

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

PRESIDENT SCHULMAN: Good evening ladies and gentlemen and welcome to Canton City Council. Before we begin our meeting, Member Smith had some inside information that this Thursday Ruby Brogdon will be 75 years young. So we want to wish her (*Applause*) and not to be outdone, Ruby, but Joe Carbenia will be 70 this Thursday. (*Applause*). And let me just say, you look a lot better. (*Laughter*) You know I'm just kidding Joe.

MEMBER CARBENIA: Thank you Mr. President.

PRESIDENT SCHULMAN: Alright, with a Quorum being present, the Chair calls this meeting of Canton City Council to order. Roll call please, Madame Clerk.

*ROLL CALL TAKEN BY CLERK TIMBERLAKE:*

10 COUNCILMEMBERS PRESENT: (DON CASAR, JOE CARBENIA, MARY CIRELLI, BILL SMUCKLER, THOMAS WEST, JAMES GRIFFIN, CHRIS SMITH, TERRY PRATER, DAVID DOUGHERTY, & KARL "BUTCH" KRAUS)

TEN COUNCIL MEMBERS PRESENT. MEMBERS GREG HAWK & PATRICK BARTON ABSENT (*MEMBER DOUGHERTY PRESENT BUT NOT SEATED DURING ROLL CALL*)

MEMBER CARBENIA: We got nine.

CLERK TIMBERLAKE: Dave's just right in there. Ten present.

PRESIDENT SCHULMAN: Thank you Madame Clerk. Tonight's invocation will be given by Council Member at Large, Mary Cirelli. Would you all please remain standing for the pledge of allegiance.

*The regular meeting of Canton City Council was held on Monday, December 8, 2008 at 7:30 P.M. in the Canton City Council Chamber. The roll call was taken (see above) by Clerk of Council Cynthia Timberlake. The invocation was given by Council Member at Large Mary Cirelli, the Pledge of Allegiance led by President Schulman.*

**AGENDA CORRECTIONS & CHANGES**

PRESIDENT SCHULMAN: Thank you Member Cirelli for those prayers and thoughts. We're now under agenda corrections and changes, Members of Council you're going to be asked to suspend Rule 22A to add Communications 482 to 486 and 1<sup>st</sup> Reading of Ordinances 2A through 2F as well as 2<sup>nd</sup> Reading of Ordinances 3 through 6. Leader Casar, the Chair will recognize that Motion.

MEMBER CASAR: Mr. President, I move that we suspend Rule 22A and place Ordinances #3 through and including #6 back on this evening's agenda and also add Communications #482 through and including 486 and Ordinances #2A through and including 2F on this evening's agenda.

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded therefore to suspend Rule 22A to incorporate all that the Majority Leader just said. Are there any remarks, if not roll call vote please Madame Clerk.

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

NO REMARKS ROLL CALL: 10 YEAS, 0 NAYS

CLERK TIMBERLAKE: Ten yeas Mr. President

PRESIDENT SCHULMAN: Thank you Madame Clerk, the motion carries and Rule 22A is suspended and the Communications and the Ordinances are a legal part of your agenda.

**PUBLIC HEARINGS**

PRESIDENT SCHULMAN: We are under Public Hearings, and we have no Public Hearings this evening.

**PUBLIC SPEAKS**

PRESIDENT SCHULMAN: We are now under Public Speaks on Ordinances and Resolution for adoptions, we have no speakers signed up this evening.

**INFORMAL RESOLUTIONS**

PRESIDENT SCHULMAN: We are now under Informal Resolutions and Leader Casar, the Chair will recognize a motion to excuse Members Hawk and Barton. Just note for the audience and for our record as Member Cirelli indicated, Pat Barton had a family tragedy and Greg Hawk is very, very sick, I spoke with him briefly today and I know that he would be here if he could. So with that, Leader Casar.

MEMBER CASAR: Mr. President, I move we excuse 1<sup>st</sup> Ward Councilman, Member Hawk and 7<sup>th</sup> Ward Councilman, Member Barton from this evenings meeting.

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded therefore to excuse Members Hawk and Barton from this evening's meeting. Are there any remarks? If not Madame Clerk roll call vote please.

NO REMARKS ROLL CALL: 10 YEAS, 0 NAYS

CLERK TIMBERLAKE: Ten yeas Mr. President

PRESIDENT SCHULMAN: Thank you Madame Clerk, the motion carries and Member Hawk and Member Barton are excused from this evening's meeting. Madame Clerk would you please read Resolution 102 by title.

#102. PERSONNEL COMMITTEE: REQ APPT OF KATHLEEN TATARSKY TO BOARD OF ZONING APPEALS COMMENCING 1/1/09 - 12/31/11. - ADOPTED

PRESIDENT SCHULMAN: Leader Casar.

MEMBER CASAR: Mr. President, I move we adopt Resolution #102.

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It has been moved and seconded to adopt Resolution #102. Any there any remarks?

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

If not then, by voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS      RESOLUTION #102 PASSED UNANIMOUSLY BY VOICE VOTE

PRESIDENT SCHULMAN: The ayes have it and the motion carries.

**COMMUNICATIONS**

PRESIDENT SCHULMAN: We're are now under Communications. Let the journal show that 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 DECEMBER 8, 2008.***

469.      AUDITOR MALLONN (CITY): MONTHLY RPT BY FUND FOR 11/01/08 - 11/26/08. - RECEIVED & FILED

470.      AUDITOR MALLONN (CITY): YEARLY RPT BY FUND FOR 1/1/08 - 11/26/08. - RECEIVED & FILED

471.      AUDITOR MALLONN (CITY): CERT OF TOTAL AMT FR ALL SOURCES FOR 2008. - RECEIVED & FILED

472.      CLERK OF COUNCIL, TIMBERLAKE: REQ LAW DEPT TO PREPARE RESOLUTION FOR THE 2009 LIQUOR RENEWAL OBJECTIONS. - INTERGOVERNMENTAL & PUBLIC SERVICE COMMITTEE

473.      HEALTH BENEFITS ADMIN, BRESSON: NOVEMBER 2008, MO COMPARATIVE RPT OF INSUR CLAIMS & JAN - NOV 2008 PAID CLAIMS & COMPARATIVE RPT. - RECEIVED & FILED

474.      MAYOR WILLIAM HEALY II: REQ APPT OF WILLIAM V SHERER, II TO INCOME TAX REVIEW BOARD RETRO FR 3/1/08 - 2/28/12. - PERSONNEL COMMITTEE

475.      SAFETY DIRECTOR NESBITT: REQ TO ENTER INTO LEASE AGRMNT W/PHIL CAPRI FOR PROPERTY @ 903 12<sup>TH</sup> ST NW FOR POLICE SUB-STATION IN WEED & SEED AREA FOR 2 YRS COMMENCING 1/1/09 - 12/31/10 FOR \$850.00 MNTHLY. - FINANCE COMMITTEE

476.      SAFETY DIRECTOR NESBITT: REQ TO ENTER INTO PROF SVCS CONTRACT NOT TO EXCEED \$18,000.00 W/DIVERSITY MATTERS FOR POLICE & FIRE TRAINING. - FINANCE COMMITTEE

477.      SERVICE DIRECTOR BERNABEI: REQ TO ENTER INTO PROF SVCS CONTRACT FOR \$187,182.00 W/ARCADIS US, INC. FOR COMPUTERIZED MAPPING SYSTEM OF CITY'S SANITARY & STORM SEWERS IN GIS FORMAT. - FINANCE & PUBLIC PROPERTY CAPITAL IMPROVEMENT COMMITTEES

478.      TREASURER SCHIRACK: NOVEMBER 2008 DEPOSITS & PAY INS TO AMBULANCE

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

LOCK BOX ACCT. - RECEIVED &amp; FILED

479. TREASURER SCHIRACK: NOVEMBER 2008 PARKING METER REVENUE. - RECEIVED & FILED
480. TREASURER SCHIRACK: RPT OF TREAS OFC BANK RECONCILIATIONS & CITY'S OUTSTANDING INVESTMENTS AS OF 11/28/08. - RECEIVED & FILED
481. TREASURER SCHIRACK: COMPARATIVE RPT OF CASH RECEIPTS AS OF 11/30/08. - RECEIVED & FILED
482. SERVICE DIRECTOR BERNABEI: REQ FOR TEMP APPROP FOR 2009 BUDGET. - FINANCE COMMITTEE
483. SERVICE DIRECTOR BERNABEI: REQ TO ESTABLISH EMPLOYEE INCENTIVE/BUYOUT PROG IN 2009. - FINANCE COMMITTEE
484. SERVICE DIRECTOR BERNABEI: REQ TO SUSPEND 2009 WAGE INCREASES FOR NON-BARGAINING UNIT EMPLOYEES & ELECTED OFFICIALS. - FINANCE COMMITTEE
485. SERVICE DIRECTOR BERNABEI: REQ TO ISSUE ANTICIPATORY NOTES: \$2,000,000.00 FOR GENERAL FUND & \$300,000.00 FOR REFUSE COLLECTION FUND. - FINANCE COMMITTEE
486. SERVICE DIRECTOR BERNABEI: REQ TO APPROVE YR END APPROP TRANSFERS, SUPPLEMENTAL APPROP, & REDUCTIONS. - FINANCE COMMITTEE

**ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING**

PRESIDENT SCHULMAN: We are now under Ordinances and Formal Resolutions for their First Reading. Let the Journal show that all Ordinances are being given their reading as required by State Law. Madame Clerk would you please read the first reading Ordinances by title.

***NOTE: PRESIDENT SCHULMAN CALLED UPON CLERK TIMBERLAKE TO READ ORDINANCES #1 THROUGH #2F FOR THE FIRST TIME BY TITLE & ANNOUNCED THE COMMITTEE REFERRAL, AS FOLLOWS.***

#1. (1<sup>ST</sup> RDG) AN ORDINANCE AUTHORIZING CANTON TO ANNEX THE TERRITORY KNOWN AS THE KEY BANK ANNEXATION AREA CONTAINING APPROXIMATELY 2.5217 ACRES; ASSIGNING SAID TERRITORY TO WARD 3 OF THE CITY; ZONING SAID TERRITORY AS B-3 (GENERAL BUSINESS); AND DECLARING THE SAME TO BE AN EMERGENCY **PUB** **HRG**  
**12/22/08 @ 7:00 P.M.**

Referred to Annexation Committee

#2. (1<sup>ST</sup> RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A CONTRACT MODIFICATION WITH HAMMONTREE & ASSOCIATES, LIMITED, CONSULTING ENGINEERS IN AN AMOUNT NOT TO EXCEED \$31,046.00 FOR ADDITIONAL DESIGN IMPROVEMENTS TO THE PARK ROAD AND FULTON ROAD N.W. INTERSECTION; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance & Public Safety & Thoroughfares Committee

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

#2A. (1<sup>ST</sup> RDG) AN ORDINANCE ADOPTING TEMPORARY APPROPRIATIONS FOR THE OPERATING AND CAPITAL EXPENDITURES OF THE CITY OF CANTON, OHIO, FOR FISCAL YEAR 2009; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance Committee

#2B. (1<sup>ST</sup> RDG) AN ORDINANCE CREATING AN INCENTIVE/BUYOUT PROGRAM FOR ELIGIBLE FULL-TIME CITY EMPLOYEES; AUTHORIZING THE AUDITOR TO ESTABLISH THE INCENTIVE/BUYOUT PROGRAM CLEARING FUND; AMENDING SECTION 181.14, ALLOCATION OF FUNDS, OF THE CODIFIED ORDINANCES; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance Committee

#2C. (1<sup>ST</sup> RDG) AN ORDINANCE SUSPENDING WAGE INCREASES FOR MANAGEMENT AND NON-BARGAINING UNIT PERSONNEL; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance Committee

#2D. (1<sup>ST</sup> RDG) AN ORDINANCE PROVIDING FOR THE ISSUANCE OF A NOTE BY THE CITY OF CANTON IN ANTICIPATION OF THE COLLECTION AND PAYMENT OF CITY INCOME TAXES, GENERAL PROPERTY TAXES, AND MISCELLANEOUS OTHER SOURCES TO THE CITY OF CANTON; DECLARING THE NECESSITY OF THE ISSUANCE OF SAID NOTE; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance Committee

#2E. (1<sup>ST</sup> RDG) AN ORDINANCE PROVIDING FOR THE ISSUANCE OF A NOTE BY THE CITY OF CANTON IN ANTICIPATION OF THE COLLECTION OF REFUSE COLLECTION RECEIPTS; DECLARING THE NECESSITY OF ISSUANCE OF SAID NOTE; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance Committee

#2F. (1<sup>ST</sup> RDG) AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 1/2008, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATIONS AND APPROPRIATION TRANSFERS AND REDUCTIONS HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Finance Committee

**ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING**

PRESIDENT SCHULMAN: We are now under 2<sup>nd</sup> Reading Ordinances. Madame Clerk, would you please read Ordinance #3.

***NOTE: PRESIDENT SCHULMAN CALLED UPON CLERK TIMBERLAKE TO READ ORDINANCES #3 THROUGH #6 FOR THEIR SECOND TIME BY TITLE AS REQUIRED BY STATE LAW, AS FOLLOWS.***

#3. (2<sup>ND</sup> RDG) AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH GATEHOUSE OHIO MEDIA, INC. FOR PROFESSIONAL SERVICES TO MANAGE THE LAYOUT, AD SALES, PRODUCTION AND PHYSICAL DISTRIBUTION OF THE CITY'S QUARTERLY NEWS PUBLICATION; AND DECLARING THE SAME TO BE AN

**MINUTES OF THE MEETING OF DECEMBER 8, 2008****EMERGENCY Referred to Finance Committees**

#4. (2<sup>ND</sup> RDG) AN ORDINANCE AUTHORIZING THE MAYOR OR DIRECTOR OF PUBLIC SERVICE TO FILE AN APPLICATION WITH THE STATE OF OHIO TO PARTICIPATE IN THE CLEAN OHIO REVITALIZATION PROGRAM, APPLY FOR FINANCIAL ASSISTANCE, ADMINISTER THE FUNDS RECEIVED, AND ADVERTISE, RECEIVE BIDS AND ENTER INTO CONTRACT FOR PROFESSIONAL SERVICES IN AN AMOUNT NOT TO EXCEED THE AMOUNT OF GRANT MONIES RECEIVED IN ACCORDANCE WITH FUND REQUIREMENTS; AND DECLARING THE SAME TO BE AN EMERGENCY

Referred to Community & Economic Development Committee

#5. (2<sup>ND</sup> RDG) AN ORDINANCE ESTABLISHING THE FAIR REUSE VALUE OF ONE PARCEL OF CITY-OWNED 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 (KENNET COURT NW, PARCEL #02-35881, ROBERT HARPER)

Referred to Community & Economic Development Committee

#6. (2<sup>ND</sup> RDG) AN ORDINANCE AMENDING ORDINANCE NO. 1/2008, AS AMENDED, BY MAKING THE SUPPLEMENTAL APPROPRIATION HEREIN DESCRIBED; AND DECLARING THE SAME TO BE AN EMERGENCY (HEALTH BENEFIT ADMIN POSITION)

Referred to Finance Committee

**ORDINANCES & FORMAL RESOLUTIONS FOR THIRD AND FINAL READING**

PRESIDENT SCHULMAN: Thank you Madame Clerk. We are now on Ordinances for their third and final reading. And Madame Clerk will you please read Ordinance #7 by title.

#7. (3<sup>RD</sup> RDG) **ADOPTED AS ORDINANCE NO. 179/2008** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH REDFLEX TRAFFIC SYSTEMS, INC. FOR THE IMPLEMENTATION OF AUTOMATED PHOTO TRAFFIC ENFORCEMENT; AND DECLARING THE SAME TO BE AN EMERGENCY

PRESIDENT SCHULMAN: Member Casar.

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

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to adopt Ordinance #7. Are there any remarks under this Ordinance?

MEMBER CIRELLI: Mr. President.

PRESIDENT SCHULMAN: Member Cirelli.

MEMBER CIRELLI: I have a question for the Mayor. We've heard an awful lot from the Safety Director, Tom Nesbitt, but, Mayor Healy, are you supportive of these cameras for the security reasons sir, or whatever reason, are you supportive of it?

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

PRESIDENT SCHULMAN: Mayor Healy.

MAYOR HEALY: Yes, I am absolutely in favor of it.

MEMBER CIRELLI: Okay, thank you. Second of all Mr. President, if I might, I can't help but believe this is all about money. In all my years at City Council or as an Elected Official, I've never had an influx of people calling me, that they felt insecure about what our Police Officers were doing in the school systems or at the intersection and what have you. If there was a problem, they would go and seem to handle it quite well. I think we're putting a burden on our low to moderate population because they're going to have to pay for this and then if they are in fact correct that they did not do this, then they're going to have to pay up front and then....And I see Mr. West shaking his head no, but to my understanding, they'll have to pay the ticket and maybe the Law Director can expound on that, I don't know. But they will get it in the mail and then they have a...to my understanding, pay this up and I just feel that's a burden on them. I think we are also turning over to a private firm, something that should be done by law enforcement agencies. And that's why we have a Police Department and I think it's going to be a burden on the Law Department, of which they are quite burdened as it is with many things that we have besides lawsuits and the Ordinances that we have and all the work that we ask them to do. So I really think that this is a lose, lose situation and I think it's all about monies that...yes we need monies but I think this is a very poor way of getting monies into the general fund. So I will not support it.

PRESIDENT SCHULMAN: And to Member West's defense, Member Cirelli, I don't really think he was really shaking his head at you, so, I don't want you to misunderstand and I don't want the record to show that he was doing that. But thank you very much. Member West.

MEMBER WEST: Yes, Mr. President. You know, this, I wasn't going to say too much on this, however, I remember when we pa...when this came down about a year or two ago, during the Creighton Administration and we voted against this because all the monies went towards the company and none went to the City Officials, or more so to the City. But tonight, and what I've heard so far in this debate that this was not about money but was about safety. And the way I see it, I drive through North Canton, there's this thing that goes in my head when I drive through North Canton to slow down and you can talk to anyone, but when you drive through North Canton, when you drive through Louisville and certain other areas, you know to slow down. But for some reason in the City of Canton, we don't have that same kind of mind set, people have at it, they just go...go for what they know. And I see it everyday because I live on 12<sup>th</sup> Street, I see a number of accidents on 12<sup>th</sup> Street. I see it in Gibbs area when I brought issues up at Gibbs, where the kids are coming out and the Gibb Neighborhood Associations are saying "You know what, we need some stop signs here, we need some lights here." And as I try to navigate that, to get those things there, State Law says that we don't have enough traffic there. But yet, these cameras will be able to stop some of those speeders that are going down Gibbs Street as well as 12<sup>th</sup> Street. So tonight, I am going to support this because it's not about money for me, it's about giving the Safety Director the means to conduct safety in the City of Canton and I'm supportive of that and we cannot sit around and say that we want our Safety Director and our...to enforce safety in our community but then every time they come up with an intervention we shoot them down. So I am in support of it for that reason. Thank you.

PRESIDENT SCHULMAN: Thank you Member West. Any other...Member Carbenia.

MEMBER CARBENIA: Yes, Mr. President, I, myself, I probably will vote for this tonight, or I will vote for this tonight. First off, this is not the final, this is for them to investigate and...and do Ordinances until the final Ordinances are passed, this will not go into effect. And the letter that Mr. Nesbitt put out, I think if

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

people could see that letter, they would....there would be a lot of questions answered I believe. And I've had quite a few calls myself, both ways, even though over the weekend I never had one person call about the snow. I'd like to congratulate everybody in the 9<sup>th</sup> Ward for not calling for that. But at this point, when we're talking about school children, if we save one life as Member Casar said, it's worth the whole thing. But my thing is, is I know that the people speed on these streets, if we can slow them down and make it a much safer place and they're running lights. I know if you sat under a light and seen the light go yellow and go to turn left, you better look again because that person that's 100 feet away is gonna go through that light, especially on 62 and Harrisburg. So, I will support this.

PRESIDENT SCHULMAN: Thank you Member Carbenia. Member Casar.

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

PRESIDENT SCHULMAN: Yes.

MEMBER CASAR: Law Director, I asked you the question in Caucus in regards to what are our responsibilities or obligations if for some reason this passes tonight and then for some reason down the road when the next legislation comes in, we decide that we don't want it. Could you expound on that a little bit?

PRESIDENT SCHULMAN: Law Director Martuccio.

LAW DIRECTOR MARTUCCIO: Thank you Mr. President. Member Casar, the Ordinance before you includes clauses that do a couple of things. It would allow the Safety Director to begin...well to enter into this professional services contract. However, it also provides that we can make ministerial changes to it as necessary. But more importantly, it also authorizes the Law Department to bring additional Ordinances that are necessary to effectuate this program. Right now, the State of Ohio allows the City of Canton to codify traffic infractions, and we do. We have a mirror code of most every State traffic offense, including things like speeding and red light violations. They're criminal in the sense that one who gets caught has to go to Court, pay a fine or send a ticket and then pay a fine. They also have the right to due process to appeal those. And we have an affirmative obligation to the Court system to report offenders with points for moving violations, usually two points, sometimes more. This is different, I'll be bringing you Ordinances if you pass this...if you pass this Ordinance tonight, I'll have to work on and bring Ordinances to you fashioned on the ones that have been successful elsewhere, which make some of the same offenses civil violations, speeding, going too fast in school zones, going through red lights, they would become civil infractions that are fineable only, no moving point violation and no criminal Court appearance. That has to come to you yet to authorize for us to do that. It will also describe the procedure in which someone could appeal if they chose to. Anytime we deprive people of money or life or liberty in this Country, we have to give them due process and this would deprive them of money. So I will bring you a look at the due process as well. Should you find those Ordinances in acceptable, then this program will not be initiated. It is a five year contract with two, two year renewals, however, it doesn't kick in until the violations are issued and violations cannot be issued if there are no enabling Ordinances to do that.

PRESIDENT SCHULMAN: Member Casar.

MEMBER CASAR: Law Director, would you please repeat that again for the record in regards to if indeed, when the Ordinances come down, we decide we do not want to go forward with this program, I don't, I think you kind of skipped over it a little bit.

LAW DIRECTOR MARTUCCIO: If...if you bring...if...if...when I bring the Ordinances that enable violations



**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

to be labeled as violations by you, should you find those Ordinances defective or not to your liking for some reason, if you fail those Ordinances, this program cannot commence. The other thing I mentioned in Caucus was that should any Courts find this process to be unconstitutional or should the General Assembly of the State of Ohio pass State Statutes that change how evidence is admitted in these kinds of cases, that could undo the contract as well.

MEMBER CASAR: Thank you.

PRESIDENT SCHULMAN: Thank you Member Casar. Any other remarks? Member Kraus.

MEMBER KRAUS: Yes Mr. President. As Chairman of Public Safety and Thoroughfare, the last time this came down, a couple years ago, we had asked that it be tabled until they brought us a more comprehensible plan. At this time, I have to look at this in a two fold situation. If you're looking at it as money revenue, you'll never look at it from the right aspect in any sense. As a safety factor, the new Safety Director, the first three months in office, I know him and I rode and I know himself as myself got calls from Market Avenue, 49<sup>th</sup> Street, 37<sup>th</sup> Street, what we looked at in this...and as Public Safety Chairman, I have to look hard, safety has got to be the number one thing. If...if we don't have at least something that we're trying to do with the safety, then we can't say it's going to win or lose solely on money. If...if you get a ticket anywhere for any reason by a policeman in person or a camera, it's still a ticket. The thing is, if you're going to speed, you're going to speed. What we're trying to do, hopefully is eliminate some of the calls, especially in the areas of the school zones. That...that's my concern, Frazer Avenue, 44<sup>th</sup> Street, 37<sup>th</sup> Street, I mean, I'm getting a lot of calls, my grandkids go to them schools, hopefully, I take them so they don't have to walk. But it's got to be, in my opinion and hopefully everybody's opinion, it's a safety issue. We need to at least give it some thought and a chance. Remember that we have the final say. If it doesn't help us safety wise, then we have a decision or a chance to look at it in another manor. But it's a tool that I think is needed to use that allow us another factor to make our kids safe. And being that said, then you know, you have to vote on your own decision. But hopefully, it's not a monetary vote.

PRESIDENT SCHULMAN: Thank you Member Kraus.

MEMBER GRIFFIN: Mr. President.

PRESIDENT SCHULMAN: Member Griffin.

MEMBER GRIFFIN: I also have received a lot of phone calls in regards to this Ordinance and both of my friends are for it. But everybody else was against it. So, but I like what Mr. Martuccio said, Law Director Martuccio said, and I told the people that it's only in the preliminary stages. They didn't want to hear it. I'm going to go out on a limb, I'm going to take this to my people, I'll vote for it but..because I know that, you know, more Ordinances are coming down the line but they don't have..they're doubting it. You know, like I mentioned in Caucus, Whipple, West Tusc. and Raff Roads had 16 accidents this year, nobody called and complained about that but they are complaining about big brother watching them, about all kinds of things I've heard. So, I'll vote for it, but I'll be looking at the other Ordinances coming down and I'm going to have to do a lot of extra work to get a hold of these people and let them know. And there good...professional people, they just don't want it.

PRESIDENT SCHULMAN: Thank you Member Griffin. Member Prater.

MEMBER PRATER: Yeah...just a couple of quick comments. I'll be supporting this Ordinance this evening because I agree with everything that Member Kraus said and I think it's important to go forward and see where this leads us. But knowing the financial state of the City, I'm looking at as a slightly different angle

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

not from a money making idea but if the higher Court declares these unconstitutional, are we then gonna have to repay all the money that we collect over the years and would that not be a burden on our finances?

PRESIDENT SCHULMAN: Law Director Martuccio.

LAW DIRECTOR MARTUCCIO: Thank you Mr. President. Member Prater, that's a very good question. There were some jurisdictions elsewhere in Ohio that had some issues in the past with a different system that was set up a different way. It would have to be a Court that has jurisdiction over our City first to declare them unconstitutional. And my reading of it would be that we would not have to issue refunds. Again, we want to make sure we build in due process. The recent case out of the Ohio Supreme Court, Mendenhall, allows...allows us to structure something like this under home rule. So, I believe we would be safe in not having to assume that we'd be making refunds as long as we build in due process.

PRESIDENT SCHULMAN: Any other remarks?

MEMBER CIRELLI: Mr. President.

PRESIDENT SCHULMAN: Member Cirelli. I'd like to...just for a point of clarification, Member West, when this came down under the Creighton Administration, it was 70/30 percent sir. The other company would take 70 percent and the City would get 30. What I heard you say tonight is that they would take all the money. And maybe I misunderstood you. But Mr. President, I happen to think that this is a direct slap in the face of our Police Enforcement. We're saying to them that we don't trust them to do the safety of this City. I for one believe that they are qualified to look after the safety of the City. I haven't, as I said, so far, I think Canton is safe. I've heard people say, you know they came out with the paper that said "Canton is dying." They said "Now you're really killing it because we're not going to be coming down around the areas where we know these cameras are going to be at and what have you." That's the reason, like I said, I happen to believe that this is about money and every other place....and in Council they call me the....I think it was Member Casar said, the internet hawk.

MEMBER CASAR: It wasn't me.

MEMBER CARBENIA: No it wasn't, it was Joe Martuccio.

MEMBER CIRELLI: Joe Martuccio, okay, Joe...and it was said with a...you said that with a positive note, a compliment and I appreciate that sir because I have spent a lot of time, and I'm doing a lot of homework on this, as well as I try to everything else because I think the internet is a wonderful tool. And I again, have to reiterate

safety is the prime most important thing also in my mind and I have all the confidence in the world that our Police Department is keeping this City safe, where it needs to be and when it needs to be. So that's why I'm voting no.

PRESIDENT SCHULMAN: Thank you Member Cirelli. Any other remarks? I am always very conscientious and cautious about my role as President of City Council. I still am, however, an Elected Official of the City and well I enjoy limited power to participate in your legislative process, I do feel I have the right to speak out and speak up and I am going to do that on this issue. I have the highest respect and regard for my friend Tom Nesbitt, he is a remarkable public figure, he is a tremendous Safety Director, he has made incredible changes and important changes to our safety, fire and police for the better and obviously I have great respect for his judgement and his thoughtfulness. However, Martin Luther King said "It is always the right time to do right." And as I expressed two weeks ago, I have the most serious of reservations about this legislation and this proposal. It has nothing to do with money and I appreciate what Member Kraus said

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

and I appreciate all the Members of Council expressing their view on this. But this is an assault on the right of privacy of our citizens without question, without question and while I indicated two weeks ago in Caucus that I felt that Leader Casar's statement that if I life is saved then it's worth it, yes, I'm not unmindful of the safety that may enure if we pass this legislation. I'm not sure however really that we will save a life, I'm not quite certain of that A to B. All we would really do if we adopted this proposal would be to photograph a tragedy, not necessarily prevent the tragedy from occurring in the first instance. So, safety is certainly paramount but I don't think in relation though of the person's and our citizen's right to privacy that you ought to be passing this legislation. I think it's a bad idea and I'll just conclude by saying what I said two weeks ago, we will not be here probably in five or ten years, there'll be other Members of Council, elected by the people and...but we will have started something that we will never be able to put back in the bottle and that is, cameras on our public streets. First cameras at the school crossings, then cameras at dangerous intersections and then where will the cameras be next? I just don't like the idea of Government intruding into our privacy and I don't think you should either. So, with that said, I respect, as you know, all of you, but...words cannot express how much I respect each of you. But I think this is a very, very significant vote, I'm asking you to look into your consciences. And lastly, I really believe that the public is going to be very dissatisfied with this Ordinance. I don't think the public wants it, I think the public wants Government out of...out of their...not out of their lives but out of their view and that's what we're creating tonight. So with that, Madame Clerk, roll call vote please.

NO REMARKS

ROLL CALL: 9 YEAS, 1 NAYS  
(MEMBER CIRELLI VOTED NAY)

CLERK TIMBERLAKE: Nine yeas, one nay Mr. President.

**#7 ADOPTED AS ORDINANCE NO. 179/2008**

PRESIDENT SCHULMAN: The Ordinance carries, thank you Madame Clerk. Ordinance #9 please, I'm sorry, Ordinance #8.

#8. (3<sup>RD</sup> RDG) **ADOPTED AS ORDINANCE NO. 180/2008** AN ORDINANCE AMENDING APPROPRIATION ORDINANCE NO. 1/2008, AS AMENDED; AND DECLARING THE SAME TO BE AN EMERGENCY (MAHONING RD CORRIDOR)

PRESIDENT SCHULMAN: Leader Casar.

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

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to adopt Ordinance #8. Any remarks?

MEMBER CASAR: Mr. President.

PRESIDENT SCHULMAN: Yes, Member Casar.

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

PRESIDENT SCHULMAN: Sure.

MEMBER CASAR: Law Director Martuccio, could you expound on this a little bit in regards to the money,

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

maybe all Councilmen aren't familiar...you know, is this going to be expended now, is there....you know, if you would fill us in a little bit, I'd appreciate it.

PRESIDENT SCHULMAN: Law Director Martuccio.

LAW DIRECTOR MARTUCCIO: Thank you Mr. President. Member Casar thank you for the question. This Ordinance is sponsored by Member Dougherty, it concerns a project important to their Ward, the Mahoning Avenue Corridor. It is an appropriation transfer of \$250,000.00. Sometime ago, this Council authorized a number of bond monies to go to various projects and approximately \$600,000.00 I believe was a part of a wish list to go to this project. Member Dougherty in his Communication to Council points out that a number of area foundations have made commitments and contributions to the first phase. Between the contributions and the commitments, he says is close to \$600,000.00. This Ordinance simply does one thing, it parks money in a lock box if you will, it parks this money in that fund, as numbered in the Ordinance for future use for this particular project. It does not authorize the commencement of any work projects yet. Any work project to be entered into, because Federal funds and State funds would also be involved, would have to have a number of requests for qualifications and proposals, included before the work could commence. And it would not allow authorize spending without any additional Ordinances. What it does do is parks \$250,000.00 in that lock box, I believe to show good faith on Council's part and to act as sort of leverage I think for the amount of monies that Mr. Dougherty and his colleagues in Ward 6 have raised thus far. But it's simply makes the appropriation transfer any future work projects to sum up would have to come by way of Council manic Ordinance. Any future spending would have to come by way Council manic Ordinance.

PRESIDENT SCHULMAN: Member Casar.

MEMBER CASAR: Thank you Member Martuccio.

PRESIDENT SCHULMAN: Any other remarks? Leader Casar, I don't remember, did you move for this and it was seconded? Okay, I'm sorry, thank you. No other remarks? Madame Clerk roll call vote please.

NO REMARKS

ROLL CALL: 10 YEAS, 0 NAYS

CLERK TIMBERLAKE: Ten yeas, Mr. President.

**#8 ADOPTED AS ORDINANCE NO. 180/2008**

PRESIDENT SCHULMAN: Thank you Madame Clerk, Ordinance #8 is adopted. Ordinance #9 please.

#9. (3<sup>RD</sup> RDG) **ADOPTED AS ORDINANCE NO. 181/2008** AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY TO ACCEPT A GRANT FROM THE 2008 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT; AMENDING APPROPRIATION ORDINANCE NO. 1/2008; AND DECLARING THE SAME TO BE AN EMERGENCY

PRESIDENT SCHULMAN: Leader Casar.

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

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to adopt Ordinance #9. Any remarks? If not, Madame Clerk roll call vote please.

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

NO REMARKS

ROLL CALL: 10 YEAS, 0 NAYS

CLERK TIMBERLAKE: Ten yeas, Mr. President.

**#9 ADOPTED AS ORDINANCE NO. 181/2008**

PRESIDENT SCHULMAN: Ordinance #9 is adopted. Ordinance #10 please.

#10. (3<sup>RD</sup> RDG) **ADOPTED AS ORDINANCE NO. 182/2008** AN ORDINANCE AUTHORIZING THE AUDITOR TO PAY A DEFERRED PRO-RATED PAYMENT OF \$124,210.44 TO MOTOROLA; AND DECLARING THE SAME TO BE AN EMERGENCY

PRESIDENT SCHULMAN: Leader Casar.

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

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to adopt Ordinance #10. Any remarks? If not, Madame Clerk roll call vote please.

*WHEN MEMBER CARBENIA WAS CALLED FOR ROLL CALL:*

MEMBER CARBENIA: How long do I have? If I could expound on this vote, I don't like giving this to Motorola, we just keep throwing the money at them but aye. *(Laughter)*

NO REMARKS

ROLL CALL: 10 YEAS, 0 NAYS

CLERK TIMBERLAKE: Ten yeas, Mr. President.

**#10 ADOPTED AS ORDINANCE NO. 182/2008**

PRESIDENT SCHULMAN: Ordinance #10 is adopted.

**ANNOUNCEMENT OF COMMITTEE MEETINGS**

PRESIDENT SCHULMAN: We are now under Announcement of Committee meetings.

MEMBER CARBENIA: Mr. President.

PRESIDENT SCHULMAN: Member Carbenia.

MEMBER CARBENIA: The Finance Committee will on 12/15/08 at 5:45 because we are going to be doing the Ordinances that are just for...read today and will be needing some extra time.

PRESIDENT SCHULMAN: Thank you Member Carbenia.

MEMBER KRAUS: Mr. President.

PRESIDENT SCHULMAN: Member Kraus.

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

MEMBER KRAUS: Public Safety & Thoroughfare will meet at the same time in conjunction with Finance.

PRESIDENT SCHULMAN: Thank you. Member Smuckler.

MEMBER SMUCKLER: Annexation meets same time, same place.

MEMBER PRATER: Mr. President.

PRESIDENT SCHULMAN: Member Prater.

MEMBER PRATER: Personnel will meet, same time, same place..

PRESIDENT SCHULMAN: Thank you.

**MISCELLANEOUS BUSINESS**

PRESIDENT SCHULMAN: We are now under Miscellaneous Business. I want to thank Leader Casar for taking my place last week, thank you again.

MEMBER CASAR: We're now under Public Speaks.

PRESIDENT SCHULMAN: Oh, I'm sorry, we're under.... *(Laughter)*

MEMBER CASAR: That's okay, because I made a few mistakes also.

PRESIDENT SCHULMAN: Director Bernabei told me I can run this as I want to. So I'm going to thank you publicly, thank you.

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

PRESIDENT SCHULMAN: And now we're under Public Speaks. And we have two speakers this evening. Our first speaker is Ron Newman, Mr. Newman, would you step forward please and give us your name and your residential address and good evening and Happy Holidays.

RON NEWMAN: My name is Ron Newman my address is 1215 West Tusc. I'm here to...I just got the letter from City Council objecting to the 2009 liquor permits and Whistle Stop is on there and no one can give me a reason why.

PRESIDENT SCHULMAN: Sorry, what?

MEMBER CARBENIA: Who's ward is that? That's Greg Hawk's ward and he's not here.

RON NEWMAN: We have cameras everywhere *(inaudible)*....if we have a problem with a customer we don't have the right to put our hands on that customer to put him out of the bar and a lot of them will not leave and we call the police and that's a strike against us and I don't understand why.

MEMBER SMUCKLER: Who's ward is that?

CLERK TIMBERLAKE: Councilman Hawk's and he's absent. Thank you.

MEMBER SMUCKLER: Mr. President.

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

PRESIDENT SCHULMAN: Member Smuckler.

MEMBER SMUCKLER: Some of these are sent down from the vice squad and you're correct, the number of calls that are...you make, are taken into consideration and if they're becomes a almost daily ritual of calling the Police Department then that possibly could be a problem. However, if I could suggest to you that Councilman Hawk is sick tonight and if you...I'll make sure you have a phone number for him after this meeting, I'll wait around to make sure you get it. And also, you see the Deputy Chief of Police in the back of the room and he can also run down the...what vice...why this may have been turned in.

RON NEWMAN: There's all kinds of calls on here, one of them is not even my address.

MEMBER SMUCKLER: I understand, after the meeting we can probably get to the bottom of it.

PRESIDENT SCHULMAN: Thank you Mr. Newman. Our next speaker, Leon Cote.

LEON COTE: My name is Leon Cote, I live at 1225 41<sup>st</sup> St NW. Mr. President, Mayor, Members of City Council.

MEMBER SMITH: You want me to come down there?

LEON COTE: Today is a very special day my much older sister is 72 years old today. What I thought that I would do is in honor of that and because Mr. Carbenia, one of your associates is going to be 70 on Thursday and one of our regulars Ruby will be 75 on Thursday, I figured I would act as choir director, I would ask everyone in the Chambers to please join me in singing "Happy Birthday"

*(HAPPY BIRTHDAY SONG SANG TO JOE CARBENIA AND RUBY BROGDON)*

*(APPLAUSE)*

PRESIDENT SCHULMAN: Well, now you've started it, now we'll have to sing Happy Birthday to Leader Casar probably at his next...when he's how old....73...74? *(Laughter)* Just kidding.

**MISCELLANEOUS BUSINESS**

PRESIDENT SCHULMAN: Alright, we are now on Miscellaneous Business. Is there any?

MEMBER CIRELLI: Mr. President.

MEMBER KRAUS: Mr. President.

PRESIDENT SCHULMAN: Member Kraus.

MEMBER KRAUS: I would just like to remind everybody that Friday of this week is the annual Canton, Ex Newsboys charity paper sale. You'll probably see a lot of us out on the streets and in the buildings. I know it's a very, very bad time but remember, we do help all the kids in Stark County School System to go...so they won't miss any school for lack of clothing, shoes and coats. So if you could open up your heart Friday and maybe drop a little bit in our cans, because our cans are going to be cold according to the forecast of the weather. Thank you very much.

PRESIDENT SCHULMAN: Thank you Member Kraus. Thank you for all your work.

**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

MEMBER CIRELLI: Mr. President.

PRESIDENT SCHULMAN: Member Cirelli.

MEMBER CIRELLI: On a lighter note incase anybody missed it, I want to compliment our Law Director on being Scrooge at the Players Guild in the play of The Christmas Carol, is that correct?

LAW DIRECTOR MARTUCCIO: Yes I'm modeling myself after some local officials here. *(Laughter)*  
Humbug...Humbug. *(Laughter)*

MEMBER CIRELLI: Well his photograph was in the paper Friday in the Ticket and he was...had Tiny Tim on his shoulder there. So, I cut it out, I was going to bring it to you. So, we're proud of you that you've moved all the way up to the point of being the lead actor in the play. Congratulations sir.

LAW DIRECTOR MARTUCCIO: Thank you Mary. I'm old enough and mean enough now, I guess. *(Laughter)*

PRESIDENT SCHULMAN: Any other remarks?

MEMBER CASAR: Mr. President.

PRESIDENT SCHULMAN: Member Casar.

MEMBER CASAR: Mr. President, we had the 1<sup>st</sup> Reading on the budget Ordinance tonight with the 2<sup>nd</sup> Reading on the...next week on the 15<sup>th</sup> and the final reading will be on the 22<sup>nd</sup>. With that being said, we have a meeting scheduled for the 29<sup>th</sup>, at the particular time we have all Council business for 2008 completed on the 22<sup>nd</sup> so we will be cancelling the meeting on 12/29.

PRESIDENT SCHULMAN: Thank you Member Casar. Member Carbenia.

MEMBER CARBENIA: Yes, if I may take a moment, first off, I'd like to thank everybody for the jingle as long as Mrs. Brogdon too. But I'd like to ask everybody tonight, I had a very good...a man that was as good as my brother, he was my mentor, my friend, he passed away today, I'm sorry for this but it's real hard to...just say a prayer for him today, I know he's happier where he is, he's probably having a drink eating whatever he wants that he hasn't been able to do for the last couple of years. So, if you would, please say a prayer for Rocky Russo.

PRESIDENT SCHULMAN: Thank you Member Carbenia. Any other remarks? Leader Casar.

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

MEMBER CARBENIA: Seconded.

PRESIDENT SCHULMAN: It has been moved and seconded that we adjourn. Madame Clerk, roll call vote, please.

CLERK TIMBERLAKE: Ten yeas Mr. President.



**MINUTES OF THE MEETING OF DECEMBER 8, 2008**

PRESIDENT SCHULMAN: *(Gavel falls)* Meeting is adjourned. Thank you ladies and gentleman.

ADJOURNMENT TIME: 8:25 P.M.

ATTEST:

APPROVED:

CYNTHIA TIMBERLAKE  
CLERK OF COUNCIL

ALLEN SCHULMAN  
PRESIDENT