into this than anybody I've ever seen put any time into Council period. So when they're throwing the barbs about somebody didn't do their homework and somebody didn't care, I can tell you that I'm standing out there and saying somebody does care and somebody did do their homework—especially the last two years. In continuing with that, and that's my lead-in for the committee that you proposed, I...we discussed a little while earlier that the committee should remain the same and what you've been doing for next year should continue to do. And it's not my idea as Majority Leader and I know I haven't discussed this with you, Don, but I think we got

the same sentiment in there is that we've done a good job this year and in preparation for next year, Member Mroczkowski, you take the bull by the horns and you continue these committee meetings you've been having with the unions and the Administration and everyone else and I don't see there's any reason to change anything right now in mid-stream. Do you agree, Member Casar?

MEMBER CASAR: Yes.

CHAIRMAN SMUCKLER: Anyone else?... Member Casar?

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

CHAIRMAN SMUCKLER: It's been moved and seconded that we adjourn Canton City Council. Roll call.

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

CHAIRMAN SMUCKLER: Canton City Council is adjourned. (SOUNDS GAVEL)

ADJOURNMENT TIME: 9:02 P.M.

ATTEST:

DEBRA VANCKUNAS
CLERK OF COUNCIL

APPROVED:

RAY DENCZAK
PRESIDENT OF COUNCIL