

MINUTES OF THE MEETING JANUARY 9, 2014

PRESIDENT SCHULMAN: Good evening ladies and gentlemen. Welcome to Canton City Council. First I want to wish everyone in the audience and our citizens a very healthy, happy and prosperous New Year. We begin 2014 with high expectations of continuing the strong job that we attempt to do for our city everyday. I want to also congratulate and recognize our new Members but old Members. Member Smuckler, Member Hart, congratulations. Welcome again. I know you are going to do a great job. (*APPLAUSE*) And with a quorum being present, the Chair does call this meeting of Canton City Council to order. Roll call vote please Madame Clerk.

ROLL CALL TAKEN BY CLERK TIMBERLAKE:

12 COUNCIL MEMBERS PRESENT: (DAVID DOUGHERTY, JAMES GRIFFIN, JAMES BABCOCK, RICHARD HART, BILL SMUCKLER, GREG HAWK, THOMAS WEST, CHRIS SMITH, KEVIN FISHER, JOHN MARIOL, EDMOND MACK & FRANK MORRIS)

TWELVE COUNCIL MEMBERS PRESENT.

CLERK TIMBERLAKE: All present, Mr. President.

PRESIDENT SCHULMAN. Thank you Madame Clerk. Tonight's invocation will be given by my good friend and Ward 5 Council Member Kevin Fisher. If you'll all stand and remain standing please for our Pledge of Allegiance.

The regular meeting of Canton City Council was held on January 9, 2014 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 Ward 5 Council Member Kevin Fisher. The Pledge of Allegiance led by President Schulman.

PRESIDENT SCHULMAN: They were trying to trick us. Everybody turned to the corner and there was nothing there.

AGENDA CORRECTIONS & CHANGES

PRESIDENT SCHULMAN: We are now under Agenda Corrections and Changes and unusually tonight there are none.

PUBLIC HEARINGS

PRESIDENT SCHULMAN: Turning to Public Hearings. We have no Public Hearings scheduled this evening. _____

OLD BUSINESS

PRESIDENT SCHULMAN: The Mayor's Chief of Staff, Fonda Williams informs we that there is no Old Business that he wishes to discuss this evening.

PUBLIC SPEAKS

PRESIDENT SCHULMAN: We have however, 6 public speakers signed up for Public Speaks and our first speaker is Jonathan Bailey. Mr. Bailey as always, welcome to Canton City Council. You're starting off 2014 where you left in 2013. If you'll give us your name and your residential address please sir.

MINUTES OF THE MEETING JANUARY 9, 2014

JONATHAN BAILEY: The name is Jonathan Bailey. I live at 405 3rd Street, Canton, Ohio. I just heard about the article in the Canton Repository so I'm going to give the scrap metal issue a rest for the next 6 months to a year to see what happens. If there's a change, it won't be brought up again. There's the other 10 to 20% of the bicycle thieves break bikes. I've brought it up before. There's the other ones out there who's take bikes and ride em around for a few months to a year and then drop them off and leave them somewhere, just abandon them. I've seen it happen. Bait bikes. We could put bait bikes out all different kinds of ways. We could put one up at the library. Have the guards put it out first thing in the morning, bring it back in, put an old cheesy lock on it. You can't say it's entrapment. I don't know how anybody could ever try to argue that was entrapment. Theft is theft. That's all there is to it. These police officers who live in these more shady neighborhoods could have bikes on their porch as bait. As soon as it comes up missing we could have...have ever you guys want to do it. Low jack or whatever system you want to use, cameras, surveillance. There's all kinds of ways. It needs to be done. If you get that message out there that you can go to jail for this, this will start spreading and the number of thieves will drop off to a reasonable amount at least. You can't make it perfect. I'm not asking for perfection. I'm asking for a reasonable percentage. Not the 200% to 700% chance of getting my bike stolen. Let's try and get it down to 50%. And as soon as you guys start doing that, I will drop this issue and start with my next issue whichever that may be. I haven't decided yet. Any suggestions? I got 2 votes for sidewalks. So, that's it for now. You guys have a good day. Thanks for listening.

PRESIDENT SCHULMAN: Thank you very much Mr. Bailey. Our next speaker is Chet Warren. Mr. Warren good evening, as always welcome to Canton City Council and Happy New Year to you and your family sir.

CHET WARREN: Thank you. My name is Chet Warren. 2522 Georgetown Road NE, Canton. I came up on a concern about picking head, the Council, the head Council, Majority Leader. I don't know how you gonna pick but however you pick, I'd rather not see politics involved with it or racism involved with it. I don't like that or picking, looks like to me a senior person should be concerned but, that's one of the concerns I think I'm having as a citizen because Council, we supposed to go forward in this community. Which you know, by dividing Council, if you choose to be politics and pick people that you like and that they don't like, then you got a divided Council and then we'll be stagnant again in this 2014. That's one of the major problems that I'm having right now but see, I'm just learning how, how this here work as far as I know you don't pick Council, Chairman by seniority but I think that's one of the concerns that I'm having in this community. Because one of the things I'm mostly concerned about is black on black crime and hurting senior citizens and if the, if Council divide all the time, we won't get nothing accomplished. And I think that's one of our major problems so I want you to search your hearts and do the right thing and hopefully we can come out working together and this city, let the city grow and then get more jobs coming in Canton until everything going West cause one of the things I see now, we getting people losing, leaving, leaving the town heading north. Nobody coming into the city and then we losing the population and then I lose my tax base. So these are some of things I want Council for 2014, whoever be the Chairman of the Committee to take that into consideration and move this place forward instead of being divided as playing politics. Thank you.

PRESIDENT SCHULMAN: Thank you Mr. Warren very much. (*APPLAUSE*) I am going to jump a little out of sign up. Our next speaker will be Curtis Perry. Mr. Perry good evening. As always, welcome to Canton City Council. Good to see you. Wish you and your family a healthy, happy New Year.

CURTIS PERRY: Yes the same to you. I talk a little slow so you can slow that down a little bit.

MINUTES OF THE MEETING JANUARY 9, 2014

PRESIDENT SCHULMAN: That's OK. But we do need your name and your residential address for the record please.

CURTIS PERRY: Yes, my name is Curtis A. Perry III and I reside at 3981 Ashford Street NW in Canton, Ohio 44718. I've owned a business in Canton for 20 years, JOY 1520 AM-WINW Radio station and I'm the owner. Thank you Council President, Mayor Healy, who's not here and Members of Council. When I read the article on the vote that is to be taken tonight on the new Council leadership, it seemed that the outcome of the vote was a foregone conclusion. And that Councilperson, and that Councilperson will become the first African American, African American, female Assistant Majority Leader and that's Chris Smith and I wanted to congratulate Councilman Smith on that accomplishment. But as it relates to the Majority Leader, I wondered how we got to the point where Councilman Morris was the presumptive Majority Leader. Why would we look to give the position to a Member that has very little experience in working within the Council system? There's only two things that make sense here as to why we would make that choice. First, that Members are voting based on horse-trading or backroom politics which has hampered our community in numerous ways. And the second possible reason being that we are judging based on externals. We're judging on things that, that, that do not influence whether or not he can serve effectively as the Majority Leader. If we are going to vote based on that matrix, let's take down this picture of President William McKinley who himself experienced financial difficulties following a business transaction. Read about it. And yet, we let him stand as an icon in these Chambers. If we judge based on business difficulties, let's take down this picture. We should not base this vote on such matters. We should look for effectiveness and the ability to move this body towards decisions that work best for the citizens of the city of Canton, Ohio. In full disclosure, let me say that Councilman Thomas West is a friend of mine and most people know that, and I have recognized many of the legislations that he has put forth serving as Councilman of 2nd Ward and also had chaired many, many committee seats. This is leadership! This is leadership! Unfortunately, I have not noticed the same from Councilman Morris. Hopefully someday we will all join together and say that he has done the same thing Thomas West has done. I am sure that either of these men will provide excellent leadership to this body, not only because of their, of their personal abilities, but because they will have 11 other Members to help them and make the right decisions. I am sure that when we, when his time comes, and there's a time for everything as the Bible say....

PRESIDENT SCHULMAN: OK, Mr. Perry your time is up but if you could just wrap it up.

CURTIS PERRY: I just got two lines.

PRESIDENT SCHULMAN: OK.

CURTIS PERRY: Councilman Morris will do an excellent job of leading the Council. When his time comes, he will do fairly. I am saying but it is not his time yet. Councilman West has served his time sitting in the Council so give Councilman West the opportunity. Let him perform. Judge him based on his performance, not on opinion or personal dealings. Not on a popularity contest. He should be allowed to succeed or fail based on his performance within this body.

PRESIDENT SCHULMAN: OK thank you sir, very much. Our next speaker is Leroy Lynch. Mr. Lynch. Welcome as always to Canton City Council and Happy New Year. If you'll give us your name and your residential address.

MINUTES OF THE MEETING JANUARY 9, 2014

LEROY LYNCH: Good afternoon, evening. My name is Leroy Lynch. I live at 3911 Highview Avenue SW. I come here to thank you for giving me the opportunity to take that Civil Service exam but it is still sad because he didn't pass that exam. He has his letter that he got 2 or 3 days ago that he didn't pass it because that test is a little bit of a problem because some of the interpreters can't move with that test because they don't know how to change some of the wording in ASL without giving the answer and he says some of those questions were, for an example who got hurt on a job. Do I call 9-1-1. Well he's not deaf, he's deaf, he says how do I call 9-1-1 so, he needs to call a supervisor to get that person. But that was a wrong answer. It also said that if his machine is broken, he's worked for the city for 33 years, it never has happened that machine broke so he would go see the supervisor. He said the supervisor told him go see him first not the foreman, you come see me first. So, he took that test and he put down that it is was the wrong answer. So now, the same thing with the electric. He's not an electrician, he never worked for the city electrician so he was sort of stuck with that terminology. And some of the other questions that were sort of not right, the interpreter said that some of those words, the woman, the interpreter is a very qualified interpreter but she knows that she cannot change those words because it would give him the answer. So she has to do this, so he got stuck with a lot. So please think about allowing that opportunity. And he's says he's tired of coming here everyday, every week and seeing people complain so please let him have this opportunity to look at the Majority Leader. It's just like everything else is going. There are no deaf people that are in the city so please look at that and thank you for your opportunity.

PRESIDENT SCHULMAN: Thank you Mr. Lynch. *(APPLAUSE)*

JACK HAWK: And if I might add, we will talk to a Civil Service person about some of that scoring because I understand that the military are given a boost and let me tell you as a deaf person, who's a handicap person, not a foreign language person, that could never serve in the military so they don't get that parity. Thank you.

PRESIDENT SCHULMAN: Thank you as always. Thank you very much. *(APPLAUSE)* Our next speaker is Arthur Tibbs. Mr. Tibbs. Good evening sir. If you'll step forward, give us your name and your residential address please and welcome to Canton City Council.

ARTHUR TIBBS: Good evening Council. My name is Arthur Tibbs. I reside at 522 Riley Circle SE, Canton, Ohio 44707. My topic this evening is the Foreclosure Ordinance passed by City Council and now being implemented by the city of Canton. I think this Ordinance is very important to the taxpaying citizens of the city of Canton due to the fact that banks are made to be responsible for their properties that they foreclose on by maintaining it, securing it and if necessary, demolishing it and the taxpayers of the city of Canton no longer has to bare this burden. I would like to thank Councilman Fisher for bringing this Ordinance to Council. I would also like to, thanks to the support of Councilman Smith and Councilman West and all Council who passed it unanimously. So, we're very appreciative of that. I also understand that after passing this Ordinance there was reluctance to enforce it. I have to thank Councilman West for his efforts in getting this amendment passed so we can enforce it and also attorney Reese. The most important person we must thank tonight, her name is Norma Mills, stand up. Norma's an architect and the driving force behind this Ordinance. She was left holding this Ordinance with no support. She tirelessly worked and formed a committee which I'm part of and helped get it presented to Council and get it passed. She then tirelessly worked with Councilman West and attorney Reese and her committee to get the amendment to get the Ordinance enforced and I think to date, it's a very successful Ordinance. Thank you.

MINUTES OF THE MEETING JANUARY 9, 2014

PRESIDENT SCHULMAN: Thank you very much sir. Our last speaker this evening is Ellen Camper. Miss Camper good evening. Welcome to Canton City Council. If you'll step forward and give us your name and your residential address please.

ELLEN CAMPER: Good evening. I'm Ellen Camper, 507 Riley Circle SE, Canton, Ohio. It's a pleasure to be here today. I'm speaking on behalf of the Foreclosure Ordinance. We reached a \$1,000,000.00 today and it was in the paper about the write up. I'd like to say, we worked hard on that Ordinance. We really had some stumbling blocks but it all came together. We didn't give up. We didn't throw our hat in and say well we can't do it. We did it. We worked hard. Norma was our leader. I was on the committee. Thomas West, he was right there. Every meeting we had, he was there with us. He went to Youngstown, got their legislation, brought it back to Canton and this is what they're using now. I mean it was all a lot of work. There for a minute, like I said, we didn't think it was going to pass but it passed and brought, is bringing the city of Canton money. Money that we really, really need and I'm happy to say that I am glad to be a part of that committee because of the hard work we went through. It all paid off. Tom, I thank you. I, we been to many, many meetings. Kevin, you might have been there before I got there. I didn't see you at any of the meetings. Tom was there. Thank you Tom. Chris you was there too. Thank you both.

PRESIDENT SCHULMAN: Thank you Miss Camper. (*APPLAUSE*) And that concludes our Public Speaks. I want to thank all our speakers for coming down. We really do appreciate hearing what you have to say.

INFORMAL RESOLUTIONS

PRESIDENT SCHULMAN: Now we turn to the Informal Resolutions which are really the body of our work tonight and Madame Clerk would you please begin with Informal Resolution 1.

#1. COUNCIL-AS-A-WHOLE: APPROVING & ADOPTING THE RULES OF PROCEDURE FOR CANTON CITY COUNCIL EFFECTIVE JANUARY 9, 2014. - ADOPTED

PRESIDENT SCHULMAN: Leader Dougherty.

MEMBER DOUGHERTY: Mr. President, I move that we adopt Informal Resolution 1.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to adopt Resolution #1. Are there any remarks? Hearing none, Madame Clerk would you take a roll call vote on this please.

NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

CLERK TIMBERLAKE: Twelve yeas, Mr. President.

PRESIDENT SCHULMAN: Thank you Madame Clerk. The motion carries and the Resolution is adopted. Now we turn to Resolution 2.

#2. COUNCIL-AS-A-WHOLE: ELECTION OF COUNCIL VICE-PRESIDENT. - ADOPTED

MINUTES OF THE MEETING JANUARY 9, 2014

PRESIDENT SCHULMAN: Leader.

MEMBER DOUGHERTY: Mr. President, I move that we adopt Informal Resolution 2.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded that we adopt Formal Resolution 2. Are there any remarks?

MEMBER MACK: Mr. President.

PRESIDENT SCHULMAN: Yes Member Mack.

MEMBER MACK: I think we need a nomination to put in for Formal Resolution 2, if I'm right and if that is in fact the case, I'd like to nominate my good friend, Frank Morris.

PRESIDENT SCHULMAN: OK, we'll have to have a motion to open up nominations. Leader.

MEMBER DOUGHERTY: Mr. President I make a motion to open up nominations for Informal Resolutions 2.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to move to open nominations for Informal Resolution 2. Are there any remarks under this motion? Hearing none by voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS

NOMINATION MOTION PASSED UNANIMOUSLY BY VOICE VOTE

PRESIDENT SCHULMAN: The ayes have it. The motion carries. Now Member Mack.

MEMBER MACK: Thank you Mr. President. Now I would like to nominate my good friend Frank Morris.

MEMBER SMITH: Mr. President.

PRESIDENT SCHULMAN: Yes, Member Smith.

MEMBER SMITH: I would like to nominate Mr. Tom West.

PRESIDENT SCHULMAN: Well I think we need a second on....

MEMBER MARIOL: Seconded.

PRESIDENT SCHULMAN: Alright we have a motion and a second on nominating Member Morris. Now Member Smith.

MINUTES OF THE MEETING JANUARY 9, 2014

PRESIDENT SCHULMAN: Sure. Member West do you want to begin.

MEMBER WEST: I would like to. I respectfully ask Council for their support as First Vice Pres, as for Vice President. I have chosen to step up basically because our Majority Leader has chosen not to, to move forward as the Majority Leader. He's done a good job. I appreciate his support going forward in this new year. I would like to start by sharing some of my experiences and my leadership in the community and serving on this Council. My experience includes over 22 years working in the mental health profession, 10 years as a CEO of a social service agency, 10 years as a City Councilman, 5 years in a nursing home but, this past year I have passed 17 legislative actions, 10 sponsored or 10 co-sponsors and 42 Council-as-a-Whole. That's a lot in 2 years. I have provided many local and national trainings, authored a book in transition to adulthood, received local and national recognition. And additionally this past year, I've received Elected Official of the Year for 2013 by the National Association of Social Workers. I have stepped up time and time again when the city needed revenue. My voting record supported legislation that was revenue driven. Some of those legislations include the dumpster legislation that was passed in 2009 and in 2009, it got picked up this year by Mark Adams and in the first 3 months it raised over \$33,000.00. I also took regionalism to another level and worked with Stark County, worked with Summit County and Cuyahoga County to bring a regional approach for minority business development and we brought in over \$150,000.00 which \$45,000.00 is designated for Canton. I sponsored the amendment for the Foreclosure Ordinance that helped Member Fisher and his Ordinance to move the foreclosure process forward. Rebuilding of Nimisilla Park when we had or the Nimisilla Park shelter. When we had the devastation, I went out and got donations and we rebuilt that session, rebuilt that shelter without a dime coming from the city. We supported and I served on the Park Levy that passed, a 4 mil levy at, towards are Parks and Recreation. I invested in business to provide jobs. I am sure my experience, my instinct and the ability to commit, to connect resources and organizations will be helpful in delivering my duties successfully as the Vice President. Thank you for your support.

PRESIDENT SCHULMAN: Thank you Member West. Member Morris.

MEMBER MORRIS: Thank you Mr. President. For the record I have over 18 years active community service in the city of Canton prior to getting involved with local government. My first encounter with local government was as a volunteer on the Canton Park's Commission where I served 2 years for free getting involved and seeing how government works. Now, although I lack the experience of actually being on Council, I don't lack common sense. Leadership is not an appointment. It's something that people, you're either a leader or you're not. To judge one based on years in government, I don't think any of us would be up here today if we really felt that government was working properly. As the Majority Leader, I plan to bring visible change just like I've done in Ward 9. Have I made an impact through the city yet? No I have not. Each and every one of these Council Members represent their individual Wards. They make impacts daily. My job as the Majority Leader is nothing more than to orchestrate and to be a liaison between them and the administration. I will be the representative that represents and defends each and every one of my fellow Council Members. As for the community, we're all here for the community as a common goal. Thank you.

PRESIDENT SCHULMAN: Thank you Member Morris. Any other remarks? Now hearing none, we'll move to the vote. Is there a motion to vote Leader?

MEMBER DOUGHERTY: Yes, I think we've already established that so we're OK after the remarks?

PRESIDENT SCHULMAN: OK, well do you want to move to vote please.

MINUTES OF THE MEETING JANUARY 9, 2014

MEMBER DOUGHERTY: Mr. President I move we take the vote on Informal Resolution 2.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: Thank you. There is a motion and a second to move to the vote after hearing from our candidates and the nominees. Are there any remarks under this motion? Hearing none by voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS

MOTION PASSED UNANIMOUSLY BY VOICE VOTE

PRESIDENT SCHULMAN: The ayes have it. Now I think all of you are aware that our system here, while it's improved so that the public can see the names of each Member of Council and how they vote, the one thing we cannot do is we cannot type into the program to allow it to be directed at the screen. So the Clerk has suggested and I think it's a good idea, it's the best idea we can come up with is that Member Morris be a yea vote, a yes vote and Member West be a no vote and we'll go in that order. So, Member Morris is yes. Member West is no.

CLERK TIMBERLAKE: I'd rather have them call their names.

PRESIDENT SCHULMAN: That's fine.

CLERK TIMBERLAKE: I'd rather have them call Morris, West. It will be easier that way.

PRESIDENT SCHULMAN: OK, then we'll...I'm sorry that's a better idea. Please, when you're called either vote for Member Morris or Member West and it will go on the screen as a yes for Member Morris, a no for Member West. Leader.

NO REMARKS

6 YEAS, 5 NAYS, 1 ABSTAIN
(MEMBERS DOUGHERTY, GRIFFIN, BABCOCK, WEST AND SMITH VOTED NAY)
(MEMBER HART ABSTAINED)

CLERK TIMBERLAKE: We have 6 Morris, 5 West and 1 Abstain.

PRESIDENT SCHULMAN: Now, in anticipation of a potential abstention of more abstentions, I have asked the Law Director to advise the Chair, myself as the Presiding Officer, on the effect of an abstention vote. Since we have 6 votes for Member Morris, is that correct Madame Clerk?

CLERK TIMBERLAKE: Yes sir.

PRESIDENT SCHULMAN: We have 5 votes for Member West...

CLERK TIMBERLAKE: Correct.

PRESIDENT SCHULMAN: ...and we have one abstention from Member Hart.

CLERK TIMBERLAKE: Correct.

MINUTES OF THE MEETING JANUARY 9, 2014

PRESIDENT SCHULMAN: So, I'm going to ask the Law Director to advise me and it is advice, it doesn't have, whatever the Law Director indicates I'll certainly listen to carefully because I respect Mr. Martuccio very much and then the Chair will render it's decision. So, Law Director Martuccio.

LAW DIRECTOR MARTUCCIO: Thank you Mr. President. Members of Council as you all know, we're here tonight as a Statutory city meaning we don't have a Charter yet, if ever, and we must abide by the Ohio Revised Code and the rules that you have all passed tonight as are a direct result of the Revised Code. The Revised Code provides in Section 731.04 that you have to chose a President Pro Tem Poray by tomorrow. Within 10 days of the beginning of your term which began on January 1st, you have to choose a President Pro Tem Poray. The reason for that is, in the absence of the President of Council who's an Executive Officer of the city elected separately, in that person's absence you need to have someone who can take Council over and that is called a President Pro Tem Poray under state law. Under our rules it's called a Vice President. The next position you'll vote for is a First Vice President who shall take over in the event of an absence of the First Vice President. We all know that. But that leads to our rules now and here's where we get to the meat of it. You have the right to pass your own rules on how to make this selection because the Revised Code is silent. The Ohio Revised Code does not tell you how to elect your President Pro Tem Poray, it only tells you that you have to elect one. Your rules start with #5 provide that the Officers of Council shall be the First, I'm sorry shall be the Vice President (Majority Leader) and First Vice President of Council (Assistant Majority Leader). These offices shall be elected at the first meeting of the new term of Council, which you're doing. Candidates for such office shall be nominated and seconded and voted for by roll call vote, which you've done and no person shall be elected unless he or she receives a majority vote of Council's Members. That begs the question, what is a majority vote of Council's Members? Our Codified Ordinances provide that Council's Membership is comprised of 12 persons, 9 Wards and 3 At-Large. We have 12 Members. A majority is defined in Rule 40, a majority of Members is defined as 7 votes. It says, majority of Members - 7 votes. In the case of a tie, the President may vote and constitute the 7th vote for purposes of adopting any matter which requires the majority of Members. The next rule I'll turn to is rule 39 and it gets to the abstention. This is a sequential order, I'm trying to speak slowly and enunciate carefully so you can follow my answer. Rule 39 involves voting procedures. Paragraph A, and I'm not going to read the whole thing. "Upon the Presiding Officer ordering roll call, it is the duty of every Member who has an opinion on the question to express it by his or her vote. It's the duty of every Member who has an opinion to express it by his or her vote which shall be a yea or a nay". In this case obviously we had to make it a name call which was converted to yeas and nays. In the center of this paragraph is an important sentence. It reads "an abstention vote, which is kind of an oxymoron because Robert's Rules of Order says that an abstention is not a vote, an abstention is not a vote but, our rule says an abstention vote shall be excluded from the count in determining the number of votes necessary to either adopt or defeat a question." Let me say that again slowly. An abstention vote shall be excluded from the count in determining the number of votes necessary to either adopt or defeat a question. I believe that because Rule 5 speaks to a vote, let me get the exact wording here, Rule 5 says no person should be elected unless he or she receives a majority vote of Council's Members. I believe we have 12 Members. I believe a majority vote constitutes 7. Under that interpretation, as well as Rule 40.1 which says a majority is 7. Now I know in some circles, this language is debated about which does it mean when an abstention excluded from the count the number of votes necessary to adopt or defeat. Robert's Rules, I've been combing Robert's Rules of Order, which our rules provide if we have any silence on an issue, we look to Robert's Rules of Order. Robert's Rules of Order essentially say that if the vote required is a majority of the membership, an abstention is the same effect as a no. So given that, I'm doing the math and my interpretation to say we're at 6 - 5 and 0 which is a no. Which doesn't count either way. I'm going to offer you as my legal advice the opinion that we need 7 votes because of what I've quoted so far. I understand reasonable minds

MINUTES OF THE MEETING JANUARY 9, 2014

can differ. I understand I'm about to mention this one sentence that's a little bit confusing. We all know that sometimes legal issues go to places like the Supreme Court of the United States where we have very learned people and they'll split 5 to 4. They're learned people, they're experienced, they like each other but they differ. The Ohio Supreme Court has 7 Justices and many issues that go to them come out 4 to 3 because good learned people differ. I'm on the side of 7 and I understand that it can be reasonable implied or inferred from this sentence an abstention vote shall be excluded from the count in determining the number of votes necessary to either adopt or defeat a question. I understand some of you may say, OK someone abstained so that should be used as an exclusion. We have 12 Members, 1's an abstention, that leaves 11. A majority of 11 is 6. I understand that's an inference that some people can draw. I'm choosing not to draw that based on Rule 40.1 and the fact that we, I guess I'm being a strict constructionist. In my thinking you have a, 12 Members and a majority means 1 more than half. I'm old fashioned. I think that a Majority Leader should be someone who's elected by a majority of your body which is 7 and I understand that some people would feel that in the rules that we're about to review that maybe we should adopt that, I mean, we should look at that more closely and adapt rules that are cleaner and clearer in the future about leadership. I understand that and I will be happy to help in that endeavor. I understand some people feel that when you pass legislation that's controversial, important and has a lot of money in it. You should not use the abstention rule because you could, you could have the effect of having three people being a majority on a very important piece of legislation if say three people are absent and four people abstain. I can understand how in that case 3 people might be considered a majority so, that's my reasoning. Again, reasonable people can draw other inferences from that one sentence but I'm offering you, Mr. Chair, my friend, I'm respectfully offering you my opinion that I think 7 constitutes a majority in this case and you may say, well then what happens next? Historically this is a weird area. You may recall from history that Aaron Burr and Thomas Jefferson had to stand for election 36 times for Vice President of the United States, 36 times, and as a result of that an Amendment to the US Constitution was made. Hence my reference to maybe some different rules in the future. You have choices if you can offer other opinions to the Chair. He's the Presiding Officer. I'm not a judge. I'm not a court. That's, I'm offering you my advise. If the Presiding Officer chooses to do differently, that's his option. You are still allowing to go into Executive Session. You can call for a Reconsider, Reconsideration of this vote after you have any more discussion. You can go into Executive Session, not to vote, not to vote, but to consider the appointment of this public position. This is a Public Official. Another option, State Code says you have to have a President Pro Tem Poray. You have to have someone who's able to take over and lead Council. If you can't resolve the issue of your Vice President tonight, perhaps you can resolve the issue of your Vice President, perhaps not but that person could be considered President Pro Tem Poray I believe. At any rate, the law says you have to have a leader by tomorrow, by January 10th and that's my opinion. Thank you for listening so, so patiently.

PRESIDENT SCHULMAN: Thank you Law Director. I really appreciate your analysis as always. It's right on point and well articulated and well understood. Before I render my decision as the Presiding Officer of Council. Any other remarks on this issue?

MEMBER WEST: Mr. President.

PRESIDENT SCHULMAN: Member West.

MEMBER WEST: If I can just add I think, there has been a precedent established. On September 10, 2012, Resolution 54 where we were dealing with Planned Parenthood. We had 5 votes for, 2 votes against and 5 abstentions. That legislation failed. So, there's already a precedent for Rule # 49 and Rule #5 as having 7

MINUTES OF THE MEETING JANUARY 9, 2014

votes.

PRESIDENT SCHULMAN: Did you say 5 - 5 and 2?

MEMBER WEST: 5, 5 for, 2 nos and 5 abstentions for the Planned Parenthood and we failed, it failed. Even though you had the majority 5 votes over the 2 nos and 5 abstentions we didn't pass that piece of legislation. As a matter of fact, that legislation failed. I have it right here too if you need it.

PRESIDENT SCHULMAN: OK, alright. Anything else Member West? Any other remarks? To the Chair. OK, well I've been doing my research and obviously I am not only President of Council I'm also a lawyer and I try to look at this in a legal manner because I think it is, it is important to do so because it has legal affect. So, let me give you my view of this. We have adopted tonight an Informal Resolution 1 what we have described as the Rules of Procedure for the Canton City Council for the year beginning 1/6 or 1/9/2014. Those Rules are identical to the Rules that we had in the last session of your Council and specifically identical in regards to the Rule numbers and the language that Law Director Martuccio just presented. Rule 5 is a rule dealing with Officers of Council. I agree with Law Director Martuccio that Rule 5 could be drafted and should be....are you alright Mr. Bailey? (Gentleman in audience coughing) I agree that Rule 5 could have been drafted in a better manner because in my judgment there is an ambiguity as to what it means under Rule 5A where you have adopted the following, candidates for such offices shall be nominated and seconded and voted for by roll call vote, and no person shall be elected unless he or she receives a majority vote of Council Members. Now, that language could have been written, unless he or she receives a majority of Council Member's votes. There is a difference. There is a difference between saying 12 Members therefore 7 are required or saying the majority vote of Council Members and the difference lies in what Law Director Martuccio rightly led us to, which is Rule 39. Now you adopted Rule 39 and this historically is apparently been a part of your rules and it states in part in Rule 39A, an abstention, and we know that Member Hart abstained from voting. An abstention vote shall be excluded from the count in determining the number of votes necessary to either adopt or defeat a question. So, you have adopted Rules which indicate to me that I am to consider Member Hart's vote, abstaining from the vote, as an exclusion in determining the number of votes necessary to either adopt or defeat a question. So, what you have now is 6 to 5. That is the vote because we do not count Member Hart's vote because he abstained and according to your Rules, his abstention does not count either way. So you Member Hart, are excluded from the count. Now I look then to Law Director Martuccio's identification of Rule 40. Rule 40 states votes required for passage and it says the following number of votes is required for passage, #1 majority of Members, 7 votes. Alright, I don't know who's talking but if you'll let me finish please. This is not audience participation at this point. Now, a majority of Members according to Rule 40 is 7 votes but, throughout your Rules you have carefully defined in a number of instances what it means to look at a vote. For example in Rule 37 you have a motion to refer back to Committee. I'll read that. Any Member of Council may move to refer any Ordinance back to the Committee or to another Committee of Council if the said motion receives a majority vote of the Council Members present. Well, that doesn't mean all 12. That means if there's a quorum, who votes. Similarly in Rule 38, division of the question, B, any Member may move to divide the question. A majority vote of the Members present is required for division of the question. Again, that doesn't say 12. It says a majority vote of the Members present who are required to vote. Now, I turn finally to the state law. The state law is obviously, and I think what we lawyers call preemption. The state law preempts our Rules. We have to abide by the state law. We cannot, for example, in Ohio Revised Code 731.04, which deals with Officers of a legislative authority, which is what we're dealing with here tonight. We cannot say that, oh we'll pick our Officers in 20 days or we'll pick our Officers in 11 days. We cannot do that. The state law says within 10 days from the commencement of their term, the Members of the legislative authority of a city shall elect a President Pro Tem

MINUTES OF THE MEETING JANUARY 9, 2014

Poray, a Clerk, which we're going to get to eventually and such other employees as are necessary and fix their duties, bonds and compensation. So the state law requires you as a City Council to fulfill your legal obligation to name a President Pro Tem Poray which is what we're dealing with right now within 10 days. So I look lastly at Rule 5, coming back to Rule 5 where it seems to me that Rule 5 is designed to select a Vice President and an Assistant, First Vice President, which we have described I think, in confusingly, a Majority Leader and Assistant Majority Leader. And I turn to the language that you adopted in Resolution 1. Candidates for such Officers shall be nominated and seconded and voted for by roll call vote and no person shall be elected unless he or she receives a majority vote of Council Members. I believe that majority vote of Council Members can be interpreted two ways. It can either mean what, what Law Director Martuccio said 7 or a plurality taking into consideration the abstention by Member Hart. I believe that it is, I believe to give full force and effect in purpose to Rule 5, that you select an Officer, Vice President tonight within the 10 days. I believe given full force and effect and purpose to Rule 5, majority vote means a plurality therefore, the vote is 6 in favor of Member Morris, 5 in favor of Member West and Member Morris in the Chair's judgment is elected the Vice President of Canton City Council. Now we'll move to Resolution #3 Madame Clerk.

#3. COUNCIL-AS-A-WHOLE: ELECTION OF FIRST VICE-PRESIDENT. - ADOPTED

PRESIDENT SCHULMAN: Leader.

MEMBER DOUGHERTY: Mr. President, I move that we adopt Informal Resolution #3.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded that you adopt Informal Resolution #3. Any remarks? Do we have a motion to open nominations for your selection of First Vice President?

MEMBER DOUGHERTY: Mr. President.

MEMBER WEST: Mr. President.

PRESIDENT SCHULMAN: Member West.

MEMBER WEST: I nominate Chris Smith for First Vice President.

MEMBER BABCOCK: Seconded.

PRESIDENT SCHULMAN: OK. A motion to, let's do this right. This is a significant vote too. Do we have a motion to open nominations? Leader.

MEMBER DOUGHERTY: Mr. President I move we open nominations for Informal Resolution 3.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to open formal nominations for First Vice President in accordance with Resolution #3. Any remarks? Hearing none by voice vote, all those in favor signify by saying aye. Those opposed no.

MINUTES OF THE MEETING JANUARY 9, 2014

NO REMARKS NOMINATION MOTION PASSED UNANIMOUSLY BY VOICE VOTE

PRESIDENT SCHULMAN: The ayes have it. Now nominations are open. Member West.

MEMBER WEST: Mr. President, I'd like to nominate Chris Smith as first African American, first female, Vice President.

MEMBER DOUGHERTY: Mr. President.

MEMBER BABCOCK: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to nominate Member Smith as your First Vice President. Are there any other nominations?

MEMBER DOUGHERTY: Mr. President.

PRESIDENT SCHULMAN: Leader.

MEMBER DOUGHERTY: I move that nominations be closed.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded that the nominations be closed. Are there any remarks? By voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS CLOSE NOMINATION MOTION PASSED UNANIMOUSLY BY VOICE VOTE

PRESIDENT SCHULMAN: The ayes have it. The motion carries. Now we move to the vote. Leader.

MEMBER DOUGHERTY: Mr. President, I move we adopt Ordinance, Informal Resolution 3 as Member Smith being Assistant Majority Leader.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to vote on Member Smith being named First Vice President. This is somewhat of an historic occasion so I'd like the Clerk to take a roll call vote please from just, starting with Leader Dougherty.

NO REMARKS ROLL CALL 12 YEAS, 0 NAYS

CLERK TIMBERLAKE: Definitely 12 yeas.

PRESIDENT SCHULMAN: Thank you Madame Clerk. The motion carries and Member Smith is our first female, African American Vice President. *(APPLAUSE)* Congratulations and we wish you and Member Morris the very best. Now we move to Resolution #4 please Madame Clerk.

#4. COUNCIL-AS-A-WHOLE: ELECTIONS OF CLERK OF COUNCIL & OFFICE STAFF; CLERK OF COUNCIL: CYNTHIA TIMBERLAKE; ADMINISTRATIVE ASSISTANT V: MICHELLE

MINUTES OF THE MEETING JANUARY 9, 2014

SENTER; ADMINISTRATIVE ASSISTANT V: PATRICIA DOROSKY. - ADOPTED

MEMBER DOUGHERTY: Mr. President.

PRESIDENT SCHULMAN: Leader.

MEMBER DOUGHERTY: I move to adopt Informal Resolution 4.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded that you adopt Resolution, Informal Resolution 4. Are there any remarks under this? Hearing none, Madame Clerk roll call vote.

NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

CLERK TIMBERLAKE: 12 yeas Mr. President.

PRESIDENT SCHULMAN: Thank you Madame Clerk. Ordinance 4 is adopted and we can't tell you how great of a job you and your office does.

CLERK TIMBERLAKE: Thank you. Thank you all for your votes. (*APPLAUSE*)

PRESIDENT SCHULMAN: Moving now to Informal Resolution 5 please.

#5. COUNCIL-AS-A-WHOLE: AUTHORITY TO ADVERTISE ORDINANCES, RESOLUTIONS & NOTICES. - ADOPTED

PRESIDENT SCHULMAN: Leader.

MEMBER DOUGHERTY: Mr. President, I move we adopt Informal Resolution 5.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: Any remarks? It's been moved and seconded that you adopt Informal Resolution 5. Hearing none by voice vote, all those in favor signify by saying aye. Those opposed no.

NO REMARKS

RESOLUTION #5 PASSED UNANIMOUSLY BY VOICE VOTE

PRESIDENT SCHULMAN: The ayes have it. The motion carries and Informal Resolution 5 is adopted.

COMMUNICATIONS

PRESIDENT SCHULMAN: Turning now to 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 JANUARY 9, 2014.

MINUTES OF THE MEETING JANUARY 9, 2014

1. AUDITOR MALLONN: MONTHLY RPT BY FUND 12/1/13 - 12/31/13. - RECEIVED & FILED
2. AUDITOR MALLONN: YEARLY RPT BY FUND 1/1/13 - 12/31/13. - RECEIVED & FILED
3. CNCL AT LG MBR HART: REQ TO ESTABLISH A VARIABLE RATE FOR CANTON'S RECYCLERS. - JUDICIARY COMMITTEE
4. SAFETY DIRECTOR PERRY: REQ AUTHORIZATION TO PURCHASE 2 MEDIUM DUTY MEDIC UNITS FOR FIRE DEPT IN AMT NOT TO EXCEED \$476,602.00 FROM PENN CARE MEDICAL; REQ \$476,602.00 SUPP APPROP FROM UNAPPROP BAL 4502 MOTOR VEHICLE PURCHASE TO 4502 10301 OTHER. - PUBLIC PROPERTY CAPITAL IMPROVEMENT COMMITTEE
5. SERVICE DIRECTOR BARTOS AND SAFETY DIRECTOR PERRY: REQ AUTHORIZATION FOR MAYOR, SERV DIR AND SAF DIR TO COMPLETE THE CONTRACTING PROCESS FOR VARIOUS AGMTS/ORDINANCES THAT WERE AUTHORIZED BY THE 2012-2013 CITY COUNCIL THAT WERE NOT EXECUTED PRIOR TO 12/31/13 PURSUANT TO O.R.C. SECTION 731.48. - FINANCE COMMITTEE
6. SERVICE DIRECTOR BARTOS AND SAFETY DIRECTOR PERRY: REQ AUTHORIZATION FOR SERV AND SAF DIR TO ADVERTISE, REC BIDS & ENTER INTO CONTRACT FOR SUPPLY ITEMS, MATERIALS & PROF SVCS FOR CITY OF CANTON'S OPERATION DURING 2014 CALENDAR YEAR; REQ AUTHORIZATION TO ALTERNATIVELY ENTER INTO CONTRACT FOR PURCHASE OF SAID ITEMS IN ACCORDANCE WITH ORC SECTION 125.04, STATE COOP PURCHASING, ORC SECTION 5513.01, OHIO DEPT OF TRANSPORTATION PURCHASING & ORC SECTION 735.05, NONPROFIT AGENCIES. - FINANCE COMMITTEE
7. HEALTH COMMISSIONER ADAMS: REQ \$44,846.24 TO BE PAID TO TREASURER OF STATE OF OH FOR 2013 4TH QUARTER SALES REIMBURSEMENT FOR BIRTH & DEATH CERTIFICATES. - FINANCE COMMITTEE

ORDINANCES & FORMAL RESOLUTIONS FOR FIRST READING

PRESIDENT SCHULMAN: Turning to First Readings Ordinances. We have none.

ORDINANCES & FORMAL RESOLUTIONS FOR SECOND READING

PRESIDENT SCHULMAN: Second Reading Ordinances. We have none.

ORDINANCES & FORMAL RESOLUTIONS FOR THIRD AND FINAL READING

PRESIDENT SCHULMAN: Third Reading Ordinances. We have none.

ANNOUNCEMENT OF COMMITTEE MEETINGS

PRESIDENT SCHULMAN: Do we have an Announcement of Committee Meetings?

MEMBER MORRIS: Mr. President.

MINUTES OF THE MEETING JANUARY 9, 2014

PRESIDENT SCHULMAN: Member Morris.

MEMBER MORRIS: Rules Committee will be meeting January 13th at 5:30 PM.

PRESIDENT SCHULMAN: Thank you. Any other? That's it.

MISCELLANEOUS BUSINESS

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

MEMBER SMUCKLER: Mr. President.

PRESIDENT SCHULMAN: Member Smuckler.

MEMBER SMUCKLER: On this historic occasion, I explained to everybody when we were in the Caucus room several weeks ago that rightfully deserving that Chris Smith was and will be the first elected African American, woman in a leadership position in this Council but the, first African American male that was elected Vice President of Council, he lost his mother this week. Mel Gravely who spent a lot of years in this Council and Mr. President, I'd ask for a moment silence. Mrs. Gravely was in her 90's and lived a long life but it's always sad to lose someone that's a relative.

PRESIDENT SCHULMAN: And we'll take a moment of silence and our thoughts and prayers go out to the Gravely family.

(MOMENT OF SILENCE OBSERVED)

PRESIDENT SCHULMAN: Thank you Member Smuckler. Any other Miscellaneous Business? Member Hart.

MEMBER HART: Mr. President. For Leroy Lynch. I spent Leroy 33 years teaching children with physical challenges I say, and for many of those kids I've seen later on they've achieved in life, they've set goals for themselves and many times they were the ones who were the trailblazers and the only thing I can say is that you're going to have to break that ground for many of the hearing impaired. It's challenges that you can meet and you can help others meet and again, you're going to be the one laying that foundation for those. I know things don't always work out and again, spending 33 years with those kids you know, they go in front of a job interviewer and they come in with a wheelchair and they say man Mr. Hart, you should have seen the guy as soon as he saw the wheelchair. I knew what was going to happen. But you know, they're given that break and they've met the challenges and they've done a really excellent job. And again, if you just want to see a student, an old student like Julie Herman who's now been teaching 17 years in the Canton City School system. Excellent teacher and very physically involved but a brilliant, brilliant woman. And so Leroy just keep up the work and you know, you'll pass it. Don't give up.

PRESIDENT SCHULMAN: Thank you Member Hart. Any other remarks? I just want to make one last statement and then I think the outgoing Leader will ask for an adjournment. You know, I am a liberal Democrat and I am very proud to be a liberal Democrat. I believe in what the Democratic Party stands for. I believe in it's history and what we can do for citizens in our country. I think we can do a lot more and I think you all agree with that. Everyone here except Member Hart, who's an Independent, is a Democrat. We all belong to the same party. There's a reason we're all Democrats sitting here in this room. We share the beliefs and the public shares our beliefs in advancing this city forward and I think Mr. Perry said it best when he got up and he talked about Thomas and he talked about Frank and he said, either one would provide excellent leadership and either

MINUTES OF THE MEETING JANUARY 9, 2014

one will and would. Thomas West is a great asset to this Council. I admire him. He is my friend. He cares about his community and he cares about the people in the community and he does an outstanding job. Similarly, so does Frank Morris. So do you all. So tonight while we had a difficult vote, someone wins, someone loses, we're still here. Member West is not going anywhere. He'll continue to work for this city and he'll continue to work for his constituents in the manner and the way he has over these many years and Member Morris I would remind you, while he may be the Majority Leader, he's one person with one vote. He has some duties that are a little bit more than the rest of you but nevertheless, it comes down to one vote per Member. Frank doesn't get 3 votes, he gets 1 vote just like each one of you. And lastly I want to comment about Leader Dougherty and Member Griffin. They're going to remain and Leader Dougherty and Member Griffin have given many years on behalf of their constituents and this city. I have the utmost admiration for both of them. I want to congratulate them on the job that they did. Leader Dougherty's leadership in the last years and on Member Griffin's leadership and I truly mean that. Clearly there have, there always are going to be contentious moments in politics as in life. I don't know a family that doesn't have a contentious moment every now and then. I don't think any one in this room does but while we may have had contentious moment, I have the highest regard for David Dougherty and Jim Griffin in what they do on behalf of their constituents of this community and I think we owe them a round of applause for what they have done. (*APPLAUSE*) So with that, Leader Dougherty.

SERVICE DIRECTOR BARTOS: Mr. President.

PRESIDENT SCHULMAN: Yes.

SERVICE DIRECTOR BARTOS: Before we adjourn just a housekeeping matter. With the Martin Luther King holiday coming up, if you'd turn to Agenda items 5 and 6. They're ministerial items that we have to pass when every Council starts. If there's any possibility we could get those passed on First Reading. If you'd take that into consideration, all Members of Council. I am sure the Department Heads would appreciate that with the, like a say, with the MLK holiday we'd be pushing it back another week. If it's at all possible to get that passed next week, items 5 and 6, I know the Department Heads would really appreciate that. Thank you.

PRESIDENT SCHULMAN: Thank you Service Director. Alright Leader.

MEMBER DOUGHERTY: Mr. President for the last time, I move to adjourn.

MEMBER GRIFFIN: Seconded.

PRESIDENT SCHULMAN: It's been moved and seconded to adjourn. Madame Clerk roll call vote please.

NO REMARKS

ROLL CALL 12 YEAS, 0 NAYS

CLERK TIMBERLAKE: Twelve yeas Mr. President.

PRESIDENT SCHULMAN: (*Gavel falls*) Meeting is adjourned. Be careful everybody and Happy New Year.

ADJOURNMENT TIME: 8:34 PM

ATTEST: JANUARY 14, 2014
CYNTHIA TIMBERLAKE
CLERK OF COUNCIL

APPROVED: JANUARY 14, 2014
ALLEN SCHULMAN
PRESIDENT