

**MINUTES OF THE MEETING OF OCTOBER 20, 2003**

*The regular meeting of Canton City Council was held on Monday, October 20, 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 Ward 5 Councilmember John Mroczkowski, 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 TAKEN BY CLERK OF COUNCIL:***

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

**AGENDA CORRECTIONS & CHANGES**

PRESIDENT DENCZAK: Agenda Corrections and Changes, Members of Council. You're being asked to suspend Rule 22A to add 2<sup>nd</sup> readings of Ordinances #12 through and including #21 and you're going to be asked to postpone Ordinance #24. The Chair will now recognize Rule 22 suspension. Member Smuckler...

MEMBER SMUCKLER: Mr. President, I move we suspend Rule #22A to add Ordinances #12 through #21 to the agenda; seconded.

PRESIDENT DENCZAK: Moved and seconded that you suspend Rule 22A to add Ordinances 12 through and including #21 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 is suspended and Ordinances 12 through and including #21 are a legal part of your agenda. Corrections on the Agenda, Members of Council--Ordinance #18 of the second readings. Change that figure from \$157,000 to \$157,500 in both cases. This brings your agenda up to date.

**PUBLIC HEARINGS****PUBLIC HEARING #1, FRICKER ZONE CHANGE, 7:30 PM**

PRESIDENT DENCZAK: We have a scheduled public hearing for 7:30 pm. The Chair now declares the public hearing open in regards to the matter of rezoning lot #29043 located at 2409-2411 4<sup>th</sup> Street NW from R-1A to PR-2 as requested by James and Patricia Fricker. The Planning Commission recommends denial. Is there anyone in the

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audience wishing to speak for or against this zone change, please come forward.... Okay, I'm having a problem in here. Some of you people have signed up to speak under Public Speaks. I think you may have wanted to speak in regards to this zone change, or do you still want to speak under the Open Forum portion of Public Speaks?... Do you wish to speak in regards to this matter? I am referring to the people of Shake...is it Shake - S-H-A-K-E? You live at 355 Arlington NW? John & Judy Seckler?...you live on 4<sup>th</sup> Street. You wanna speak on this zone change? Mark .....I don't have 2411, I have 2412. Oh. Okay, that's the address, yeah. You wish to speak on the public hearing or on the -- under the Open Forum later on this evening? It's probably best in your interest to speak now. Very well. And what is your name?... Okay. John and Judy Seckler?... Only one of you can speak at a time. *(HUSBAND INDICATES WIFE WILL SPEAK)* Okay. That's usually the way it is.....*(LAUGHTER)* There goes the women's votes, huh? Okay Judy. Step up to the microphone, please.

MS. SECKLER: Okay. My name is Judy Seckler and 45 years ago.....

PRESIDENT DENCZAK: State your address, please, for the record, please.

MS. SECKLER: My address now?

PRESIDENT DENCZAK: Yes.

MS. SECKLER: Where I live now?

PRESIDENT DENCZAK: Yes.

MS. SECKLER: 2226 Woodlawn, W-O-O-D-L-A-W-N Avenue NW, Canton, Ohio 44708.

PRESIDENT DENCZAK: Okay.

MS. SECKLER: The house that's on 4<sup>th</sup> Street, 2411 4<sup>th</sup> Street. My husband and I lived in that house. We had that duplexed and we lived in that. We had that 15 years. Mrs. Shane was our landlady. That house was built as a duplex. I don't understand why they're saying that it's not a duplex, that it's a single family dwelling. I don't know this man that has the house. I never knew him before or anything until I got this letter sent to my Woodlawn home about this duplex. And, I had that for at least 15 years. It was always a duplex. Dirk Snyder and Paul Snyder lived upstairs. They had it for years. It was built as a duplex and I don't understand how they can possibly say that this house is not a duplex. It's been a duplex. When I moved out I sub-leased it. I had a beauty shop in the front there. I had a beauty shop there for 10 or 13 years, then I moved on down the street behind Dr. Stout where Bernard's Barber Shop used to be and I had the beauty shop there also. I had 2 shops. And I sub-leased that apartment out to Bob and Loretta Hawk. And, Larry and Clay Wiley lived right on the corner house from Arlington and 4<sup>th</sup> Street, right across the Street from the side. They were friends, and Bob and Loretta when they got married, I rented that house to Loretta and Bob. They sub-leased it from me and I don't understand how they can possibly say that that's not a duplex. If you would go in that house, there's all complete separate entrances. In fact when we moved out of it, when Minnie Shane died and her sister took it over, I wanted to buy the house but my husband did not want to. I would have bought it and rented it out. Our children went to school there. They went to....they went to the north school there, on the corner.

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PRESIDENT DENCZAK: So you're speaking in favor of the rezoning?

MS. SECKLER: Pardon?

PRESIDENT DENCZAK: Are you speaking in favor of this rezone?

MS. SECKLER: I want it to be a duplexed house. Yeah. It always was, it's not anything but a duplex. You go down there to that place now, it is all completely separate. It was built as a duplex. I don't understand what is going on that they're trying to say it's not a duplex because it is. And, I don't know this man from Adam. At all. But, something's not right.

PRESIDENT DENCZAK: Okay, thank you. Your 3 minutes are up.

MS. SECKLER: And, it is a duplex. It was built as a duplex and it should remain as a duplex. Thank you.

PRESIDENT DENCZAK: It's going from R-1...to PR..... to PR-2?..... Mark McKean. Are you speaking in regards to this zone change also?.... Okay. That's all right.

MR. MCKEAN: My name is Mark McKean, 2412 - 4<sup>th</sup> Street, and I understand what the lady was saying about the house being built as a duplex. Unfortunately, it was never zoned for that and it was used for that for many years without being zoned properly. It doesn't make it correct. I do not believe that the neighborhood needs a duplex. It's a single family neighborhood, it's set as residential and there's really...the house, basically, between the house and the garage in the back, takes up the entire property. There's no places to park. The one side of 4<sup>th</sup> Street, there's no parking now. Where would you put any cars parked on the street? There's no available space. That's all I really have to say. I just do not feel that the City needs more duplexes in residential areas. Thank you. (APPLAUSE)

PRESIDENT DENCZAK: Jim Fricker. Are you speaking on the same matter?...

MR. FRICKER: I own that property. That property cost me \$50,000. I bought it as a duplex. It was built as a duplex. The deed says it is a duplex. The dup.....

PRESIDENT DENCZAK: State your address please.

MR. FRICKER: Did you hear most of what I said?

PRESIDENT DENCZAK: Yeah, but you still have to give your address for the record please.

MR. FRICKER: Oh, I'm sorry. My name's James T. Fricker, I reside at 916 Ridge. I've always been a resident of Canton, Ohio. I purchased the property for \$50,000 to ensure my family's future. It was built as a duplex. The deed says it is a duplex. It was designed as a duplex. It has separate rear and front entrances. It has separate utilities, electric, gas. If I don't have this as a duplex, I'll never be able to sell it. How could I sell it to somebody who thinks it's a duplex, that thinks they're buying a duplex, and can't buy a duplex. So, the deed states that I have an easement to the parking lot of Northwest Foods for my tenants to get access to, to and from the garage. I have a beautiful garage. It's got a new

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roof, new spouting, new garage doors, automatic garage door openers. The property is very nice. New carpeting, new paint. Oh, the whole thing how this came about is I was told by an inspector that if I declare this vacant for 12 months, I would -- I could work on my property at my leisure and go about my way and do it at my own pace. I thought great. I don't have -- I don't have to show up every month for him to come and inspect my property. I can take my time, I can use my money as I have it and fix my property up. I find out after I'm ready to rent my property, to go reinstate it with the City of Canton, that if I declared it vacant for 12 months, I lose my duplex status. I was never -- I never wanted to jeopardize my property in no way whatsoever. Why? An idiot would have to jeopardize their future if they knew that they was going to lose their duplex status by declaring it vacant for 12 months. That's how this whole thing came about. I was never informed in any way about that. And, it's built as a duplex? It is a duplex. You know, Cedar School's tearing down houses. Timken Roller Bearing's tearing down houses. Aultman Hospital's tearing down houses. Clarendon School's tearing down houses and now I got a beautiful duplex for 2 tenants, and you guys want to deny me full status as a duplex. I don't understand it. Thank you very much. (APPLAUSE)

PRESIDENT DENCZAK: I'm gonna have the Law Director -- This is a very confused issue here. I'm gonna have the Law Director explain to Council what's taking place. Law Director....

LAW DIRECTOR MARTUCCIO: Thank you Mr. President. This City Council decided in 1977 that it wanted to rezone parts of the City of Canton. It wanted to make parts of the City of Canton residential. So, it said in 1977 that properties that were already in existence as multi-family could stay multi-family. They would be grandfathered. However, the Ordinance went on to say, if they stopped being used for a year or more, they would revert back to single family residential. There were other things built into these laws, but essentially, that's what they say. The idea was to get the area back to being single family residential. This issue came before the Planning Commission at a hearing on June 26<sup>th</sup> of this summer. The Planning Commission reviewed the zone change request from an R-1A Single Family to a PR-2 Planned 2-Family for this address to make it a duplex legally by the Frickers. They considered the issue and recommended a denial to this Council as their advisory group does. They said that the surrounding area is zoned R1-A Single Family Residential to the north, south and east and B-2 to the west. Most of the surrounding area their report consists of is residential single family and some conversions with spots of commercials. The change they said is requested to make legal the existing duplex. The area was zoned single family, with good reason, they write, and other zone changes would not be recommended for approval. So, Mr. President, the way the Ordinance is presented before Council, it is written in the positive. This converts-- even though the Ordinance says the Planning Commission is recommending denial, if you vote yes for this Ordinance, it allows it to go from single family to duplex legally. A yes vote makes this house a duplex as opposed to single family. If you agree with the Planning Commission, and you think that it has not been grandfathered because it's been vacant for a year or more, then it should be single family in your opinion, and you would vote no to this Ordinance because our Ordinance goes on to say, that when a non-conforming use is voluntarily discontinued for more than one year, any subsequent use of that land shall conform to the regulations of the Ordinance. In other words, if it's voluntarily vacant for one or more years--and this has been in effect since 1977, it's not a new law-- it goes back to single family.

MEMBER SMUCKLER: Mr. President. Can we determine any way, shape or form when this property became empty and how long it's been empty?

PRESIDENT DENCZAK: All right. I have no way of knowing that Member Smuckler.

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MEMBER SMUCKLER: Does the Building Department keep track of this? Mr. Concatto?...

PRESIDENT DENCZAK: Safety Director?

SAFETY DIRECTOR CONCATTO: Yes. If you would have asked me that question earlier I could have gotten you that information.

MEMBER SMUCKLER: I wasn't aware this was taking place here tonight.

SAFETY DIRECTOR CONCATTO: I can only say that according to what was presented at the Planning Commission, I can only assume that it was vacant for at least a year. Now, from what time to what time it is, I don't know. But, it would have had to been for at least a year or more. Without somebody --I can't get those records right not.

MEMBER SMUCKLER: Mr. Denczak, I can go...

PRESIDENT DENCZAK: Quiet please. I'm sorry, what?... Okay. Now, please, no more responses from the audience. This is a term that Council will have to determine here. Member Smuckler, what where you going to say?

MEMBER SMUCKLER: Well, that was my question. The gentleman sat down and he said that somebody in Building gave him a year and then my question is, well that's all fine, well and good. My question would be before that, how long had the property been empty? And if what I'm hearing is correct, that this building has been empty now for over 5 years, my next question would be, and, I think we gotta get into technicalities here of why would a title still continue to read that. Does our Ordinance help kick in with titles and changes and things that should be made? And I know that's more at a future date with the Law Director. Like I said when I said I didn't know about that, I knew this was on the agenda, I didn't know this was going to be as controversial as it is today and I'm trying to make a decision like everybody else is going to make a decision. And I'm more concerned about the technicalities that are coming through here too. I understand the neighbors who live around the area are concerned about having a duplex. I also understand this gentleman's problem of buying a house that has duplex on the title. And, as hard as it may seem, it seems to me that both are right. The problem is, is that I think that somewhere on the title, Mr. Martuccio, it should read in there that it had been reverted back. And I don't know what mechanism this Council has to put in place to do that but I think it shouldn't be buyer beware, it should be buyer, you understand what this is now. And I.....

PRESIDENT DENCZAK: Members of Council, perhaps it would be wise to continue this public hearing and then when the Ordinances comes up later on this evening, postpone it for a week, until you get this whole issue ironed out. I don't think you're going to be able to iron it out right here and now. This is a very com.... *(INAUDIBLE REMARK BY CLERK TO PRESIDENT)* ...yeah, right. But, we'll continue the public hearing and maybe Council will consider postponing the Ordinance later on this evening. I think we have somebody else signed up to speak in regards to this matter. Tami Williamson....

MS. WILLIAMSON: My name is Tami Williamson. I live at 405 Arlington Avenue NW in Canton. Our house butts right up against this property that we're discussing. I have brought pictures with me just to give an idea on the location of the house. We've lived in our home for a little over 10 years. Prior to us buying our home, it had just been converted to a single family home from a duplex. So, at one point we had 2 front doors, 2 separate entrances, exits, what not. It's

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now a single family home, along with our neighbors beside us, they were once a duplex, they are now a single family home. We have several rental properties in our area that are not kept up with, they're a constant nuisance. One of which just happens to be right across the street, across 4<sup>th</sup> Street from this property. There could be, you know, 3 to 5 cars from that home parked right in front of this property. There is no parking for this property if you had 2 different families living in there. There's also no yard. It's not a home that you're going to want to start your children or have children there, because you're right next to what had been the Northwest Market which is now the R & J's Corner Store that has had several complaints and problems. As far as him not knowing that he, you know, was given 12 months and not knowing that he would lose his duplex rights, he's a property owner. It's his, you know, he should know what he can and cannot do. It's not our fault he didn't do his homework. It's to our benefit that, you know, that it stay a single family home. It doesn't matter if it was once a duplex. We are right next door. I mean the back of our house butts right up against, you know, this property. There's just no yard. It would be a problem for our family. You know, there's already other homes that are a problem and I'm sorry to say, that would be an even bigger problem. And, so we're obviously against it. If you want to see the pictures...

PRESIDENT DENCZAK: If you want to pass it on to that Member of Council. We'll see to it you get them back.

MEMBER SMUCKLER: Mr. President, you say there's no parking there, you mean there's....

MS. WILLIAMSON: There's a parking lot to the corner store as you'll see in these pictures. So, it's not -- a lot of times in the evening there's several cars parked there, you know, a lot of cars with loud music, and he does have a garage, there's, the only yard in that is just a small patch in the front.

MEMBER SMUCKLER: When you say a garage, is it a single car garage, double car garage?....

MS. WILLIAMSON: It's a 2-car garage, but I think it's got 2 separate doors and he did fix it up this summer, just, or you know, this late summer.

MEMBER SMUCKLER: How long has this property been empty?

MS. WILLIAMSON: This property's been empty for, to my knowledge, for at least 5 years. Since he's owned it, it has never been rented out. I mean, he's -- you know, we've seen things come and go as far as updating, but, you know, we have no problem with him, it's just a matter of, you know, we'd like to keep somewhat, some peace in our neighborhood....

MEMBER SMUCKLER: Oh, I understand. I understand and I'm, the only thing that I am, and don't get me wrong, I'm not saying that I'm supporting changing this back, what I'm saying is, is that, besides him doing his homework, I'm concerned about what titles read when they're sold. We keep this ongoing battle with the Building Department on, you know, pulling houses off our demo list, and now I'm hearing about titles the way they are, and I don't know who's responsibility this is, but I'd sure like to get to the bottom of who's responsibility is what here, and I don't know whether it's the County's responsibility, I don't know whether it's the City's responsibility, I don't know who's responsibility it is to send a list after they been vacant for a year, that somebody ought to be notified about it, including the neighbors.

MS. WILLIAMSON: Right.

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MEMBER SMUCKLER: Including the neighbors.

MS. WILLIAMSON: Right. When, you know, when he didn't rent it out for a while, it was great. We didn't have to worry about tenants moving in and out...

MEMBER SMUCKLER: I understand.

MS. WILLIAMSON: But, you know, he doesn't live in that neighborhood. He owns the property but he doesn't live there. We can personally say we live there and see the kids walk back and forth to school and see what goes on.

PRESIDENT DENCZAK: I'm sorry ma'am, but you're 3 minutes are up.

MEMBER CARBENIA: Mr. President. May I ask you a question?

PRESIDENT DENCZAK: Ma'am? The Councilman has a question to ask you.

MEMBER CARBENIA: You say if he rents this out, there's not gonna be any place to park if he does it as a duplex?

MS. WILLIAMSON: One of those issues.

MEMBER CARBENIA: What about if he does it as a single family home? There's not any more parking than what's there now. It looks like there's no parking, other than in the garage. So, I mean....

MS. WILLIAMSON: Well, you just double the amount of vehicles. You can have a single family that has 5 cars, or, you know, it just depends but, you've got more bodies moving in and out of that house.

MEMBER CARBENIA: Well, that's what I'm saying it's only.....

MS. WILLIAMSON: Right.

MEMBER CARBENIA: ...could be there with 5 cars for one family.

MS. WILLIAMSON: Right.

PRESIDENT DENCZAK: Is there any....ah, one more name here. Who lives at 355 Arlington Avenue NW? Okay, you wish to speak in regards to this matter?... Come up to the mike -- Sir, you have to come up to the microphone. State your name and your address then.

MR. SHAHEEN: My name is Faiz Shaheen. I live 355 Arlington NW. Mr. Mayor and Council, Mr. Miller, Everybody. I live here 31 years and then we have residential all over there. Now we turn both the streets almost all is rental and we have plenty problem. The Police force work, work hard. Thank you for them. They work hard like son of a gun. Back and forth to keep the peace. Other day, one fellow he hit, he hit him with a board, bleeding all over the floor, I have to wash the floor for him. They don't, they don't bother to call the Police. They call the ambulance.

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They took him to hospital. I say why you don't call the Police? He said, the hospital the Police will find out what happened. That is wrong. It is residential we live. We like to live a clean, clear and I don't believe we should have any duplex on 4<sup>th</sup> Street. (*APPLAUSE*) Because right around there we have the school kids, we can't blame the kids for that. The folks, they can't control the kids. I have behind my house, almost my yard, but, when I buy the house, the yard there, they have rental, not rental house. Now they live 6 kids there, no mother around them, no father, no nothing. Even no curtain. It's been 3 months they live there. No curtain in the window. How's 6 kids gonna live in the house, no curtain in the window. And Health Department should look for that, and should be the house not fit right, should turn down. Thank you very much. (*APPLAUSE*)

MEMBER HAWK: Mr. President. May I ask a question of Mr. Fricker? (*MR. FRICKER IS IN THE AUDIENCE*)

PRESIDENT DENCZAK: Yes.

MEMBER HAWK: How long have you owned the property sir?

MR. FRICKER: I've had it a few years.

MEMBER HAWK: How many years?

MR. FRICKER: I don't know about that.

PRESIDENT DENCZAK: All right Member Hawk, I'm sorry but....

MR. FRICKER: All I know is I was never informed of my time.... (*INAUDIBLE*)

PRESIDENT DENCZAK: Time. Sir....Sir. We can't let this get out of order here now. As I said before, this is a very complicated issue. And, you have some questions to ask and you're not getting answers, I would hope that Council would consider postponing the Ordinance this evening until you get the correct answers. Who's Ward is this in, yours, Member Hawk? Okay.

MEMBER HAWK: Yes.

PRESIDENT DENCZAK: The gentleman doesn't know exactly, so maybe by next week he can tell you exactly. So, I would hope Council doesn't take final action on this matter this evening. Is there a Pamela Bradley?... You don't want to talk in regards to this, do you? Okay. And I guess the other people want to talk about their particular problem. Okay, that's good. That ends the public hearing. The Chair declares the public hearing over in regards to this matter. The matter will come before Council in the Ordinance form later this evening.

**PUBLIC HEARING #2, MAGGIORE ZONE CHANGE, 7:31 PM**

PRESIDENT DENCZAK: We have a scheduled public hearing for 7:31. It's a request to rezone part of outlot #935 located at 2535 Fulton Drive, from B-3 to PB-4as requested by Chris Maggiore. The Planning Commission recommends approval of this zone change. Is there anyone in the audience wishes to speak for or against this zone



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change, please come forward?... Yes, this is a public hearing, yes. State your name and your address please.

MS. FREEMAN: Ida Freeman, P O Box 21864, Canton, Ohio 44701.

PRESIDENT DENCZAK: Okay.

MS. FREEMAN: I just noticed this. Is this the Maggiore's that have the drive thru? Can someone tell me?

PRESIDENT DENCZAK: 2535 Fulton?

MS. FREEMAN: Or, is this zone change for a drive thru?

MEMBER HART: No. It's.....

PRESIDENT DENCZAK: Service Director....?

SERVICE DIRECTOR MILLER: The zone change on this one is to put in a gas station with a fast food restaurant inside it and a car wash.

MS. FREEMAN: Will there be alcohol sold?

SERVICE DIRECTOR MILLER: I don't recall that that came before the Planning Commission. At this point in time I don't believe there's a liquor license for that location. I don't know if there will be alcohol sold at that location or not.

MS. FREEMAN: We need to look at that. We have alcohol, too much alcohol in this community and it's destroying lives and homes. We need to look at that to see if there's going to be or if it's a potential set-up to be selling alcohol.

MEMBER HART: Mr. President, when I had discussed this with one of the members of Mr. Maggiore's group, one of the things that was brought up with having the national franchise of, you know, restaurant going in there like the Taco Bells or McDonald's, it's that type of situ.....that type of establishment they don't want to have a McDonald's or an Arby's, or whatever, fast food restaurant is in there and then be, you know, associated with alcohol, because I know there was a, at one time, before, there was a possibility of a porn shop going in the back where the restaurant was.

MS. FREEMAN: Yeah.

MEMBER HART: And is now there, and I know that was a situation where, if that would have been there, there wouldn't have been any of the national franchises that would have wanted to have any of their restaurants close to, you know, anything like that, or build when something like that was there. So, there was no alcohol to be, to the best of my knowledge, to be sold there because the franchises wouldn't go in there if there was a, you know, the typical Stop 'n Go.

MS. FREEMAN: Oh, okay. Thank you.

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PRESIDENT DENCZAK: Is there anyone else in the audience wishing to speak for or against this rezoning, please come forward... Is there anyone else in the audience wishing to speak for or against this rezoning, please come forward... Is there anyone else in the audience wishing to speak for or against this rezoning, please come forward... Apparently not. The Chair declares the public hearing over in regards to this matter. Ordinance will follow later this evening.

**PUBLIC HEARING #3, HARDING ZONE CHANGE, 7:32 PM**

PRESIDENT DENCZAK: We have a scheduled public hearing for 7:32. It's a request to rezone part of outlot #837 located at 4330 Kirby Avenue NE from R-1A to PB-3 as requested by Daniel & Marcia Harding. The Planning Commission recommends approval. Is there anyone in the audience wishing to speak for or against this rezoning, please come forward... Is there anyone in the audience wishing to speak for or against this rezoning, please come forward... Is there anyone in the audience wishing to speak for or against this rezoning, please come forward... Apparently not. The Chair declares the public hearing over in regards to this matter and the Ordinance will follow later this evening.

**PUBLIC HEARING #4, JEFFRIES BROTHERS ANNEXATION, 7:33 PM**

PRESIDENT DENCZAK: Again, we had a scheduled public hearing for 7:33. It's a request to annex approximately 147 acres in Canton and Plain Township known as the Jeffries Brothers Annexation Area, assign said territory to Ward 4 and rezone the same as I-1. The Planning Commission recommends approval. Is there anyone in the audience wishing to speak for or against this annexation, please come forward... Is there anyone in the audience wishing to speak for or against this annexation, please come forward... Is there anyone in the audience wishing to speak for or against this annexation, please come forward... Apparently not. The Chair declares the public hearing over in regards to this matter. The matter will follow later this evening in the form of an Ordinance.

**PUBLIC SPEAKS (ORDINANCES OR RESOLUTIONS FOR ADOPTION ONLY):**

PRESIDENT DENCZAK: We have no one signed up now to speak under Ordinances and Resolutions for Adoption.

**INFORMAL RESOLUTIONS**

PRESIDENT DENCZAK: Informal Resolutions. It will not be necessary to excuse members. Let the journal show that all Councilmembers are present. Resolution #77 please.

***PRESIDENT DENCZAK CALLED UPON CLERK OF COUNCIL VANCKUNAS TO READ RESOLUTIONS #77 THROUGH #80 BY TITLE, AS SHOWN BELOW. THE RESOLUTION IS ON FILE IN ITS ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS FILE DATED OCTOBER 20, 2003.***

77. BY MEMBER BABCOCK, COUNCIL-AT-LARGE: COMMENDING CAPTAIN JAMES M. HALL AND FIREFIGHTER WILLIAM T. WELCH ON RECEIVING 2003 CANTON FIREFIGHTER OF THE YEAR AWARD. - ADOPTED BY CITY COUNCIL

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MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #77; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #77. Are there any remarks under this Resolution?...

MEMBER BABCOCK: May I have it read?

PRESIDENT DENCZAK: Madam Clerk, will you please read the Resolution.

*RESOLUTION #77 READ BY CLERK OF COUNCIL VANCKUNAS:* Respectfully Submitted by Mary M. Babcock, Councilmember At Large on this 19<sup>th</sup> day of October 2003. Whereas, as they climbed into a pumper truck, Captain James M. Hall and Firefighter William T. Welch knew this call was a matter of life and death. Their truck raced out of Station 4 on Cleveland Avenue NW shortly before midnight on February 14, 2003. Four year old Austin Ritchey lay unconscious on his bedroom floor as a fire raged in his home at 1224 Louisiana Avenue NW; and Whereas, Austin's parents, Denny and Tiffany Ritchey, made it out. A crowd gathered outside, some on the porch roof, trying to figure out how to get to the little boy. Captain Hall and Firefighter Welch rushed up the stairs to a second floor bedroom where the smoke was so thick, they had to drop to their knees and crawl. With no visibility, Captain Hall felt along the floor, he felt the bed, then he touched what felt like a stuffed toy. It was Austin, covered with soot and not breathing; and Whereas, after Firefighter Welch carried the boy outside, they determined that Austin's heart was beating but his lung had collapsed. Captain Hall began mouth to mouth. Firefighter Welch also gave him a couple breaths of air before paramedics arrived and took over. The boy was transported to Mercy Medical Center and then to Children's Hospital Medical Center of Akron. He recovered and celebrated his 5<sup>th</sup> birthday in July; and, Whereas, James M. Hall, a 10 year veteran and 6 year paramedic was appointed as Captain in 2001. William T. Welch is a 14 year veteran and 10 year paramedic. Following the rescue, both men went back to fighting the fire which was contained to the bedroom where it started. They met Austin Ritchey again at the 38<sup>th</sup> Annual Fire Prevention Week Kickoff Breakfast at the Canton Memorial Civic Center on Tuesday, October 7<sup>th</sup> where the men received the 2003 Canton Firefighter of the Year Award for the heroic rescue; Now Therefore Be It Resolved: That we, the Members of the Council of the City of Canton do hereby join with their families, fellow firefighters, and all the citizens of Canton in commending and congratulating the 2003 Canton Firefighters of the Year, Captain James M. Hall and Firefighter William T. Welch, for passing on the traditions that have remained in the forefront of the Canton Fire Department and for always giving 100 percent at the fire scene. Well done, gentlemen, thank you and may God bless you.

PRESIDENT DENCZAK: Are there any remarks?..... If not, then by voice vote, all those in favor signify by saying aye. Those opposed, no.

NO REMARKS

RESOLUTION #77 ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: The Ordinance is adopted. Do you wish to make the presentation? Come up here with the camera. Come here, there's only a \$25.00 charge to come forward. Come over this way so you can..... make sure there's film in there.

MEMBER BABCOCK: Captain Hall, it gives me great pleasure to present this Resolution tonight and I want to congratulate you for a job well done. (APPLAUSE) Firefighter Welch, it gives me great pleasure to present this to you

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for the rescue of this boy, a job well done. (*APPLAUSE*)

CAPTAIN HALL: Mr. President, Mr. Mayor, Safety Director, Service Director Concatto and Miller, Member of Council. I just want to thank you for this award. I'm not used to this kind of publicity and these accolades but I want to thank the City of Canton for hiring me 14 years ago also, especially. But, that's about all I have to say. Thank you very much. (*APPLAUSE*)

FIREFIGHTER WELCH: I'd just like to say thanks for this award from Council. It's nice to be recognized by your government and your management and I thank Chief Scott for coming tonight. That's a good honor and I work for a good department and I'm proud of it. One last thing off the record is, Mr. Mayor, I know you've been taking a lot of heat in the paper, but, we think you've done a hell of a job, and anytime you want a cup of coffee, when you retire, come on by Station 4. The door's always open. Thank you. (*APPLAUSE*)

MEMBER CARBENIA: Mr. President. I'd just like to say I know both these men. Mr. Welch, Firefighter Welch, his father was on the Fire Department a long time ago and his father was called Gabby, and he's got that name too, but, he didn't do too good at the mike this time. He's pretty humble. They're both humble. This is an every day thing for Firefighters and we all think they're heroes. But it's an every day thing for them, to go in there and rescue people and, God love 'em, we need 'em.

MEMBER SMUCKLER: Mr. President. Since this lady has a camera, perhaps she could come back up front and get the Council President's picture so we could update his campaign literature from his high school picture. (*LAUGHTER*)

PRESIDENT DENCZAK: Please don't laugh. That simply encourages him.

MEMBER SMUCKLER: I had to listen to your jokes last night.

PRESIDENT DENCZAK: Well, they were good.

MAYOR WATKINS: Mr. President. I want to thank these gentlemen. They are a credit to the Firefighting Division of this City. We are proud of them and I thank you very much for the offer. Come January, I'll take advantage of you and come down and have a cup of coffee, that's about all I can afford then. (*LAUGHTER*)

78. BY MEMBER CARBENIA, WARD 9 AND SMUCKLER, COUNCIL AT LARGE: SUPPORTING ISSUE 18, A LEVY TO HELP FUND CANTON PUBLIC SCHOOL OPERATIONS. - ADOPTED BY CITY COUNCIL.

MEMBER SMUCKLER: Mr. President, I move we adopt Resolution #78; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution 78. Are there any remarks?... If not, by voice vote, all those in favor signify by saying aye. Those opposed no.

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NO REMARKS

RESOLUTION #78 ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #78 is adopted.

MEMBER CARBENIA: Mr. President. Am I too late to have her read it?

PRESIDENT DENCZAK: Yes.

MEMBER CARBENIA: Then I would like to say that, I would like the citizens of Canton.....

PRESIDENT DENCZAK: You're out of order now.

MEMBER CARBENIA: I'll talk under Miscellaneous.....

PRESIDENT DENCZAK: I know you're a Fireman. You got some of your buddies here, but I'm running this meeting.

MEMBER CARBENIA: No kidding.

PRESIDENT DENCZAK: All right.

79. BY MEMBER DIAMOND, WARD 8: RECOMMENDING OUR LADY OF PEACE FOR 50 YEARS OF SERVICE AS A PARISH COMMUNITY. - ADOPTED BY CITY COUNCIL

MEMBER SMUCKLER: Mr. President, I move that we adopt Resolution #79; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution 79. Are there any remarks under this Resolution?... You want that read?

MEMBER CARBENIA: No thank you.

PRESIDENT DENCZAK: No remarks?... By voice vote, all those in favor signify by saying aye. Those opposed no?

NO REMARKS

RESOLUTION #79 ADOPTED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution 79 is adopted.

80. BY MEMBER DIAMOND, WARD 8: RECOMMENDING THAT ALL TOWING REQUESTED WITHIN THE CITY BE PERFORMED BY TOWING COMPANIES UNDER CONTRACT WITH THE CITY. - POSTPONED TO 10/27/03

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MEMBER SMUCKLER: Mr. President, I move that we adopt Resolution #80; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Resolution #80. Are there any remarks under this Resolution?

MEMBER MROCZKOWSKI: Mr. President. I just question the legality of a resolution that's going to mandate us to tell somebody who they're going to get to tow their vehicle. I don't think it's -- as far as I'm concerned, I'm not in favor of this and I don't think we could uphold it, even if it is passed. It's good to have those of us who have under contract to do the towing, but to mandate, I don't think we can do that.

MEMBER DIAMOND: Mr. President. It's my understanding, after reading the current contract that we have that we do mandate, and Safety Director, you can correct me if I'm wrong, we do mandate that any car that needs to be towed and impounded is done by a City towing company. Is that correct?

SAFETY DIRECTOR CONCATTO: Yes. That's correct.

MEMBER DIAMOND: So we already, Mr. President, we do do that right now. I researched both Akron and Massillon. Both of those cities mandate that all towing services performed within the city, within their city jurisdiction, is done by their towing companies. My purpose is to make certain that we promote Canton City businesses, that we give our business to Canton City businesses. They pay City income tax, they employ people from the City of Canton, and after looking at the other cities that do do this and looking at our contract in which we do require it from any impounds, it's my understanding that if we require it for impounds, we can require it for accidents.

PRESIDENT DENCZAK: Any other remarks?

SAFETY DIRECTOR CONCATTO: Mr. President. I guess I would have a question as far as the impact of this Resolution and I understand this Resolution wouldn't be impacted as if it was an Ordinance. In other words, it's just a recommendation. A couple of concerns I would have is that, we -- this is not in the contract, therefore we have not set a price for that contract, that towing company, to any certain price that we can charge. There's nothing in the contract, it's just not in the contract. We assume that the towing company would tow it to the person's choice. That's not in here. If it's just a recommendation and that's how we would treat it, is just a recommendation. But the police -- this would have to go to the police and they would have to make that discretionary decision. But, the contract for towing, as it is, has about another year before it expires. So, this Resolution, so you all know, would not go into this contract, at least I don't think we can put it in this contract. I don't think the intent is to put it in this contract. Therefore, I'm not sure how enforceable it is.

MEMBER DIAMOND: Mr. President. I've been researching this Ordinance for about 3 months. I've had ongoing discussion with the Safety Director, and in addition, discussions with the other municipalities that do require towing to be done by their contractors. We have in the City of Canton currently 5 towing companies that are all Canton city businesses, and we do have a contract that is not up for expiration at this point. That contract does mandate that any car impounded in the City of Canton must be towed by a company that is on our towing list. So, I guess my -- I was assuming that, if we had a contract and we had an Ordinance, that it was legal. So, if Member Mroczkowski is suggesting that perhaps that isn't legal, I guess I would want that looked at. That's what I was basing my decision upon.

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We mandate where the cars go in the contract currently and this is a recommendation that I would like sent to the Fire Department, Police Department and Street Department, that we do have a current contract right now that I also believe that we could not interject this language into right now. Right now would be our recommendation that this Council is saying that we want to support Canton City businesses, we want to increase our tax revenue, and then when we do go and have the contract signed at its expiration date, that both the rates and the location of where cars are going to be towed or trucks, that that will be implemented. We had a.....

PRESIDENT DENCZAK: Your 3 minutes are up.

MEMBER MASSEY: Mr. President. I'd like to know which companies are on the City's towing list, and is she also saying -- are you saying, if I was to go out and get into an accident, I couldn't use my AAA to have my car towed, is that what you're saying?

MEMBER DIAMOND: Mr. President. The list can be provided. There are 5 companies within the City of Canton that are on, under contract, and what I am saying is that we need to look at new ways to bring more money into the City of Canton. An example is, a few months ago, there was an accident on the highway within the City limits. The highway was closed down for several hours because the owner of this vehicle requested a tow truck from a city some miles away. So, not only did we use Police Officers to -- we took Police Officers away from their other duties and had them on the highway making certain that there were not any accidents, we also gave approximately a \$6,000 fee to a towing company outside of the City of Canton. And, so, I want to look for ways that we can reward the people that have started their businesses in Canton and want to continue their businesses in Canton. Towing...

PRESIDENT DENCZAK: Member Diamond, the Councilman just wants to know the name of the 5 towing companies.

MEMBER MASSEY: Plus, is she saying that I can't use AAA? I have to use one of the 5 .....

PRESIDENT DENCZAK: Yes, that's what she's saying. Yes.

MEMBER MASSEY: So, what's the use of having AAA? Is AAA on the list?

PRESIDENT DENCZAK: No.

SAFETY DIRECTOR CONCATTO: Mr. President. There's actually 6 names that's on the list.

PRESIDENT DENCZAK: Is AAA on there?

SAFETY DIRECTOR CONCATTO: Well, AAA uses different towing companies. I don't know if these towing companies are assigned to AAA. There's not -- I don't think there's what you call a AAA towing company, there's towing companies that sign up with AAA. I'm not familiar with that, I'm only assuming that but they are the Canton Auto Repair Towing, Mike Spencer Towing, Northeast Towing, P & J's Towing, Conley's Service (light and heavy duty towing), and General Body Towing. If I may make 2 other points, if I may. Number 1, most impounds are done without people being there. In other words, they're in violation of the law, there's stolen vehicles that are found. Normally, you

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don't have people there to make choice. So, that's why the contract is for impounds. Secondly, the accident that we referred to on 62 or, I think it was on Route 30, an off ramp of Route 30, was a large semi truck. And, the officer at that time, who has the authority to do so, made a decision not to call a local towing company and Conley's was probably the only one that has heavy duty, and instead, took the recommendation of the owner of the vehicle and brought his towing company in from Medina. Now this wasn't a normal tow. And, I'm not going to question the decision of the Police Officer at that time. But, his decision that he made was to comply with the request of the owner of the semi that spilt, and used their towing truck to operate that, with a heavy duty. That was a discretionary decision by the Police Officer.

PRESIDENT DENCZAK: How long was the traffic tied up?

SAFETY DIRECTOR CONCATTO: I cannot give you that answer right now. I'm not sure.

PRESIDENT DENCZAK: Member Massy, you finished?

MEMBER MASSEY: Can I request a roll call vote?

PRESIDENT DENCZAK: You can have -- we'll have a roll call vote. Law Director.

LAW DIRECTOR MARTUCCIO: Thank you Mr. President. In light of Member Mroczkowski's concern about the legality of it, I have no reason to doubt your good faith research, Member Diamond. But, I -- our office to my knowledge wasn't consulted about. It's the first time I'm looking at it actually. And your concerns are practical concerns about AAA. There are a lot of other auto clubs that people belong to, as paid members. There are factual issues, there may be some legal issues. I think all of us public officials agree we want to keep Canton businesses in business and help them as much as possible. My legal issue though, that I would appreciate another week or two to research in light of some of the concerns here, is whether or not the proper vehicle is a Resolution or an Ordinance. Resolutions typically express an intent or a will of Council, congratulations, support of issues as we've done tonight. It may be that if this is a legal pursuit, the proper way to put teeth into it is through an Ordinance as opposed to a Resolution. There have been several issues raised tonight, and I know that I've been asked by a couple Council Members and the Administration to talk with a number of people and cooperatively look at the whole towing situation and what we can do as a home rule city that's not charter and so on. So, in deference to Member Mroczkowski's remarks, and I believe yours Member Diamond, I'd recommend a week or two to let us look at this further.

MAYOR WATKINS: Mr. President. I would agree with that idea. I think it's an excellent idea to take a little bit of time out, take a breath and take a real look at it. I prefer to have the idea of local businesses getting the business when it's humanly possible to do so. We make -- we give consideration on a percentage basis of giving favoritism to those who are local companies. We do that on the bidding process with just about everything. So, that keeps some of that employment and some of that money right here in the City of Canton. I'd like to see that continued if we can do so.

MEMBER DIAMOND: Just, two things. I do know there are AAA, there are, some of our towing companies do tow for AAA so that doesn't mean that you would not be able to have AAA. Secondly, I would be happy to wait a week. That would be fine. I can provide you with the information that I have received and you can share your legal information with me. That'll be fine.



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PRESIDENT DENCZAK: Any other remarks?

MEMBER SMUCKLER: Mr. President. I move we postpone Resolution #80 till 10/27/03; seconded.

PRESIDENT DENCZAK: Moved and seconded to postpone this matter until, what date did you state?

MEMBER SMUCKLER: 10 - 27 - 03.

PRESIDENT DENCZAK: 10/27/03. Are there any other remarks?... By voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS

RESOLUTION #80 POSTPONED BY UNANIMOUS VOICE VOTE

PRESIDENT DENCZAK: Resolution #80 is postponed until October the 27<sup>th</sup>.

**COMMUNICATIONS**

PRESIDENT DENCZAK: All Communications are received as read.

***NOTE: ALL COMMUNICATIONS WHICH FOLLOW, LISTED BY AGENDA TITLE, ARE ON FILE IN THEIR ENTIRETY IN THE COUNCIL OFFICE WITH THE AGENDA ITEMS FILE DATED OCTOBER 20, 2003.***

- 397. FIREARMS LAW CENTER, SUE ANN SCHIFF, EXECUTIVE DIRECTOR, 268 BUSH STREET, #555, SAN FRANCISCO, CALIFORNIA 94104: PROVIDING INFORMATION RE: STATEWIDE COMMUNITY SURVEY OF LOCAL EFFORTS TO REDUCE GUN VIOLENCE & BOOKLET SUMMARIZING OHIO FIREARMS & AMMUNITION REGULATIONS. - RECEIVED & FILED
- 398. HEALTH BENEFITS ADMINISTRATOR BRESSON, CITY OF CANTON: SEPTEMBER 2003 MONTHLY COMPARATIVE REPORT OF INSURANCE CLAIMS & JANUARY-SEPTEMBER 2003 PAID CLAIMS & COMPARATIVE REPORT. - RECEIVED & FILED
- 399. LAW DIRECTOR JOSEPH MARTUCCIO, CITY OF CANTON: SUBMITTING ORDINANCE AUTHORIZING MODIFIED 7% ALLOCATION FOR YEAR 2004 & 7.5% ALLOCATION FOR YEAR 2005 & THEREAFTER TO FUND SCOG. - RECEIVED & FILED (See O#2, 1<sup>st</sup> Rdg)
- 400. LIQUOR CONTROL COMMISSION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTICE OF HEARING SET FOR 11/5/03 @ 11:00 AM ON JIMMY E. BALL, dba BALLROOM, LIQUOR LICENSE APPEAL TO BE HELD AT THE RIFFE CENTER IN COLUMBUS. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE

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401. LIQUOR CONTROL DIVISION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: REQUEST FOR NEW D3 LIQUOR LICENSE BY BOBBIE J. McCALL, dba BJ's PUB, LOCATED AT 2543 WINFIELD WAY NE. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
402. LIQUOR CONTROL DIVISION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: REQUEST FOR NEW D3 LIQUOR LICENSE BY VORAU COMPANY, dba MOZART RESTAURANT, LOCATED AT 3520 CLEVELAND AVE NORTH. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
403. LIQUOR CONTROL DIVISION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTICE OF HEARING SET FOR 11/12/03 @ 10:00 AM IN THE CAUCUS ROOM RE: CITY'S OBJECTION TO ISSUANCE OF NEW C1,2 LIQUOR PERMIT REQUESTED BY AHN, INC., dba STORE, LOCATED AT 1105 W TUSCARAWAS. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
404. LIQUOR CONTROL DIVISION, STATE OF OHIO, 6606 TUSSING ROAD, PO BOX 4005, REYNOLDSBURG, OHIO 43068-9005: NOTICE OF HEARING SET FOR 11/12/03 @ 11:00 AM IN THE CAUCUS ROOM RE: OBJECTION TO ISSUANCE OF NEW D5 LIQUOR PERMIT REQUESTED BY ROBERT K. MCGILL, dba RIVIERA CLUB OF CANTON, LOCATED AT 508 CLEVELAND AVE NW. - INTERGOVERNMENTAL & PUBLIC SERVICE CMTE
405. MAYOR RICHARD D. WATKINS, CITY OF CANTON: INSTRUCTING MANAGEMENT OF CIVIC CENTER TO CHARGE FOR ANY EVENT WHICH IS NOT DIRECTLY A CANTON CITY FUNCTION IN ACCORDANCE WITH CODIFIED ORDINANCE CHAPTER 971 & A REVIEW OF RATES WILL BE GIVEN TO NEWLY ELECTED MAYOR IN NOVEMBER FOR HANDLING OF RATES IN 2004. - RECEIVED & FILED
406. MAYOR RICHARD D. WATKINS, CITY OF CANTON: REQUEST TO ACCEPT PROPOSED OFFICIAL SEAL OF CITY OF CANTON. - LAW DIRECTOR
407. OHIO EPA, DEAN W. STOLL, PE, 2110 E. AURORA ROAD, TWINSBURG, OH 44087-1969: APPROVING 2003 ANNUAL REPORT FOR SATELLITE SEWER DISCHARGE CONTROL PROGRAM AS MEETING REQUIREMENTS FOR NPDES PERMIT. - RECEIVED & FILED
408. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING APPROVAL OF REQUEST TO REPLAT PARTS OF OUTLOT 248 INTO THREE RECONFIGURED LOTS AS REQUESTED BY MARY L. FOULKS. - LAW DIRECTOR (See O#3, 1<sup>st</sup> Rdg)
409. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING DENIAL OF ZONE CHANGE REQUEST BY FIRST CHURCH OF THE

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NAZARENE FROM R-1 TO PI-1 TO PERMIT ELECTRONIC SIGN AT 522 30<sup>th</sup> ST NW. - LAW DIRECTOR **PUB HRG 11/24/03 @ 7:30 PM**

410. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING DENIAL OF ZONE CHANGE REQUEST BY TODD LENS MAN FROM R-1A TO PR-3 TO PERMIT A 3-UNIT APARTMENT AT 1275 WOODLAND AVE NW. - LAW DIRECTOR **PUB HRG 11/24/03 @ 7:31 PM**
411. PLANNING COMMISSION, CITY OF CANTON, SHEILA K. THARP-BARRINO, SECRETARY: RECOMMENDING DENIAL OF ZONE CHANGE REQUEST BY TRENA & SOLADENE CURTIS FROM R-1A TO PB-3 TO PERMIT A HOUSE PLUS DAY-CARE AT 351 CORNELIA NE. - LAW DIRECTOR **PUB HRG 11/24/03 @ 7:32 PM**
412. REPUBLIC ENGINEERED PRODUCTS, 3770 EMBASSY PARKWAY, AKRON, OHIO 44333-8367: NOTICE OF FILING FOR CHAPTER 11 BANKRUPTCY & PLANS TO RESUME OPERATIONS. - RECEIVED & FILED
413. REPUBLIC ENGINEERED PRODUCTS, 3770 EMBASSY PARKWAY, AKRON, OH 44333-8367: NOTICE OF U.S. BANKRUPTCY COURT APPROVAL FOR DEBTOR-IN-POSSESSION FINANCING AGREEMENT & RESUMPTION OF OPERATIONS AT ALL PLANT LOCATIONS. - RECEIVED & FILED
414. SAFETY DIRECTOR JOSEPH J. CONCATTO, CITY OF CANTON: REQUEST FOR APPROVAL OF DEMOLITION OF 5 PARCELS (1131 - 4<sup>TH</sup> NW & ETC). - LAW DIRECTOR (See O#206/2003)
415. SAFETY DIRECTOR JOSEPH J. CONCATTO, CITY OF CANTON: REQUESTING AUTHORIZATION TO ACCEPT \$6,334 GRANT FROM OHIO DEPARTMENT OF PUBLIC SAFETY - DIVISION OF EMERGENCY MEDICAL SERVICES FOR FIRE DEPARTMENT & \$6,334 SUPPLEMENTAL APPROPRIATION FROM 2812 EMS TRAINING & EQUIPMENT FUND. - LAW DIRECTOR (See O#5, 1<sup>st</sup> Rdg)
416. SERVICE DIRECTOR MICHAEL L. MILLER, CITY OF CANTON: REQUESTING \$117,000 SUPPLEMENTAL APPROPRIATION FROM 5201 FUND TO COVER ADDITIONAL PAYROLL EXPENSES INCURRED BY THE WATER DEPARTMENT. - LAW DIRECTOR (See O#6, 1<sup>st</sup> Rdg)
417. SMUCKLER, WILLIAM, MAJORITY LEADER, CITY OF CANTON: REQUESTING LAW DIRECTOR TO PROVIDE INFORMATION RE: ADMINISTRATIVE PROCESS W/IN BUILDING BOARD OF APPEALS AFTER DEMOLITION ORDINANCE IS PASSED, BY WHAT AUTHORITY BUILDING INSPECTOR MAY HALT A DEMOLITION, HOW COUNCIL MAY STOP THE OVERTURNING OF DEMOLITION LEGISLATION, & REQUEST FOR DEMOLITION PROCEDURE MANUAL. - LAW DIRECTOR

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418. TREASURER ROBERT C. SCHIRACK, CITY OF CANTON: COMPARATIVE REPORT OF DEPOSITS & PAY INS TO AMBULANCE LOCK BOX ACCOUNT AS OF SEPTEMBER 30, 2003. - RECEIVED & FILED
419. TREASURER ROBERT C. SCHIRACK, CITY OF CANTON: COMPARATIVE REPORT OF PARKING METER REVENUE AS OF SEPTEMBER 30, 2003. - RECEIVED AND FILED
420. TREASURER ROBERT C. SCHIRACK, CITY OF CANTON: REPORT OF BANK RECONCILIATIONS & OUTSTANDING INVESTMENTS AS OF SEPTEMBER 30, 2003. - RECEIVED & FILED

**ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING**

PRESIDENT DENCZAK: Ordinances and Formal Resolutions for the 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 AND INCLUDING #11 FOR THE FIRST TIME BY TITLE & ANNOUNCED THE COMMITTEE REFERRAL, AS FOLLOWS.***

- #1 (1<sup>ST</sup> RDG) AN ORDINANCE APPROVING AND ACCEPTING THE REPLATTING OF PART OF OUTLOT 827; APPROVING AND ACCEPTING THE DEDICATION OF PART OF LESH STREET NE AND RICHMOND AVENUE NE; AND DECLARING THE SAME TO BE AN EMERGENCY.  
Referred to Public Safety and Thoroughfares Committee
- #2 (1<sup>ST</sup> RDG) AN ORDINANCE AUTHORIZING THE PAYMENT OF A MODIFIED ALLOCATION TO SCOG FOR 2004 AND THEREAFTER; AND DECLARING THE SAME TO BE AN EMERGENCY.  
Referred to Intergovernmental and Public Service Committee
- #3 (1<sup>ST</sup> RDG) AN ORDINANCE APPROVING AND ACCEPTING THE REPLATTING OF PART OF OUTLOT NO. 248; AND DECLARING THE SAME TO BE AN EMERGENCY  
Referred to Public Safety and Thoroughfares Committee
- #4 (1<sup>ST</sup> RDG) AN ORDINANCE DECLARING 5 BUILDINGS TO BE PUBLIC NUISANCES; AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO CONTRACT FOR THE DEMOLITION OF SAID BUILDINGS; AUTHORIZING THE CLERK OF CANTON CITY COUNCIL TO CERTIFY THE COST OF DEMOLITION TO THE STARK COUNTY AUDITOR; AND DECLARING THE SAME TO BE AN EMERGENCY  
Referred to Community & Economic Development Committee
- #5 (1<sup>ST</sup> RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ACCEPT

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A GRANT IN THE AMOUNT OF \$6,334.00 FROM THE OHIO DEPARTMENT OF PUBLIC SAFETY--DIVISION OF EMERGENCY MEDICAL SERVICES FOR THE FIRE DEPARTMENT; AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATION HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance Committees

- #6 (1<sup>ST</sup> RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY.

Referred to Finance Committee

- #7 (1<sup>ST</sup> RDG) AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE NORTHEAST COMMUNITY CENTER TO PROVIDE TWO LOANS IN A TOTAL AMOUNT NOT TO EXCEED \$59,500.00 FOR THE INSTALLATION OF A COMPLETE KITCHEN AT THE FACILITY LOCATED AT 2600 25<sup>TH</sup> STREET NE; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Community & Economic Development and Finance Committees

- #8 (1<sup>ST</sup> RDG) AN ORDINANCE AUTHORIZING THE MAYOR AND OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE CANTON CITY SCHOOL DISTRICT TO PROVIDE A GRANT IN AN AMOUNT NOT TO EXCEED \$30,000.00 FOR THE EARLY CHILDHOOD EDUCATION PROGRAM; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Community & Economic Development and Finance Committees

- #9 (1<sup>ST</sup> 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

Referred to Community & Economic Development Committee

- #10 (1<sup>ST</sup> RDG) AN ORDINANCE AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO FILE AN APPLICATION TO THE STATE OF OHIO TO PARTICIPATE IN THE CLEAN OHIO ASSISTANCE FUND, APPLY FOR FINANCIAL ASSISTANCE AND ADMINISTER THE FUNDS RECEIVED; AUTHORIZING THE MAYOR AND/OR DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT FOR PROFESSIONAL ENVIRONMENTAL SERVICES IN AN AMOUNT NOT TO EXCEED \$50,000.00 IN ACCORDANCE WITH THE REQUIREMENTS OF THE CLEAN OHIO ASSISTANCE FUND APPLICATION; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Community & Economic Development Committee

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#11 (1<sup>ST</sup> RDG) AN ORDINANCE APPROVING AND ACCEPTING THE REPLATTING OF OUTLOTS NOS. 666 AND 667; AND DECLARING THE SAME TO BE AN EMERGENCY  
Referred to Public Safety & Thoroughfares Committee

PRESIDENT DENCZAK: The Chair is going to declare an in-house recess for the Community and Economic Development Committee to meet now in this Chamber, in regards to Ordinance #4 on the agenda this evening. We are now in recess.

*(COUNCIL RECESSED AT 8:35 PM FOR COMMITTEE MEETING ON ORDINANCE #4, WHICH WAS RETURNED TO THE AGENDA FOR ADOPTION. THE MEETING WAS RECONVENED BY PRESIDENT DENCZAK AT 8:44 PM)*

PRESIDENT DENCZAK: Council is reconvening after a recess. Member Smuckler...

MEMBER SMUCKLER: Mr. President, I move we suspend Rule 22A and add Ordinance #4 back to the agenda; seconded.

PRESIDENT DENCZAK: Moved and seconded to suspend Rule 22 and add Ordinance #4 back to the agenda. Are there any remarks?..... If not, roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

#4 **ADOPTED AS ORDINANCE NO. 206/2003** AN ORDINANCE DECLARING 5 BUILDINGS TO BE PUBLIC NUISANCES; AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO CONTRACT FOR THE DEMOLITION OF SAID BUILDINGS; AUTHORIZING THE CLERK OF CANTON CITY COUNCIL TO CERTIFY THE COST OF DEMOLITION TO THE STARK COUNTY AUDITOR; AND DECLARING THE SAME TO BE AN EMERGENCY

MEMBER SMUCKLER: Mr. President, I move we suspend Statutory 3 readings of Ordinance #4; seconded.

PRESIDENT DENCZAK: There's a move to dispense with the 3 readings of Ordinance #4. Are there any remarks?.... If not, roll call please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: You've heard the 3 readings, Member Smuckler.

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

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #4. Are there any remarks under this Ordinance?.... If not, roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

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PRESIDENT DENCZAK: Ordinance #4 is adopted.

**#4 ADOPTED AS ORDINANCE NO. 206/2003**

**ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING**

PRESIDENT DENCZAK: Ordinances and formal resolutions for the second reading.

***NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #12 THROUGH AND INCLUDING #21 FOR THE SECOND TIME BY TITLE, AS FOLLOWS.***

**RULE 22A WAS SUSPENDED TO ADD #12 THROUGH #21:**

- #12 (2<sup>ND</sup> RDG) AN ORDINANCE AMENDING ORDINANCE NO. 55/77 AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY. (MARTIN AIRFIELD ANNEXATION AREA)
- #13 (2<sup>ND</sup> RDG) AN ORDINANCE AMENDING ORDINANCE NO. 55/77 AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY. (AMBULANCE ASSOCIATES)
- #14 (2<sup>ND</sup> RDG) AN ORDINANCE AMENDING ORDINANCE NO. 55/77 AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY (CHRISTMAS SEAL DRIVE)
- #15 (2<sup>ND</sup> RDG) AN ORDINANCE AMENDING ORDINANCE NO. 55/77 AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND THE OFFICIAL ZONING MAP
- #16 (2<sup>ND</sup> RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO WORK AGREEMENTS IN CONJUNCTION WITH THE FULTON ROAD TRAFFIC SIGNAL SYSTEM IMPROVEMENT PROJECT; AND DECLARING THE SAME TO BE AN EMERGENCY
- #17 (2<sup>ND</sup> RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY
- #18 (2<sup>ND</sup> RDG) AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT A GRANT IN THE AMOUNT OF \$157,500.00 FROM THE TIMKEN FOUNDATION FOR THE JACKSON POOL; AUTHORIZING A CASH MATCH OF \$157,500.00 FROM THE 2004 CAPITAL IMPROVEMENT FUND; AND DECLARING THE SAME TO BE AN EMERGENCY
- #19 (2<sup>ND</sup> RDG) AN ORDINANCE AUTHORIZING THE CITY AUDITOR TO ESTABLISH THE 7506 BUILDING DEPARTMENT STATE ASSESSMENT FUND; AND DECLARING THE SAME

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TO BE AN EMERGENCY

- #20 (2<sup>ND</sup> RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 236/2002, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY.
- #21 (2<sup>ND</sup> RDG) AN ORDINANCE APPROVING A CANTON CITY WATER MAIN EXTENSION TO PLAIN TOWNSHIP; AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT FOR THE EXTENSION OF SAID WATER MAIN; AND DECLARING THE SAME TO BE AN EMERGENCY

**ORDINANCES AND FORMAL RESOLUTIONS FOR THIRD READING**

***NOTE: PRESIDENT DENCZAK CALLED UPON CLERK VANCKUNAS TO READ THE FOLLOWING ORDINANCES #22 THROUGH #26 FOR THE THIRD & FINAL TIME BY TITLE, AS FOLLOWS.***

- #22 (3<sup>RD</sup> RDG) **POSTPONED TO 10/27//03** AN ORDINANCE AMENDING ORDINANCE NO. 55/77 TO AS AMENDED KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY. (FRICKER ZONE CHANGE)

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

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

MEMBER MALLONN: Mr. President. I would just like to say a few words to how this has turned out. It seems like it's a very controversial issue and I can sympathize with the neighbors who are directly affected. At the same time, I can sympathize with Mr. Fricker who has invested his hard earned money in this property. I think he stated \$50,000.00 and I'm sure he has put an additional, probably \$20, \$25,000 into repairing it and fixing it up. Like I say, I'm not taking up sides either way at this point. I can sympathize with both parties but I can say that Mr. Fricker, that I know of, has one other rental property in my ward that had been an eyesore for many, many years until he purchased that. He put a considerable amount of money into that property and that is located in my ward and in that block, it is probably the nicest home in that block. So, I can sympathize with both parties. I'm sure Mr. Fricker is not investing his money there to hurt any of the neighbors. I can understand their concerns but at the same time, from what I know of Mr. Fricker, he is not your typical landlord. I mean, he takes care of his property and it is a very nice asset to that area that he has it in my ward. Thank you.

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

LAW DIRECTOR MARTUCCIO: Again this is the ordinance that was discussed and debated earlier, to convert a single family to a planned 2-family residential and this one is one that the Planning Commission's recommended denial upon. So, if Council wishes to vote for going to..., then it takes three quarters of a vote. If it's going to be postponed,



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forgive me for talking.

PRESIDENT DENCZAK: Any other remarks?

MEMBER SMUCKLER: Mr. President. The Law Director's forgiven. Mr. President, I move we postpone Ordinance #22 until 10/27/03; seconded.

PRESIDENT DENCZAK: Moved and seconded to postpone Ordinance 22 until October 27<sup>th</sup>. Are there any remarks?....

MEMBER SMUCKLER: Mr. President. To the Law Director on this postponement, and I don't care if it takes longer to be postponed. I understand there's some ramifications about time line in here, what is the time line on this?

CLERK VANCKUNAS: Mr. President, I believe that there is a provision in the Zoning Code which allows, which provides that Council must act upon a zoning, a Planning Commission recommendation within 75 days of the Planning Commission recommendation letter.

MEMBER SMUCKLER: And when was the letter sent down here?

PRESIDENT DENCZAK: September 2<sup>nd</sup>.

MEMBER SMUCKLER: Fine.

PRESIDENT DENCZAK: (*SOMEONE IN THE AUDIENCE ASKING TO SPEAK*) No, I'm sorry.

MEMBER SMUCKLER: What I would hope to find out is, besides the particulars of what has happened here, if we could also find out about titles. How they're done, what we do, Mr. Law Director. Some of the other provisions that we talked about in the Public Speaks section. Debbie, if he needs a referral on what was said during Public Speaks, the questions that were asked, please get him a copy of that section of the minutes so we can go over some of those questions when we do vote on this project.

PRESIDENT DENCZAK: The motion is to postpone this. Are there any further remarks to postpone this?... If not by voice vote, all in favor signify by saying aye. Those opposed no.

NO FURTHER REMARKS

**#22 POSTPONED TO 10/27/03**

PRESIDENT DENCZAK: The ordinance is postponed until the 27<sup>th</sup>. (*SPEAKING TO AUDIENCE MEMBER*) Sir, I would suggest you sign up to speak at that time, that's next Monday, 7:30.

#23 (3<sup>rd</sup> RDG) **ADOPTED AS ORDINANCE NO. 207/2003** AN ORDINANCE AMENDING NO 55/77 AS AMENDED, KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY. (MAGGIORE ZONE CHANGE)

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MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance No. 23; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 23. Are there any remarks under this ordinance?... Very well....Member Hart?

MEMBER HART: Mr. President, just a quick. You know, this is really a good creative use of that area in through there. And, if you know where it's at, just off of Fulton Road where the 77 on ramp is. You know, there used to be a gas station there. There will now be a, you know, gas station, convenience store, restaurant, car wash and in all possibility of later on will be a hotel in there. And, it will be a good development for the area and provide some employment, but also make a good creative use of land which basically there wasn't much use of.

PRESIDENT DENCZAK: Is this the building that's under construction at this time?

MEMBER HART: Yes it is.

PRESIDENT DENCZAK: Are there any further remarks?... If not, roll call vote please...

NO REMARKS

ROLL CALL: 11 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #23 is adopted. **#23 ADOPTED AS ORDINANCE NO. 207/2003**

#24 (3<sup>rd</sup> RDG) **POSTPONED TO 10/27//03** AN ORDINANCE AMENDING NO 55/77, AS AMENDED, KNOWN AS THE CITY OF CANTON ZONING ORDINANCE; AND DECLARING THE SAME TO BE AN EMERGENCY. (HARDING ZONE CHANGE)

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance #24; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 24; are there any remarks under this ordinance?

MEMBER SMUCKLER: Mr. President, I move that we postpone Ordinance #24 until 10/27/03; seconded.

PRESIDENT DENCZAK: Moved and seconded that you postpone Ordinance 24 until 10/27. Are there any remarks?... If not, by voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS

**#24 POSTPONED TO 10/27/2003**

PRESIDENT DENCZAK: Ordinance 24 is postponed until October 27<sup>th</sup>.

#25 (3<sup>rd</sup> RDG) **ADOPTED AS ORDINANCE NO. 208/2003** AN ORDINANCE AUTHORIZING CANTON TO ANNEX THE TERRITORY KNOWN AS THE JEFFRIES BROTHERS ANNEXATION AREA CONTAINING 147 ACRES, MORE OR LESS; ASSIGNING SAID TERRITORY TO

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WARD 4 OF THE CITY; ZONING SAID TERRITORY AS I-1; AND DECLARING THE SAME TO BE AN EMERGENCY.

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance No. 25; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance 25. Are there any remarks under this ordinance?.... Very well, roll call vote please.

NO REMARKS

ROLL CALL VOTE: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #25 is adopted.

**#25 ADOPTED AS ORDINANCE NO. 208/2003**

#26 (3<sup>rd</sup> RDG) **ADOPTED AS ORDINANCE NO. 209/2003** AN ORDINANCE AUTHORIZING AND CONSENTING TO THE RESURFACING OF STATE ROUTE 43 FROM US ROUTE 30 NORTH TO THE CHERRY AVENUE RAILROAD BRIDGE AND STATE ROUTE 43D WALNUT AVENUE FROM STATE ROUTE 172 TUSCARAWAS STREET EAST SOUTH TO CHERRY AVENUE RAILROAD BRIDGE, UNDER THE SUPERVISION OF THE DIRECTOR OF TRANSPORTATION OF THE STATE OF OHIO; AND DECLARING THE SAME TO BE AN EMERGENCY.

MEMBER SMUCKLER: Mr. President, I move we adopt Ordinance No. 26; seconded.

PRESIDENT DENCZAK: Moved and seconded that you adopt Ordinance #26. Are there any remarks under this ordinance?....

MEMBER SMUCKLER: Mr. President. Is that resurfacing going to be done this year?

PRESIDENT DENCZAK: Service Director?....

SERVICE DIRECTOR MILLER: No.

MEMBER SMUCKLER: Mr. President. There's only one clause that bothers me in here, even though they're paying for most of it, 'under their supervision.' Mr. Miller, do we have any idea what use of the orange barrels and how this will be done?

SERVICE DIRECTOR MILLER: This will be a straight paving project. They'll be paving it, closing off 1 lane of travel while they're paving the other. When they get to the north side of the bridge, they'll be closing down 1 lane to pave, or one and half lanes, and leaving the other lane or 2 lanes open going north up to Tusc.

MEMBER SMUCKLER: Thank you Mr. Miller. I just wanted to make sure that this wasn't going to be like the 62/77 split.

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SERVICE DIRECTOR MILLER: It couldn't be that bad.

PRESIDENT DENCZAK: Are there any other remarks?... The question we're voting on now is Ordinance #26. Roll call vote please.

NO REMARKS

ROLL CALL: 12 YEAS, 0 NAYS

PRESIDENT DENCZAK: Ordinance #26 is adopted. **#26 ADOPTED AS ORDINANCE NO. 209/2003**

**ANNOUNCEMENT OF COMMITTEE MEETINGS**

PRESIDENT DENCZAK: Announcement of Committee Meetings please.

MEMBER MROCKOWSKI: Mr. President. The Finance Committee will meet 6:15, October the 27<sup>th</sup>, '03 in the Council Caucus Room.

MEMBER BABCOCK: Mr. President. Public Safety and Thoroughfares will also meet next Monday at 6:15.

MEMBER MASSEY: Mr. President. Community and Economic Development will also meet the same time the same day.

MEMBER ALTIERI: Mr. President. Intergovernmental and Public Service will meet at 6:15 same time.

MEMBER DOUGHERTY: Mr. President. I believe the Law Director needed to meet with us at 6 pm. Is that still correct?

LAW DIRECTOR MARTUCCIO: Yes. Thank you. I would very much like to meet in Executive Session with all of Council at 6:00pm for approximately 15 minutes to discuss pending litigation in a State Agency.

**PUBLIC SPEAKS (OPEN FORUM--CITY BUSINESS ONLY)**

PRESIDENT DENCZAK: Public Speaks, Open Forum. We have several people signed up yet. Ida, is it Freeman?...

MS. FREEMAN: Ida Freeman, PO Box 21864, Canton, OH 44701. I have lived in Canton for almost 40 years and I've heard residents laugh about the ghettos and the slums in Canton. In Canton, the northwest end, wait a minute, let me get this straight, slums. In Canton, in the northwest area, near Gilmore between 6<sup>th</sup> and 7<sup>th</sup> Street it might be more. Well, last week I found the ghetto. I'm shocked and appalled that the Council, Safety/Service Director and Mayor allowed this to happen over the years. It's not something that just happened. This had to take years for this to accumulate like this. Hopefully, Hawk, the Safety/Service Director will get together and come over there and look at

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this. I mean, I used to I lived in New York. I've been here almost 40 years. Never thought that there was a slum in Canton, Ohio. But, I was fooled. Please somebody, come over there and check it out. Thank you.

MEMBER HAWK: Mrs. Freeman, my name is Greg Hawk. I'm the Councilman down there. We are working very hard on Gilmore Avenue. We've had a lot of cooperation from folks down there. Director Concatto was down there with me to look at some of those properties, I believe you're referring to that 709 Gilmore property which is just horrible. We've had the Health Department in there and everyone else...Building. We've worked through it on our Building Task Force. Bill Smuckler was down there with me. We've been through that whole area. We are trying very, very hard and I'm going to tell you that something will be done as quickly as we possibly legally we can. We are working on that area. We will clean it up.

PRESIDENT DENCZAK: All right. Please... now.

MS. FREEMAN: I didn't know that people lived in houses that was condemned. I mean, this is all new to me. I mean, we talk about being proud in where we live, I mean, if I lived in a house like, or in an area in which I do now, in an area like this and I was growing up, I would think there was nothing else. Ya' know? So, please, do something about this.

PRESIDENT DENCZAK: Not now. This is a public speaks, I want it to be held to that. Rose Ward...

MS. WARD: My name is Rose Ward and I live at 1914 Penn Place, NE. I live where the 6<sup>th</sup> to 8<sup>th</sup> Connector joins there. In fact, I'm in front of the light. And I would like to know, why was the 6<sup>th</sup> to 8<sup>th</sup> Connector put there if you were not going to maintain it. It's all city property. And from Riverside Drive all the way up to Belden, that's City property, that's their responsibility. Mike Miller told me the property in front of my door, that I have to maintain it. I moved there in 1972 and it was not there. They put it there somewhere around 1980. So I want to know why do I have to call the City constantly to ask them to come and maintain that property in front of my door. I've seen them over in front of the shoe shop which is across the way from me, mowing, and I would have to go over and plead with them to come and mow in front of my door. Now, up on Colonial Boulevard, which is maintained by the City, on City owned property, it's never 8 inches long. But, I was told they do not have to mow this until it's 8 inches long and it's owned by the City. So I feel like I'm being discriminated against. I try to take care of my yard, so I don't understand why the City's not taking care of their yard, their property. On June 27<sup>th</sup>, I brought Mary Babcock to my house because I wanted her to see it to believe it. She saw it and that same day there was a gentleman over there mowing in front of the shoe shop later that day after she left. I went over and asked if he would come over and mow in front of my door and I had to plead with him and he did come and mow in front of my door. And on, in September, which was like last month, I called Mrs. Babcock, and because, the grass had been mowed there about maybe 5 times this year, and I called her up and I guess she called Mr. Miller. Well, he sent Duane Slutz out there with a camera to take pictures to see, I guess, if it was long enough for him to, for them to mow. So, maybe about a week later, they came out and they mowed the grass in front of my door. Right there, and after they mowed it, it was so long, that there was mounds of grass all over in front of my house and it's all on the curb. So, if we have a, have a rain, all of that is gonna be right there in the sewer and backup and flood like it has in the past. So, I can understand that we need changes and I am not responsible for that in front of my door. I didn't put it there. I'm gonna send a picture around. I want you guys to see these pictures and how long it is and I would like to know why it's not being maintained since the City own it.

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PRESIDENT DENCZAK: Thank you. Your 3 minutes are up ma'am. We'll see to it that you get your pictures back. Will somebody, Service Director, can you see to that?... Okay.

LAW DIRECTOR MARTUCCIO: Is it Miss Ward?... Ownership is the key issue here from what I hear you saying. We have an ordinance on our books that was passed in 2001 that says it's the duty of the owner of a lot that abuts or is up against the sidewalk and curb to keep the sidewalks and curbs and the tree lawn and the grass strip, existing between the sidewalks and the curbs, in a state of good repair, etc., etc. I think the 8 inch weed length that you're referring to comes from our Chapter 551 which dictates that if they do exceed 8 inches we have the right to go in and cut them as a nuisance to the health and welfare of the public, with notice to the owner. Again, if you are the owner, and I'm not sure the ownership is clear here, then there is a duty on you...

ROSE WARD: *(INAUDIBLE—SHE IS SPEAKING FROM THE AUDIENCE)*

PRESIDENT DENCZAK: Ma'am...Ma'am. Okay. The Service Director will respond to this under Miscellaneous Business. The next speaker is Pamela Bradley.

MS. BRADLEY: My name is Pamela Bradley. I live at 2045 - 2<sup>nd</sup> Street NE, Canton, Ohio and my issue here tonight in front of Council and everyone is A drug problem. On my street there is open drug traffic. We called the police, they come some times, sometimes they don't come and it's getting to be such a nuisance. We have home owners and then we have some rental properties on our street also, but the majority of the people own their own property. Some of them are old people. We have an elderly lady that has to be cared for by a nurse and now her nurse has to come with a security guard because she has been approached so many times by people wanting to sell her drugs and it is really a problem on our street. And, I just wanted to let the Council know and everybody know that we do have some serious drug problems in this City and they need to be addressed. Thank you very much.

MEMBER MASSEY: Mr. President. I have been called to several homes on 2<sup>nd</sup> Street NE and a couple weeks ago I spoke with the Safety Director about this problem. Could you tell me what's going on at this time Safety Director?

SAFETY DIRECTOR CONCATTO: Mr. President. I can tell you that I received that information, Member Massey, and discussed it with the Chief and discussed the fact that this issue was moving from Hartford Avenue further towards Belden Avenue. If I'm correct in where this is at.

MEMBER MASSEY: It's on 2<sup>nd</sup> between Monroe and Belden.

SAFETY DIRECTOR CONCATTO: Between Monroe and Belden. We had an issue on Hartford.....2nd and Hartford.

MEMBER MASSEY: Right.

SAFETY DIRECTOR CONCATTO: We feel we solved a little bit of that issue but we probably moved it. And, I gave this to the Chief and this has been, maybe, 2 weeks ago? I'm not sure of the exact date. And he was giving this to the Vice. Sometimes Vice has to work under cover and it takes a little longer than just having a patrol car be able to do something because we have to have that kind of evidence to actually do something. And, I can tell you it's in Vice's

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hands right now/

MEMBER MASSEY: Is there any....Mr. President. Is there any way that we can beef-up patrol in that area?

SAFETY DIRECTOR CONCATTO: Mr. President. I will discuss that with the Chief and see what we can do. There's other...I understand the problem in this area. There are other areas in this City that we're also dealing with the same problem. And, we spread our people about as much as we can to solve it in all areas, but, I will discuss this with him tomorrow.

MEMBER MASSEY: Okay. And can I touch base with you tomorrow, some time after 1, to let me know what's going on?

SAFETY DIRECTOR CONCATTO: Either that or the next day, if you don't mind.

MEMBER MASSEY: Okay.

**MISCELLANEOUS BUSINESS**

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

SERVICE DIRECTOR: Mr. President. The area of the 6th-8th Street Connector that's in question has been in question, and a problem for, not just this year, but a number of years. Ms. Ward wants us to cut it basically every week and we don't have the personnel to do that. Park Department's not gonna cut that area in front, because it's not a park. It's something that Public Works is responsible to do. Public Works is out there cutting other lots this summer. Unfortunately, we had the wettest summer on record, we were cutting a lot of lots, a number of times. In addition to, from July 27<sup>th</sup> for approximately the next few week solid, doing nothing but cleaning out basements and taking care of trash from the floods in peoples' basements. I have contacted the Law Department. I have a drawing of the area here in front of me. I'm going to ask for a formal legal opinion as to whose responsibility it is to cut, to cut the grass in front of those properties and at what point the City's responsible and what point the home owner's responsible because again, this is a tree lawn, for all intents and purposes, between the sidewalk and the curb. Granted, as you get down the street towards the Connector, it gets to be a much wider tree lawn that what normally is in front of a property. There's an ABCD house that's been bought on the west side of Ms. Ward. There was already one built on the east side, so that's a question that's going to have to be answered for the people who've moved in to both of those houses. Or one that's moved in and one that's going to be moving in, as to who's going to be responsible and how far out they're responsible for cutting the grass. We had cut it a number of times this summer. According to Ms. Ward, we've cut it 5 times. Based on the fact that we started off the year, last year, with 73 employees, and right now the department's at 32 employees total including management, I think we're doing a pretty good job--cutting it 5 times during the year or 6 times during the year. And the pictures I have, that were circulated, it appears that it's maybe a little bit taller than the 8 inches but we're trying to get it, and get it out there on a regular basis.

PRESIDENT DENCZAK: Member Smuckler, will you see that Mrs. Ward gets those pictures back?... Is there any other Miscellaneous Business?...

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

PRESIDENT DENCZAK: You may.

MEMBER CASAR: Service Director Miller, going back, shortly after the flood, with regards to the Georgeview area and the Hamilton. I think this Council...I remember this Councilman, I suggested we perhaps could put a temporary basin in there and help out, alleviate the problem on a temporary, until sewers can be built out there on 4<sup>th</sup> out there off of Hamilton. I've had a couple calls, talked to the people in that area. What has, what has transpired on their temporary/permanent, whatever we want to call it, catch basins that we were planning on putting in out there? What's the status? Any drawings on it or any engineering work or what.....

SERVICE DIRECTOR: The most current drawing is sitting out there in one of the resident's hands. We're going to look at it after this meeting, trying to put a drain on Hamilton to try to at least get the water underground from Hamilton down to some point into a drainage system. We have a price at this point in time and we'll be entering into contract for a study of the drainage area from Hamilton north of Georgetown Road over to Marietta south to approximately 2<sup>nd</sup> Street to determine what, if any, drainage improvements need to be done there. Once that report comes in or that study comes in, we'll obviously determine what, what needs to be done based upon that report.

MEMBER CASAR: Mr. President. What's your time schedule on this. Do you think it may take...be this year yet, or when would it be?

SERVICE DIRECTOR MILLER: I would image the study would be done this year. As for the catch basin, hopefully that also can be done this year. Once we determine with the Engineer, our Engineer, that it can go forward, we have to determine what our percentage of the cost is, so to speak, because it's not all draining City property. There's also some backyards involved in it and we also have to make sure that that price is under the \$15,000 limit, which was established by Council, otherwise, we'll have to go to bid and that will require us to come back down to Council at that point. So, we're trying to work it out in such a manner that the project, as far as City participation, will be less than the bid amount so we can go ahead and get that done.

MEMBER CASAR: Hopefully that'll be done before the Spring rains come?

SERVICE DIRECTOR MILLER: Yes.

MEMBER CASAR: Thank you.

PRESIDENT DENCZAK: Is there any other Miscellaneous Business?

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

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

NO REMARKS PERMITTED ON THE MOTION TO ADJOURN

ROLL CALL: 12 YEAS, 0 NAYS



**MINUTES OF THE MEETING OF OCTOBER 20, 2003**

ADJOURNMENT TIME: 9:16 P.M.

PRESIDENT DENCZAK: This meeting is adjourned.

ATTEST:

APPROVED:

DEBRA VANCKUNAS  
CLERK OF COUNCIL

RAY DENCZAK  
PRESIDENT OF COUNCIL

