

**CALLED MEETING OF CANTON CITY COUNCIL**  
**CITY OF CANTON, TEXAS**  
 6:30 P.M., TUESDAY, JANUARY 6, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor Hilliard, Charles Fenner, Tommy Roberts, Ron Sanford, Raymond Pruitt and Rusty Wilson.

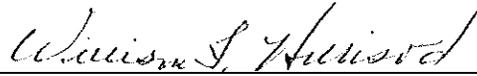
Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** – Mayor Hilliard called the meeting to order at 6:30 p.m. and declared that a quorum was present.

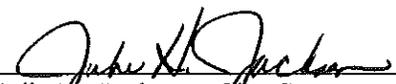
**EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS** (Section 551.074) – The Council convened in closed session at 6:30 p.m. for deliberations regarding personnel matters. All City employees were excused from the meeting.

**RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION** – The Council reconvened in open session at 7:44 p.m. Councilmember Wilson made the motion to establish two City Manager positions--a City Manager of Finance to be filled by Johnny Mallory and a City Manager of Operations to be filled at a later date; each offered a one year contract with Mr. Mallory's including a clause offering eighteen months of COBRA paid by the City if Mr. Mallory completes his one-year contract; both positions to answer to the City Council; subject to legal advice and preparation of contracts by the City Attorney Richard Davis. Councilmember Pruitt seconded, and all voted in favor. Another meeting was set for Saturday, January 10, 2004, at 8:30 a.m. to discuss and consider hiring a City Manager of Operations, to discuss and consider contracts for City Manager of Operations and City Manager of Finance, and to hold an executive session for the deliberations of personnel matters regarding the City Manager of Operations.

**ADJOURN** – There being no further business to come before the Council, Councilmember Fenner moved to adjourn at 7:52 p.m. Councilmember Sanford seconded, and all voted in favor. Councilmember Sanford stated he ran figures and found the City could borrow \$1,000,000 on a ten-year with revenue from the new pavilion paying for it all. He suggested the Council take a look at it.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
8:30 A.M., SATURDAY, JANUARY 10, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor Hilliard, Charles Fenner, Tommy Roberts, Ron Sanford, Raymond Pruitt and Rusty Wilson.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** – Mayor Hilliard called the meeting to order at 8:30 a.m. and declared that a quorum was present. He noted the attendance of City Manager Johnny Mallory, City Secretary Julie Jackson, City Attorney Richard Davis, Director of Water and Sewer Pete Lucas, and a representative from the Canton Herald.

**DISCUSS AND CONSIDER HIRING CITY MANAGER OF OPERATIONS**

**DISCUSS AND CONSIDER CONTRACTS FOR CITY MANAGER OF FINANCE AND CITY MANAGER OF OPERATIONS**

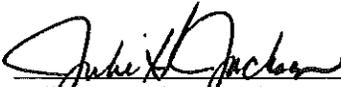
**EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) - REGARDING THE CITY MANAGER OF OPERATIONS** – The Council skipped the first two items on the agenda and convened in closed session at 8:31 a.m. for deliberations regarding the City Manager of Operations position. All City employees except the City Attorney were excused from the meeting.

**RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION** – The Council reconvened in open session at 9:47 a.m. with no action taken. Richard Davis noted for the record that Councilmember Fenner was not present during the closed session nor after it reconvened in open session.

**ADJOURN** – There being no further business to come before the Council, Councilmember Pruitt moved to adjourn at 9:48 a.m. Councilmember Sanford seconded, and all voted in favor.

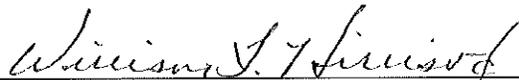
  
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William F. Hilliard, Mayor

ATTEST:

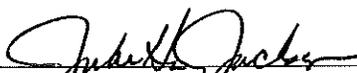
  
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Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
**CITY OF CANTON, TEXAS**  
 6:30 P.M., MONDAY, JANUARY 12, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Called Meeting of the Canton City Council scheduled for 6:30 p.m., January 12, 2004, was cancelled prior to meeting time.

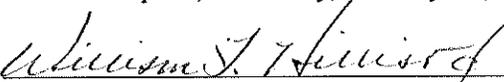
  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
**CITY OF CANTON, TEXAS**  
 6:30 P.M., TUESDAY, JANUARY 20, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Regular Meeting of the Canton City Council scheduled for 6:30 p.m., January 20, 2004, was cancelled prior to meeting time and rescheduled to 6:30 p.m., Thursday, January 22, 2004.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
**CITY OF CANTON, TEXAS**  
 6:30 P.M., THURSDAY, JANUARY 22, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Charles Fenner, Tommy Roberts, Raymond Pruitt and Rusty Wilson. Councilmember Sanford was absent. City Attorney Richard Davis was also present.

Discussion and action were as follows:

CALL TO ORDER AND ANNOUNCE QUORUM - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

MAYOR'S WELCOME given by William F. Hilliard.

INVOCATION given by Jim Stephens.

PLEDGE OF ALLEGIANCE led by Mayor Hilliard.

DISCUSS AND CONSIDER DISCUSS AND CONSIDER ACCEPTANCE OF A COUNCILMEMBER'S RESIGNATION – Mayor Hilliard read Councilmember Fenner's letter of resignation which was accepted by unanimous vote following Councilmember Wilson's motion and Councilmember Pruitt's second.

GUEST ITEMS – None

DISCUSS AND CONSIDER APPROVAL OF MINUTES FROM NOVEMBER 18 AND 25, AND DECEMBER 6, 13, 16, AND 30, 2003 MEETINGS OF THE CANTON CITY COUNCIL - The minutes of the November 18 and 25, and December 6, 13, 16 and 30, 2003 meetings were unanimously approved on a motion by Councilmember Roberts and second by Councilmember Wilson.

DISCUSS AND CONSIDER APPROVAL OF NOVEMBER AND DECEMBER 2003 FINANCIAL STATEMENTS - Councilmember Wilson made the motion to approve the November and December 2003 Financial Statements. Councilmember Roberts seconded, and all voted in favor.

UPDATE FROM CANTON CHAMBER OF COMMERCE – David Barber thanked everyone for his support and encouragement during his term then introduced Amy Mattingly as the incoming Chairman. Ms. Mattingly reported the Chamber was narrowing its search for a new president with interviews scheduled for the end of January. She said the Chamber hoped to have someone hired by March 1, 2004. She also reported plans for the March 11<sup>th</sup> Annual banquet and auction, the Houston and Fort Worth Trade shows in February, and the chamber's networking luncheon February 19<sup>th</sup> featuring Jeff Crilly from Fox 4 News. Ms. Mattingly thanked the City for allowing the Chamber to park cars during the January Trade Days earning almost \$430. She also informed the Council the chamber was considering volunteer and ambassador boards.

DISCUSS AND CONSIDER APPROVAL OF CHAMBER OF COMMERCE 2004 ANNUAL TOURISM ACCOUNT BUDGET PURSUANT TO SERVICE AGREEMENT WITH CHAMBER OF COMMERCE - The 2004 Chamber of Commerce Tourism Account Budget was unanimously approved on a motion by Councilmember Pruitt and second by Councilmember Wilson.

DISCUSS AND CONSIDER TRANSPORTATION AND MARKETING PROPOSAL – Beth Whitaker presented a proposal for the City to contract with Minibus, Inc., available through an ETCOG transportation program, to provide local transportation to citizens to and from the grocery store, doctors' offices, hair salons' etc. twice a week, to provide festival attendees

transportation to the downtown shopping district during their visit, and to provide First Monday visitors transportation from the motels and airport. She stressed the importance of the service to Canton's local residents, Main Street's support of the program, and the success the program received with its trial run during the Bluegrass Festival. She said she hoped the program would be self-sufficient in one year. She said the program would also be important in future plans for satellite parking during First Monday. Ms. Whitaker explained they would accept donations but there would be no cost to senior citizens during the biweekly local runs anywhere in the county, and riders on the First Monday shuttle bus would be charged \$1 per trip. She noted the service during First Monday and festivals gave Minibus an opportunity to supplement the cost of its local service. Ms. Whitaker stated her goal was to make sure people in our community have transportation. She asked that if approved, someone be appointed to follow-through and oversee the program. Ms. Whitaker also explained the \$250 per day charge proposed in the contract was the cost of the contract with Minibus, Inc. for transportation during festivals and three days of each First Monday. She noted they already had four advertisers for bus signs to help offset the cost. Ms. Whitaker said Kay Dorman, Minibus Inc, had seventeen to eighteen years' experience.

**DISCUSS AND CONSIDER APPROVAL OF CONTRACT WITH MINIBUS, INC. FOR PROVIDING CANTON/FIRST MONDAY SHUTTLE SERVICE** – Councilmember Pruitt made a motion to approve the proposed one-year contract with Minibus, Inc. Councilmember Wilson seconded, and all voted in favor.

**DISCUSS AND CONSIDER REQUEST FROM J.L. HEARD FOR A QUIT-CLAIM DEED OR PERMISSION TO PAVE PARKING FOR HOUSING UNITS ON A CITY-OWNED ROAD RIGHT-OF-WAY FACING WESTVIEW LANE** – Item tabled to the next meeting upon Councilmember Pruitt's request for more time to study the issue.

**DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON CHANGING ZONING FROM GENERAL BUSINESS DISTRICT (B-2) TO MULTIPLE FAMILY RESIDENTIAL (MF-1) OF 5-ACRE TRACT LESS AND EXCEPT THE FRONT 208' X 200' SECTION LOCATED ON NORTH TRADE DAYS BLVD. IN THE CITY OF CANTON, TEXAS, OWNED BY STEPHEN BOX** – Steve Box was not present. Item tabled.

**DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION OF TWO TRACTS TOTALING 6.305 ACRES SITUATED IN THE J. STOCKWELL SURVEY, A-760, LOCATED ON WEST COLLEGE OWNED BY RUBEN AND VICKI REYES** – Mr. Mallory reported the property was in another water district and would be very expensive to provide with sewer service, at least \$42,000. Due to difficulties in providing service to the area, Councilmember Pruitt made the motion to deny Ruben and Vicki Reyes' petition for annexation. Councilmember Roberts seconded, and all voted in favor.

**DISCUSS AND CONSIDER REQUEST FOR STREET LIGHTS ON NORTH TRADE DAYS BLVD.** – Mr. Mallory explained John Logdson's request for street lights along Highway 19 North between Wynne Road and Jerry's Pizza. He said TXU required light poles be set behind a curb, which Highway 19 did not have in that section, or on private property behind the right-of-way. Mayor Hilliard instructed Mr. Mallory to contact TxDOT to see if they would curb the street. The item was then tabled until Mr. Mallory could report back.

DISCUSS AND CONSIDER REQUEST FROM CHARLES LEE BRANTON FOR 1" WATER TAP OUTSIDE CITY LIMITS AT 608 VZCR 2120 – Item withdrawn by petitioner.

DISCUSS AND CONSIDER REQUEST FROM SUE WICKLIFFE FOR ¾" WATER TAP OUTSIDE CITY LIMITS ON VZCR 2201 – Upon the Public Works Director's report that water was available, Councilmember Pruitt made the motion to approve a ¾" water tap requested by Sue Wickliffe on VZCR 2201. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FROM LULA SCATES FOR ¾" WATER TAP OUTSIDE CITY LIMITS AT 180 PR 6130 – Upon the Public Works Director's report of having water available, Councilmember Pruitt made the motion to approve a ¾" water tap requested by Lula Scates at 180 PR 6130. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER SWITCHING ELECTRIC SERVICE PROVIDERS – Jay TenEyck from Direct Energy presented a proposal for the City to switch to Direct Energy with an estimated annual savings of \$36,809 in energy charges if the City elected the twenty-four month agreement. He noted a twelve-month agreement was also available. Mr. TenEyck stated Direct Energy served just under one million customers in Texas and their bulk buys allowed them to ride out spikes in the natural gas prices without it drastically affecting their energy prices. His proposal offered summary billing, several layers of contacts for its 24-hour customer service, and consulting services. He said he could make recommendations on how to use electricity more efficiently, including the recommendation to undergo a master metering project. He said the main benefit of going with Direct Energy was it offered a flat rate throughout the contract, whereas TXU rates rise if the costs go up. Councilmember Pruitt asked how Mr. TenEyck came up with the \$36,000 savings. He answered it was based on Direct Energy rates applied to the City's accounts and actual usage last year. Councilmember Pruitt then suggested the staff review the proposal and make a recommendation to the Council.

DISCUSS AND CONSIDER RENUMBERING TRADE CENTER I AND II – Councilmember Pruitt made a motion to renumber Trade Centers I and II lining up the Trade Centers in sequential order. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER INSURANCE COVERAGE ON CITY VEHICLES – Mr. Mallory reported carrying collision coverage on all fire department vehicles and having added all vehicles 2001 or newer. He noted there would be no rate increase for the added coverage until October 2004. Mr. Mallory recommended the Council approve the policy of carrying full coverage on all fire department vehicles and all vehicles three years or newer. Councilmember Roberts made a motion to carry collision coverage on the proposed automobiles at a cost of \$1967:

Year	Make/Model	Vin	Calculated Contribution
1938	Ford Antique Fire Truck	9620	\$ 357
2001	Ford Taurus	3517	\$ 123
2001	GMC Pickup	7552	\$ 115
2001	GMC Pickup	8202	\$ 132
2002	Ford Taurus	6483	\$ 171
2003	Ford Crown Victoria	2006	\$ 284
2002	Ford Crown Victoria	1090	\$ 263
2002	Ford Crown Victoria	1091	\$ 263

1987	Suthpen Fire Truck	3394	\$ 227
1995	Barth Fire Truck	4901	<u>\$ 32</u>
			\$1967

. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE AMENDING ORDINANCE 2003-03 (REGULATION OF MINIMUM EXTERIOR STANDARDS FOR STRUCTURES INSIDE THE CITY LIMITS) STRIKING REQUIREMENT FOR GATES ON DUMPSTER SCREENING – Councilmember Pruitt recommended amending the ordinance to exclude the requirement for gates on dumpster screening since he was informed by Laidlaw that only two other cities had the same requirement and it would result in increased rates. Councilmember Roberts stated property owners would have to make the effort to keep the area clean. Councilmember Pruitt made a motion to adopt Ordinance 2004-01 amending Ordinance 2003-03 striking the requirement for gates on dumpster screening. Councilmember Wilson seconded, and all voted in favor.

**ORDINANCE NO. 2004-01**

**AN ORDINANCE AMENDING ORDINANCE 2003-03 PASSED BY THE CANTON CITY COUNCIL ON MARCH 18, 2003, REGULATING MINIMUM EXTERIOR STANDARDS FOR STRUCTURES INSIDE THE CITY LIMITS OF THE CITY OF CANTON FOR SH 19, SH 64, SH 198, SH 243, FM 859, IH 20, AND FOR SPECIAL DISTRICTS; PROVIDING FOR ENFORCEMENT AND ADMINISTRATION OF BUILDING PROVISIONS; PROVIDING A PENALTY NOT TO EXCEED \$200.00 FOR EACH VIOLATION THEREOF; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR PUBLICATION AND ORDAINING OTHER MATTERS RELATED TO THE FOREGOING.**

**WHEREAS**, it is the intent of the City Council to promote a well coordinated, visually pleasing streetscape within the City limits, and

**WHEREAS**, the City Council further finds that it is necessary to adopt this ordinance to protect the health, safety and welfare of the general public;

**NOW THEREFORE, BE IT ORDAINED** by the Council of the City of Canton, Texas, as follows:

**SECTION 1.** For the purposes of this Ordinance, the Minimum Exterior Standards specified herein shall apply within the entire corridors described below:

(A) SH 19.

The corridor boundary shall be defined by all properties adjacent the state right-of-way of SH 19 between the northern and southern Canton city limits.

(B) SH 64.

The corridor boundary shall be defined by all properties adjacent the state right-of-way of SH 64 between the western and eastern Canton city limits.

(C) SH 198

The corridor boundary shall be defined by all properties adjacent the state right-of-way of SH 198 between the northern and southern Canton city limits.

(D) SH 243

The corridor boundary shall be defined by all properties adjacent the state right-of-way of SH 243 between the western and eastern Canton city limits.

(E) FM 859

The corridor boundary shall be defined by all properties adjacent to the state right-of-way of FM 859 between the northern and southern Canton city limits.

(F) IH 20

The corridor boundary shall be defined by all properties adjacent to the state right-of-way of I-20 between the western and eastern Canton city limits.

(G) SPECIAL DISTRICT A

Special District A shall be defined by all properties adjacent to the right-of-way on either side of the streets within the confines of the boundary streets, including boundary streets. Boundaries shall be defined as Groves Street on the north side, Buffalo Street on the west side, Terrell Street on the south side, and North Trade Days Blvd. on the east side.

SECTION 2. The standards defined in this ordinance apply only in the following zoning districts.

- (A) Multiple Family Residential (MF-1)
- (B) Restricted Professional Office (RPO)
- (C) Local Business District (B-1)
- (D) General Business District (B-2)

SECTION 3. The exterior wall standards for construction shall be in accordance with the following standards.

- (A) 100% of the exposed wall on the front of any structure or any side facing a main or secondary street shall be constructed of masonry and or an approved material.
- (B) A 35% wrap-around from the front to sides not facing a street shall be constructed of masonry and or an approved material.

SECTION 4. Masonry shall be defined as the dominant non-structural exterior façade material consisting of the following:

- (A) Primary masonry means brick, stone or tile, hand laid by unit, or veneer simulations of these materials having the appearance of hand laid units.
- (B) Secondary masonry means Exterior Insulation and Finish Systems of natural aggregates and synthetic binders having a minimum applied 3/4 inch thickness, exposed aggregate, glass block and decorative concrete masonry units other than flat, gray block.
- (C) Cementitious lap siding shall be acceptable masonry construction alternatives.
- (D) Wood siding must be in board form minimum 3/4 inch thickness. No plywood or wood panels.

SECTION 5. Refuse Storage Container Screening Requirements

Refuse Storage Containers shall be enclosed on three sides with six-foot walls constructed of the same materials and finishes as the building front facade. All openings shall have a minimum width of eight feet and the gate's minimum height shall be six feet. Gate may also be constructed of wood or other materials customarily used in gate construction. Wire fences are prohibited for gates.

SECTION 6. Mechanical Screening Requirements

(A) Ground-mounted equipment

All ground-mounted equipment including, but not limited to, pad-mounted transformers, telephone switch boxes, gas meters, shall be reasonably screened from the view of public right-of-ways and the view from adjacent properties.

- (i) All required screening shall meet clearances as required by the affected utility companies.
- (ii) Acceptable means of screening are trees or evergreen-type shrubbery, masonry walls as masonry is defined in this ordinance, earthen berms in conjunction with landscaping.
- (iii) Screening heights shall be in proportion to the equipment it is designed to screen. A maximum height of a screen shall be ten feet. If a mechanical unit is taller than the maximum permitted height of the screening, screening shall be set back from the screen five feet plus two foot for each foot it exceeds the height of the screen.
- (iv) Screening for mechanical units shall apply to new building construction only.

(B) Roof-mounted equipment

All roof-mounted equipment including, but not limited to, fans, vents, and cooling towers shall be screened so as not to be visible to the immediate ground level and the ground level of adjacent properties. In addition, roof-mounted equipment shall be placed and finished in a manner which minimizes its visibility from overhead views from nearby buildings and elevated thoroughfare sections.

- (i) Overall screening height shall be the height of the highest element of roof-mounted equipment.
- (ii) The outside of the screening device shall be painted or otherwise finished so as to be similar in color to the color of the roof surface or to the color of the building façade or trim, whichever color is more effective in minimizing the visibility of the equipment and screen from ground level.
- (iii) Roof color shall be compatible with building color.
- (iv) To the greatest extent possible, roof-mounted equipment shall be placed in a linear configuration except for normal plumbing vents or flutes.

#### SECTION 7. Screening Walls or Visual Barriers

In the event that an MF-1, RPO, B-1, or B-2 district sides or backs upon an R-1, R-2, or R-3 zoned district, a solid screening wall or fence of not less than six nor more than eight feet in height shall be erected along the entire property line separating these districts, except where visibility triangles or easements are required. The purpose of the screening wall or fence is to provide a visual barrier between the properties. The owner of such property shall be responsible for and shall build the required wall or fence along the entire property line dividing his property from the residential district. In cases where the Planning & Zoning Commission finds this requirement to be impractical for immediate construction, it may grant a temporary or permanent waiver of the required screening wall or fence until such time as the screening wall or fence may be deemed necessary by the City Council. In cases where the Planning & Zoning Commission finds this requirement to be better met by an irrigated evergreen living screen, the same may be substituted for the screening wall.

#### SECTION 8. General Fence and Wall Regulations

There shall be no front-yard fencing in any zoning district except as follows:

- (A) For public and parochial schools, private and primary schools, and day care centers, fences and berms may be a combined maximum height of 60 inches above grade, provided that the fence material is wrought iron or chain link.
- (B) For all uses with the General Industrial District (GI-1), a wall or fence not more than eight (8) feet in height may be erected in the front yard setback.
- (C) In residentially zoned districts (R-1, R-2, R-3), where a corner lot has two front yards, the second front yard may be fenced in the same manner as any other side yard adjacent to a street. The fence shall not be erected further than the front corner of the house.
- (D) Wire fences are prohibited in the front yard setbacks in all districts other than General Industrial (GI-1), except when the fence is used to enclose pastures, cropland, and other areas used for agricultural activities.

#### SECTION 9. General Provisions

This ordinance shall include all future annexations along the state corridors.

#### SECTION 10. Penalties

Any person, firm or corporation found guilty of violating any of the provisions of this ordinance shall be subject to a fine not to exceed two hundred dollars (\$200.00), together with the costs of such prosecution. Each day during which a violation continues shall be considered a separate offense.

#### SECTION 11. Repealing Conflict

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

#### SECTION 12. Effective Date

The City Manger of the City of Canton is hereby authorized and directed to cause a true and correct copy of the caption, penalties, and effective date of this ordinance to be published in a newspaper having general circulation in the City of Canton, Texas prior to its effective date. Following the publication,

this ordinance shall be in full force and effect. All ordinances or parts of ordinances conflicting with any of the provisions of this ordinance are hereby repealed.

**SECTION 13. Savings Clause**

**That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.**

**PASSED, ADOPTED AND APPROVED** by a majority of the Canton City Council on this the 20<sup>th</sup> day of January, 2004.

DISCUSS AND CONSIDER DESIGNATING THE INTERSECTION OF CHERRY CREEK AND COLLEGE STREET AS AN ALL-WAY STOP INTERSECTION AND AUTHORIZING THE INSTALLATION OF THE APPROPRIATE STOP SIGNS – Upon Police Chief Hammonds' and City Manager Johnny Mallory's recommendation and after determining it should not backup traffic into the Cherry Creek neighborhood, Councilmember Pruitt made a motion to designate the intersection of Cherry Creek and College Street as an all-way stop intersection and authorize the installation of the appropriate stop signs. Councilmember Wilson seconded, and all voted in favor. Councilmembers discussed reviewing the issue again after school construction was complete. They also discussed the installation of a warning sign approaching the stop sign from the west on College.

DISCUSS AND CONSIDER AMENDING CITY'S MILEAGE REIMBURSEMENT RATE – Councilmember Wilson made a motion to increase the City's mileage reimbursement rate from \$0.25 per mile to \$0.36 per mile. Councilmember Roberts seconded, and all voted in favor.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS AND REORGANIZATION (Section 551.074) – The Mayor closed for an executive session at 7:18 p.m. The Council convened in closed session at 7:24 p.m. for deliberations regarding personnel matters and reorganization. All were excused from the meeting except City Attorney Richard Davis. Charles Fenner joined the executive session prior to its conclusion.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE OF REAL PROPERTY (Section 551.072)

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 8:28 p.m.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCES ESTABLISHING CITY MANAGER OF FINANCE AND CITY MANAGER OF OPERATIONS – Councilmember Wilson made the motion to adopt Ordinance 2004-02 and 2004-03 establishing the positions of City Manager of Finance and City Manager of Operations, respectively, with the change in the date of passage from January 20<sup>th</sup> to January 22<sup>nd</sup>. Councilmember Roberts seconded, and all voted in favor.

**ORDINANCE NO. 2004-02**

AN ORDINANCE CREATING THE OFFICE OF CITY MANAGER OF FINANCE OF THE CITY OF CANTON, TEXAS; PROVIDING FOR THE FILLING OF THAT OFFICE BY APPOINTMENT; PRESCRIBING DUTIES THEREFOR; PROVIDING TENURE BY SUCH APPOINTMENT; PROVIDING COMPENSATION BY ARTICLE 22.071 LOCAL GOVERNMENT CODE, VERNON'S TEXAS CODES ANNOTATED; CONTAINING A SEVERABILITY CLAUSE, AND CONTAINING A REPEALER CLAUSE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:**

Section 1. There is hereby created the Office of City Manager of Finance of the City of Canton, Texas.

Section 2. The office of City Manager of Finance of the City of Canton, Texas, shall be filled by appointment of the City Council of Canton, Texas.

Section 3. The duties of said City Manager of Finance shall include (1) management and control of the financial affairs of the City and (2) advising and counseling the City Council in the performance of its governmental functions.

Section 4. The holder of the office of said City Manager of Finance shall serve pursuant to the written agreement entered into between City of Canton and City Manager of Finance.

Section 5. The City Council of the City of Canton, Texas, by a majority vote thereof, shall set a rate of compensation for the office of City Manager of Finance.

Section 6. This is adopted and the office of City Manager of Finance is created under and by authority of Article 22.071 Local Government Code, Vernon's Texas Code Annotated.

Section 7. If any portion hereof shall be held to be unconstitutional or invalid, such holding shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED by a majority of the City Council of Canton, Texas, on this the 22<sup>nd</sup> day of January, 2004, to attest which we hereunto set out hands and seal.

**ORDINANCE NO. 2004-03**

AN ORDINANCE CREATING THE OFFICE OF CITY MANAGER OF OPERATIONS OF THE CITY OF CANTON, TEXAS; PROVIDING FOR THE FILLING OF THAT OFFICE BY APPOINTMENT; PRESCRIBING DUTIES THEREFOR; PROVIDING TENURE BY SUCH APPOINTMENT; PROVIDING COMPENSATION BY ARTICLE 22.071 LOCAL GOVERNMENT CODE, VERNON'S TEXAS CODES ANNOTATED; CONTAINING A SEVERABILITY CLAUSE, AND CONTAINING A REPEALER CLAUSE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:**

Section 1. There is hereby created the Office of City Manager of Operations of the City of Canton, Texas.

Section 2. The office of City Manager of Operations of the City of Canton, Texas, shall be filled by appointment of the City Council of Canton, Texas.

Section 3. The duties of said City Manager of Operations shall include (1) management and control of all city personnel, including the right to employ, supervise, discipline, and discharge, (2) management and control of all departmental operations except financial affairs, and (3) advising and counseling the City Council in the performance of its governmental functions.

Section 4. The holder of the office of said City Manager of Operations shall serve pursuant to the written agreement entered into between City of Canton and City Manager of Operations.

Section 5. The City Council of the City of Canton, Texas, by a majority vote thereof, shall set a rate of compensation for the office of City Manager of Operations.

Section 6. This is adopted and the office of City Manager of Operations is created under and by authority of Article 22.071 Local Government Code, Vernon's Texas Code Annotated.

Section 7. If any portion hereof shall be held to be unconstitutional or invalid, such holding shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

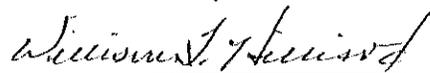
PASSED by a majority of the City Council of Canton, Texas, on this the 22<sup>nd</sup> day of January, 2004, to attest which we hereunto set out hands and seal.

DISCUSS AND CONSIDER HIRING OF CITY MANAGER OF OPERATIONS – Mayor Hilliard stated the City would enter into a contract with Charles Fenner to fill the position of City Manager of Operations. Richard Davis reviewed the amendments to the proposed agreement for employment: Item 3 the salary amount to be \$54,000; Item 7 In lieu of the city providing an automobile, a car allowance of \$400 per month would be paid to the city manager of operations who would use his personal vehicle for all business within a 75 mile radius, and outside that radius he would use a city vehicle if available, and if not, his personal vehicle at a reimbursement rate of \$0.36 per mile from the point of departure to return; Item 8 under leave benefits a ten day vacation may be taken, however should he leave prior to one year it shall be reimbursed to the city; and Effective Date of February 1, 2004. Councilmember Pruitt made a motion to approve the proposed contract with Charles Fenner for City Manager of Operations with amendments as stated by Richard Davis. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER APPROVAL OF CONTRACTS FOR CITY MANAGER OF FINANCE AND CITY MANAGER OF OPERATIONS – Councilmember Wilson made the motion to approve the contract with Johnny Mallory for City Manager of Finance effective February 1, 2004. Councilmember Pruitt seconded, and all voted in favor.

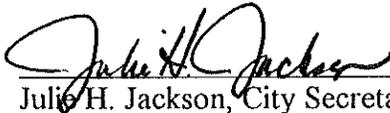
DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS -  
None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 8:32 p.m. on a motion by Councilmember Pruitt and second by Councilmember Wilson.



William F. Hilliard, Mayor

ATTEST:



Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
6:30 P.M., TUESDAY, FEBRUARY 17, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Tommy Roberts, Ron Sanford, Raymond Pruitt and Rusty Wilson. City Attorney Richard Davis was also present.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Charles Fenner.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

**GUEST ITEMS** – Jim Fuller reported the snow had prevented the Valentine Bluegrass Festival from doing well but the concession sales and using an all-volunteer staff helped. He said two of the thirty free passes distributed locally were redeemed. He also noted promotional fans were so well received at the Houston trade show they bought another 10,000 and bands were going to pass them out wherever they played.

**DISCUSS AND CONSIDER APPROVAL OF MINUTES JANUARY 3, 6, 10, 12, 20 AND 22, 2004 MEETINGS OF THE CANTON CITY COUNCIL** - The minutes of the January 3, 6, 10, 12, 20, and 22, 2004 meetings were unanimously approved on a motion by Councilmember Sanford and second by Councilmember Roberts.

**DISCUSS AND CONSIDER APPROVAL OF JANUARY 2004 FINANCIAL STATEMENTS** – The January 2004 Financial Statement were unanimously approved on a motion by Councilmember Wilson and second by Councilmember Sanford. The Council then approved an \$18,216 expenditure to add (8) 50 amp electricity receptacles to each end of Trade Center IV.

**PRESENTATION BY REPRESENTATIVES OF CONWAY & COMPANY REGARDING 2002-2003 AUDIT** – Mike Conway presented a clean opinion for the 2002-2003 audit conducted by Conway & Company. He noted an increase in total assets primarily due to the new construction, an increase in cash, an increase in general obligation bonds primarily for the new First Monday pavilion, an increase in retained earnings and a \$1.7 million increase in equity, representing an increase in the financial strength of the City. He further reported a \$250,000 increase in revenue in the government funds and a reduction in expenses, netting a small excess of revenue over expenditures which if it was a typical year indicates an accurate tax rate. After a brief review of the proprietary funds (Water & Sewer and First Monday) and the debt service requirements, Mr. Conway informed the City of considerable changes in reporting requirements for the year-end, including new reporting formats, a state-of-the-city type report from the Mayor, and a change in reporting methods. He recommended the new issues be addressed this summer.

**DISCUSS AND CONSIDER APPROVAL OF 2002-2003 AUDIT** – The 2002-2003 audit was unanimously approved on a motion by Councilmember Roberts and second by Councilmember Wilson.

CALL OF MAY 15, 2004 GENERAL ELECTION TO ELECT THREE COUNCILMEMBERS AND SPECIAL ELECTION TO FILL THE VACANCY OF A ONE-YEAR TERM AS COUNCILMEMBER – Councilmember Sanford made the motion to adopt the following order:

**Order of Election**

A general election is hereby ordered to be held on Saturday, May 15, 2004, for the purpose of:  
**Electing three (3) City Councilmembers**

A special election is hereby ordered to be held on Saturday, May 15, 2004, for the purpose of:  
**Electing one (1) City Councilmember to fill a one-year unexpired term**

**Early voting by personal appearance will be conducted each weekday at City Hall at 290 East Tyler Street, Canton, Texas, between the hours of 8:00 a.m. and 5:00 p.m. beginning on Wednesday, April 28, 2004, and ending on Tuesday, May 11, 2004.**

Applications for a place on the general election ballot for three councilmembers shall be accepted in the office of the City Secretary, 290 E. Tyler Street, beginning February 16, 2004 through March 15, 2004, and from February 16, 2004 through April 14, 2004 for the special election ballot to fill the one-year unexpired Councilmember's term.

Applications for ballot by mail shall be mailed to:

Julie Jackson, City Secretary  
P.O. Box 245  
Canton, Texas 75103

Applications for ballot by mail must be received no later than the close of business on May 7, 2004.

Issued this the 17th day of February, 2004.

Councilmember Pruitt seconded, and all voted in favor.

UPDATE FROM CANTON CHAMBER OF COMMERCE – Amy Mattingly reported the Houston trade show went well, the Search Committee had narrowed its search for a president to three candidates, the Board would be meeting that week to discuss the candidates, and the annual auction and awards dinner was scheduled for March 11<sup>th</sup>.

DISCUSS AND CONSIDER REQUEST FROM DON HACKNEY REGARDING REPAIR OF TRAFFIC LIGHTS AND STREET LIGHTS – Don Hackney sought help with two traffic signal problems—malfunctioning sensors that stayed on continuously on the left turn signals at FM 859 and Highway 64 and the west bound left turn lane at the Highway 19/243 intersection. He urged the City to send a strong letter to the Texas Department of Transportation requiring they be fixed. He also asked the City to require Oncor repair the streetlights in a more timely fashion. Mr. Mallory informed Mr. Hackney and the Council he expected a speedy resolution to the streetlight problem as the new manager had recently given the City a different number to fax in repair requests and a promise to fix all reported problems as soon as possible. Mayor Hilliard asked Mr. Fenner to write a letter to TxDOT about the traffic signals.

DISCUSS AND CONSIDER APPROVAL OF RESOLUTION PROTECTING PREMISES AT 2203 NORTH TRADE DAYS BLVD., CANTON, TEXAS, BY CITY LOITERING

ORDINANCE 96-04 – Upon Jim Wise’s request and Charles Fenner’s recommendation, the following resolution was unanimously passed on a motion by Councilmember Wilson and second by Councilmember Roberts.

**RESOLUTION**

**WHEREAS**, City of Canton Ordinance 96-04 provides for the regulation of congregating, loitering and littering on or about business premises; prohibiting disturbances and alcoholic beverage consumption and providing penalties therefore; and

**WHEREAS**, said Ordinance provides business establishments may be protected by said Ordinance upon the passing of a Council resolution and the posting of proper signs upon their premises; and

**WHEREAS**, Jim Wise has presented written request on behalf of the Board of Directors of Little Jewel, Inc. dba Dairy Palace Restaurant of Canton, to be protected by said Ordinance;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS**, that Little Jewel, Inc. dba Dairy Palace Restaurant of Canton be protected under City Ordinance 96-04 effective with the posting of proper signs on the premises.

**PASSED, ADOPTED AND APPROVED THIS THE 17th DAY OF FEBRUARY, 2004.**

DISCUSS AND CONSIDER REQUEST FROM CANTON VOLUNTEER FIRE DEPARTMENT FOR AUTHORIZATION TO CONDUCT ON-STREET SOLICITATION FOR MDA AT THE INTERSECTION OF HIGHWAY 64 AND BUFFALO STREET ON SEPTEMBER 4 AND 5, 2004 – Ken Dearing made the request on behalf of the Volunteer Fire Association and noted the money raised would stay in the area. Councilmember Sanford made the motion to approve the boot drive for MDA at the Highway 64/Buffalo Street intersection on September 4 and 5, 2004. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FROM J.L. HEARD FOR A QUIT-CLAIM DEED OR PERMISSION TO PAVE PARKING FOR HOUSING UNITS ON A CITY-OWNED ROAD RIGHT-OF-WAY FACING WESTVIEW LANE – J. L. Heard explained how the Westview Apartments were built off the property line, creating a sliver of land on the east side in front of the lot on which he wanted to build multiple family housing. He requested he be permitted to use the land for parking. Charles Fenner advised that if the City gave up the right-of-way, it would give up its ability to expand. He also noted a proposed thoroughfare that may come through the south side of the property and connect to Westview Lane. He added a Quit Claim to any right-of-way over 50’ would not restrict its future use. Councilmember Sanford made the motion to deny Mr. Heard’s request. Mr. Heard then asked if he could be allowed to use it for head-in parking, pointing out that all properties had a driveway across the city’s right-of-way. Councilmember Roberts stated that if he paved the property, he would actually be parking on the right-of-way rather than extending on up into his property. He then seconded the motion, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FROM CANTON INDEPENDENT SCHOOL DISTRICT FOR REDUCTION IN BUILDING PERMIT FEES – Larry Davis asked the Council for some relief on the fees assessed on building permits for the Junior High renovation and the High School auditorium. Charles Fenner reported he and Mr. Davis had met and agreed upon a proposed general permit fee of \$23,000, reduced from an estimated \$32,000. Councilmember

Pruitt made the motion to approve a \$23,000 general permit fee for the CISD High School and Junior High building projects. Mayor Hilliard asked the Council to be better stewards of public money. He noted the City had a road to build and said Mr. Davis would have to contribute to it. Councilmember Sanford said he was a strong advocate of CISD, but a complete waiver of fees would actually be charging 3000 Canton citizens to pay for what 10000 school district property owners should pay for. Councilmember Roberts recommended considering 50% of \$32,000. Councilmember Sanford said he had no problem discounting the permit fees. Councilmember Pruitt then reiterated his motion to set a general permit fee of \$23,000. Councilmember Sanford seconded. Motion passed with Councilmembers Pruitt, Sanford, and Wilson in favor and Councilmember Roberts opposed.

DISCUSS AND CONSIDER REQUEST FROM BOB'S PAINT & BODY, INC. FOR 2-INCH WATER TAP OUTSIDE CITY LIMITS AT 28076 STATE HIGHWAY 64 WEST – Charles Fenner reported the property was included in Myrtle Springs' water utility district. He noted the minutes reflected a water tap had been granted in 1993 and Mr. Mallory was to notify the property owner the line extension would cost \$2800, but the tap was never made. He said the City could not legally give them water unless Myrtle Springs allowed it and the cost to extend the line would be approximately \$7800 now. Councilmember Roberts expressed concerns about the creation of potential problems for the city if the water lines were extended ever further. He also noted extending a 2" line was not a good scenario. Citizen George Pitts informed the Council the water line was laid in 1978 with ten property owners in the area paying for materials. He said their agreement at the time was to only have ten meters on that line. He noted there was not ample water. The item was then tabled for further research.

DISCUSS AND CONSIDER REQUEST FOR STREET LIGHTS ON NORTH TRADE DAYS BLVD. – Johnny Mallory reported that TXU would not put in new lights unless the street was curbed or break-away poles used. He added that Texas Department of Transportation did not have plans to curb the street. He noted Mr. Logsdon had agreed to give an easement on his property but it was set back too far for pole arms to extend over the highway. Mayor Hilliard instructed Mr. Fenner to make it a priority to continue negotiations for street curbing.

DISCUSS AND CONSIDER FINAL PLAT APPROVAL FOR PHASE II OF ETHERIDGE FARM SUBDIVISION LOCATED ON MILL CREEK ROAD AT ETHERIDGE ROAD – Rick Malone reported the Etheridge Farm plans met all criteria set by the City. He noted the City's contractors were working on Etheridge Road which could necessitate a plat amendment later. Upon Charles Fenner's recommendation, Councilmember Pruitt made the motion to approve the final plat for Phase II of Etheridge Farm Subdivision subject to receipt of a letter of credit, a maintenance bond for two years at 2% guaranteeing public improvements, and a check for \$24,875 for their agreed contribution to the Etheridge Road drainage project. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON ZONING CHANGE OF 5-ACRE TRACT LESS AND EXCEPT THE FRONT 208' X 200' SECTION LOCATED ON NORTH TRADE DAYS BLVD. IN THE CITY OF CANTON, TEXAS, OWNED BY STEPHEN BOX, FROM GENERAL BUSINESS DISTRICT (B-2) TO MULTIPLE FAMILY RESIDENTIAL (MF-1) – Item withdrawn by property owner.

PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON ZONING CHANGE OF 690 WEST DALLAS, CANTON, TEXAS, OWNED BY BILLY JACK AND LUCIA DEEN FROM MULTIPLE FAMILY RESIDENTIAL (MF-1) TO RESTRICTED PROFESSIONAL OFFICE (RPO) – Following a Public Hearing at 7:30 p.m. and upon a recommendation from the Planning & Zoning Commission, Councilmember Wilson made the motion to change from MF-1 to RPO zoning on the property located at 690 West Dallas owned by Billy Jack and Lucia Deen. Councilmember Sanford seconded, and all voted in favor.

PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON ZONING CHANGE OF 7.716 ACRES SITUATED IN J. STOCKWELL SURVEY, A-760, LOCATED AT 1280 HIGHWAY 64 WEST, CANTON, TEXAS, OWNED BY INEZ TUNNELL, FROM AGRICULTURAL DISTRICT (RA) AND LOCAL BUSINESS DISTRICT (B-1) TO GENERAL BUSINESS DISTRICT (B-2) – Following a Public Hearing and upon the recommendation of the Planning & Zoning Commission, Councilmember Sanford made the motion approve a zoning change from B-1 and RA to B-2 on the 7.716 acre property located at 1280 Highway 64 West owned by Inez Tunnell. Councilmember Pruitt seconded, and all voted in favor.

PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON SPECIFIC USE PERMIT FOR BED AND BREAKFAST AT 704 SOUTH TRADE DAYS BLVD., CANTON, TEXAS, OWNED BY SCOTT PERKINS – Following a Public Hearing and upon the recommendation of the Planning & Zoning Commission, Councilmember Roberts made the motion to grant a Specific Use Permit for a Bed and Breakfast at 704 South Trade Days Blvd. Councilmember Sanford seconded, and all voted in favor.

DISCUSS AND CONSIDER APPROVAL OF PROCLAMATION NAMING MARCH 29-APRIL 2, 2004 AS TEXAS PUBLIC SCHOOLS WEEK AND URGING ALL CITIZENS TO REAFFIRM THEIR COMMITMENT TO OUR SCHOOLS – The March 29-April 2, 2004 Public Schools Week proclamation was unanimously approved on a motion by Councilmember Roberts and second by Councilmember Wilson.

DISCUSS AND CONSIDER APPOINTMENTS TO BOARD OF DIRECTORS OF CANTON ECONOMIC DEVELOPMENT CORPORATION – Councilmember Wilson made the motion to appoint Kenneth Pruitt, Joe Groves, Wade Whitaker and Mike Malouf to the Canton Economic Development Corporation Board of Directors. Councilmember Roberts seconded. Motion passed with Councilmember Pruitt abstaining and all others voting in favor.

DISCUSS AND CONSIDER REVENUES COLLECTED BY CANTON VOLUNTEER FIRE DEPARTMENT FOR INSURANCE CLAIMS – Councilmember Roberts voiced his concerns about the revenue collected for insurance claims going into the Ben Wheeler account when city equipment was used. Chief McNevin explained the procedures: the fire department completes a form and sends it to a company that handles and files the claims on behalf of the fire department, then any claim payments are made to the Canton Volunteer Fire Department and deposited into the Ben Wheeler account under the City's I.D. number. Councilmember Roberts asked who

controlled the funds. Chief McNevin said they were controlled mostly by the city, that Debbie Phillips maintained the checkbook and all checks required two signatures—his and one other of the authorized signers including Johnny Mallory, Julie Jackson and Al Campbell. He said the revenue had been used for such things as building a cascade trailer, their 10% cost-share for the brush truck, and their cost-share to the \$58,000 grant from FEMA and the grant for a training field. He said everything in the account went back into the Fire Department. He also stated the Fire Department did not submit claims if they were on a scene less than five minutes, if there was no insurance or if a fatality was involved. He said they try to contact a person three times, but did not go after anyone not paying.

**DISCUSS AND CONSIDER PARKING LOT AT SENIOR CITIZENS BUILDING** – When asked about the handling of the revenue from the Senior Citizens Parking Lot, Chief McNevin said the income was deposited in the City of Canton Fire Department account at the Bank of Ben Wheeler after it was counted by Dempsey Morris and Rita Ragsdale. Councilmember Roberts said he was concerned it was not being operated by fire department members, but instead it was a city-owned parking lot operated by paid employees generating \$37,000 last year. Chief McNevin said four or five fire association members are scheduled to work each month, but they go home if not needed. He added they do get paid if they work. He said he also considered Dan McLemore and Dempsey Morris members of the fire department. Councilmember Pruitt said he would like to see them use some of the revenue to pave the parking lot. Chief McNevin said they received a \$10,000 bid from Ricky Daniel and were saving to do that. Mayor Hilliard asked if paying people cash violated employment practices. City Attorney Richard Davis said it was not recommended. The question was raised if the City was violating its bank depository contract with American National Bank by using the Ben Wheeler bank account. Councilmember Roberts stated they had bought a lot of equipment without enough space to house it, and they had not notified the Council as requested the last time they purchased a truck. Councilmember Sanford said he thought the Fire Department was doing a good job. Chief McNevin said their plans included paving the parking lot, getting rid of some of the equipment and expanding and renovating the existing fire station. He said they no longer planned for a north side fire station as it was no longer required by ISO. Craig Brown defended the association and said Council approved the revenue had been approved by the Council and it went to pay for two trucks. He said all other trucks were bought by the association with funds raised by hard-working volunteers.

**DISCUSS AND CONSIDER ADOPTING ORDINANCE AMENDING ORDINANCE 2001-07 HOTEL/MOTEL OCCUPANCY TAX CHANGING THE DEFINITION OF HOTEL ACCOMMODATION FROM A MINIMUM OF TEN ROOMS TO A MINIMUM OF TWO ROOMS** – Charles Fenner informed the Council the current hotel/motel tax ordinance was set up for the assessment and collection of taxes from structures that rent ten or more rooms. He said Kathy McNabb with the State Comptroller's office informed him they collected on all accommodations and recommended the city do the same. He then recommended reducing the number of rooms defining a hotel from ten to three. Councilmember Wilson made the motion to adopt the following Ordinance No. 2004-04.

Ordinance No. 2004-04

AN ORDINANCE AMENDING ORDINANCE 2001-07 ADOPTED SEPTEMBER 18, 2001;  
PROVIDING FOR THE ASSESSMENT AND COLLECTION OF A HOTEL OCCUPANCY TAX;  
PROVIDING CERTAIN DEFINITIONS; PROVIDING FOR THE ALLOCATION OF REVENUE

DERIVED FROM THE LEVY OF THE HOTEL OCCUPANCY TAX; PROVIDING FOR A PENALTY FOR NON-PAYMENT; PROVIDING FOR A PENALTY UPON CONVICTION FOR FAILURE TO COMPLY OF NOT MORE THAN FIVE HUNDRED DOLLARS (\$500.00); PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

**Section 1. Title.** This Ordinance shall be referred to as the "hotel occupancy tax ordinance."

**Section 2. Definitions.** Whenever any of the following words, terms, or definitions are used in this ordinance, they shall have the following meaning:

(a) **City:** The City of Canton, Texas

(b) **Hotel:** Any building or buildings in which the public may, for a consideration, obtain sleeping accommodations, including hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but not including hospitals, sanitariums convalescent centers, nursing homes, or assisted-living facilities.

(g) **Hotel accommodations:** A room or rooms in any building or structure kept, used or maintained as or advertised or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, dormitory or place, where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals, in which three (3) or more such accommodations are used or maintained for guests, lodgers, or roomers.

(h) **Consideration:** The cost of the room in a hotel only if the room is ordinarily used for sleeping, and not including the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

(i) **Occupancy:** The use or possession, or the right to the use or possession, of any room or rooms in a hotel if the room is one which is ordinarily used for sleeping and if the occupant is other than a permanent resident as hereinafter defined.

(j) **Occupant:** Anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license, contract or agreement, other than a permanent resident as hereinafter defined.

(g) **Person:** Any individual, company, corporation or association, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, business trust, domestic or foreign corporation, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, which owns, operates, manages or controls any hotel.

Whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean that the owners or part-owners thereof, and as applied to corporations, the officers thereof.

(h) **Quarterly period:** The regular calendar quarters of the year, the first quarter being composed of the months of October, November, and December; the second quarter being the months of January, February, and March; the third quarter being the months of April, May, and June; and the fourth quarter being the months of July, August, and September.

(i) **Permanent resident:** Any occupant who has or shall have the right to occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the calendar year or preceding year.

**Section 3. Tax Levied.** There is hereby levied a tax of seven percent (7%) of the price paid for a room in a hotel on every person, who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2.00 or more each day, and is ordinarily used for sleeping. The price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except those services related to the cleaning and readying of the room for possession.

Exceptions are as follows:

- (e) No tax shall be imposed upon a permanent resident.
- (f) No tax shall be imposed upon an officer or employee of a federal or state agency, institution, board, or commission if the employee is traveling on official business for the governmental entity.
- (g) No tax shall be imposed for diplomatic personnel who present a Tax Exemption card issued by the United States Department of State.
- (h) No tax shall be imposed for federal or state military personnel traveling on official military business. This exemption does not cover military staff on leave or between stations.

**Section 4. Collection of Tax.** The ultimate incidence of and liability for payment of said tax shall be borne by the lessee or tenant of any such hotel accommodations. The tax herein levied shall be in addition to any and all other taxes. It shall be the duty of every owner, manager or operator of hotel accommodations to secure said tax from the lessee or tenant of said hotel accommodations and pay over to the City of Canton said tax under rules and regulations prescribed by the City Secretary and as otherwise provided by this ordinance.

**Section 5. Quarterly Reports to the City.** On or before the last day of the month following each quarterly period, every person required to collect the tax imposed hereby shall file a report with the City Secretary showing the price paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies, and any other information the City Secretary may reasonably require. At the time of filing said tax return, the owner, manager or operator of hotel accommodations shall pay to the City of Canton all taxes due for the period to which the tax return applies. The report shall be in a form prescribed by the City Secretary. The City Secretary is hereby authorized and directed to do all such things necessary or convenient to carry out the terms of this Ordinance. The City Secretary shall have the authority to request and receive, within a reasonable time, documentation for information contained in the report to the City by the hotel.

**Section 6. Rules and Regulations of City Secretary.** The City Secretary shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby.

**Section 7. Records Required.** Every owner, manager, or operator of hotel accommodations in the City shall keep books and records showing the prices, rents or charges made or charged, and occupancies taxable under this ordinance. The City Secretary, or the City Secretary's designee, shall, upon reasonable notice, have full access to books and records necessary to enable her/him to determine the correctness of any report filed as required by this Ordinance, and the amount of taxes due under the provisions of this Ordinance.

**Section 8.** Any person purchasing a hotel located in the City of Canton shall retain out of the purchase price an amount sufficient to pay any delinquent hotel occupancy taxes that are due to the City. Should the purchaser fail to remit such amount to the City or show proof that the hotel is current in remitting its hotel occupancy taxes, the purchaser shall become liable for any delinquent hotel occupancy taxes due on the purchased hotel.

**Section 9. Penalties.** If any person shall fail to file a report as required herein or shall file a false report or shall fail to pay to the City the tax as imposed herein when said report or payment is due, he shall forfeit five percent (5%) of the amount due as penalty, and after the first thirty (30) days, he shall forfeit an additional five percent (5%) of such tax. However, such penalty shall never be less than one dollar (\$1.00). Delinquent taxes shall draw interest at the rate of ten percent (10%) per annum beginning sixty (60) days from the due date.

Any person violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Ordinance, including hotel operators who fail to collect the tax, fail to file a return, file a false return, or who are delinquent in their tax payments shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not to exceed five hundred dollars (\$500.00), and each twenty-four (24) hours of any such violation shall constitute a separate offense.

**Section 10. Additional Penalties.** The City is hereby authorized to take the following actions against any person required to collect the tax imposed hereby and pay the collection over to the City and who has failed to file a report, or filed a false report, or failed to pay the tax when due:

- (d) Require the forfeiture of any revenue the City allowed the hotel operator to retain for its cost of collecting the tax;
- (e) Bring suit against the hotel for noncompliance; and/or
- (f) Bring suit against the hotel seeking any other remedies provided under Texas law.

**Section 11. Additional Authorization to Bring Suit.** Upon the request of the City Manager, the City Attorney is hereby authorized to bring suit in any court of competent jurisdiction against any person required to collect the tax imposed hereby and required to pay the collection over to the City and who has failed to file a report, or filed a false report, or failed to pay the tax when due. Such suit may seek to collect such tax not paid, to enjoin such person from operating a hotel in the City until the tax is paid or the report is filed and/or the collection of attorney's fees, as applicable and as provided in the injunction.

**Section 12. Use of Revenue Derived.** The revenue derived from any hotel occupancy tax imposed and levied by this Ordinance may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

- (f) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance or convention center facilities (as such is defined in V.A.T.S. Tax Code, Section 351.001);
- (g) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;
- (h) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;
- (i) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms; and

(j) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

- (3) which are at or in the immediate vicinity of convention center facilities; or
- (4) which are located elsewhere in the municipality or its vicinity that would be frequented by tourists, convention delegates, or other visitors to the municipality.

Revenue derived from the hotel occupancy tax shall be expended only in a manner which directly enhances and promotes tourism and the convention and hotel industry as hereinbefore delineated. Such revenue shall not be used for the general revenue purposes or general governmental operations of the municipality which are not directly related to promoting the hotel and convention industry or tourism in the municipality.

**Section 13. Administrative Requirements; Accountability; Keeping of Records.** The City Council may, by contract, delegate to a person, including another governmental entity or a private organization, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax. The City Council shall approve in writing in advance the annual budget of the entity to which it delegates those function, and shall require the entity to make periodic reports to the City Council at least annually listing the expenditures made by the entity of revenue from the tax provided by the municipality.

The entity must maintain the revenue provided by the municipality from the tax in a separate account established for that purpose and may not commingle that revenue with any other money or maintain it in any other account.

The municipality may not delegate to any person or entity the management or supervision of its convention and visitors programs and activities funded with revenue from the hotel occupancy tax other than by contract as provided herein.

The approval by the City Council of the annual budget of the entity to which these functions are delegated creates a fiduciary duty in the person or entity with respect to the revenue provided by the municipality to the person or entity under the contract.

A person or entity with whom the municipality contracts to conduct authorized activities shall maintain complete and accurate financial records of each expenditure of hotel occupancy tax revenue made by the person or entity and, on request of the City council or other person, shall make the records available for inspection and review.

Hotel occupancy tax revenue may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing of expenditures hereinbefore authorized. The portion of the total administrative costs for activities for which hotel occupancy tax revenue may be used may not exceed the administrative costs actually incurred in conducting the authorized activities.

Hotel occupancy tax revenue may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of the person's job in an efficient and professional manner.

**Section 14. Gender and Number.** In this ordinance, unless the text otherwise requires, words in the singular number include the plural and in the plural include the singular; words of the masculine gender include the feminine and the neuter; and when the sense so indicates, words in the neuter gender may refer to any gender.

**Section 15. Severability.** In the event that any one or more of the provisions, clauses, or words of this Ordinance or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this Ordinance or the application thereof to any other situations or circumstance and it is intended that this ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.

**Section 16. Repeal.** All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed to the extent of such conflict.

**Section 17. Effective Date.** This ordinance shall become effective and in full force and effect on and after 12:00 a.m. on March 1, 2004.

Passed and approved this 17th day of February, 2004.

Councilmember Sanford seconded. Mike Hackney advised that people renting out rooms, many elderly, provided a service to the city and to vendors and he hated to see them taxed. Charles Fenner explained the room minimum was set at three to eliminate those households and the tax was paid by the customer not the owner.

Mayor Hilliard then recognized Donna Reed as an exemplary citizen. Councilmember Pruitt presented a plaque and the following proclamation recognizing her efforts to keep Canton a cleaner and better place to live.

#### PROCLAMATION

**WHEREAS;** Donna Reed has served the residents of the City of Canton and the surrounding area faithfully throughout her life, and has contributed greatly to the quality of life of her community; and

**WHEREAS,** her dedicated interest and devotion to duty have had a valuable effect on this community; and

**WHEREAS,** it is fitting that the community recognize and acknowledge her efforts to keep the City of Canton a cleaner, more enjoyable place to live;

**NOW, THEREFORE, I, William F. Hilliard, by virtue of the authority vested in me as Mayor and on behalf of the Canton City Council and all citizens hereof, do hereby proclaim Donna Reed to be a model citizen, and urge all citizens to join me in commending Ms. Reed and in conveying our deep appreciation for her dedicated service and extending best wishes for continued success in life's pursuits.**

**IN OFFICIAL RECOGNITION WHEREOF, I hereby affix my signature this 17<sup>th</sup> day of February, 2004.**

The Mayor then called for a vote on the motion to adopt Ordinance 2004-02. The motion passed with Councilmembers Wilson, Sanford and Roberts voting in favor and Councilmember Pruitt opposed.

**DISCUSS AND CONSIDER ADOPTION OF RESOLUTION AUTHORIZING SIGNERS ON ALL CITY OF CANTON ACCOUNTS AT AMERICAN NATIONAL BANK – A resolution**

authorizing Mayor William F. Hilliard, Johnny Mallory, Charles Fenner, Julie Jackson and Jim Stephens, to sign on all City accounts with American National Bank was unanimously adopted on a motion by Councilmember Sanford and second by Councilmember Wilson. Mayor Hilliard asked Richard Davis to determine if the Ben Wheeler bank account could be left there.

DISCUSS AND CONSIDER ADOPTION OF RESOLUTION AMENDING AUTHORIZED REPRESENTATIVES FOR TEXAS LOCAL GOVERNMENT INVESTMENT POOL ("TexPool") – Councilmember Pruitt made the motion to adopt a resolution amending the authorized representatives for the TexPool accounts to Johnny Mallory, Charles Fenner, Julie Jackson, Jim Stephens and Debbie Phillips. Councilmember Wilson seconded, and all voted in favor.

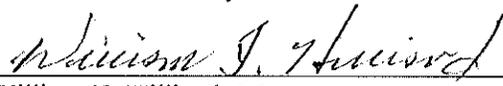
EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – RESOLUTION OF EMPLOYEE BENEFITS NOT COVERED IN PRIOR NEGOTIATIONS WITH JOHNNY MALLORY – The Mayor closed for an executive session at 8:04 p.m. The Council convened in closed session at 8:07 p.m. for deliberations regarding employee benefits designated in Johnny Mallory's employment contract. All were excused from the meeting except City Attorney Richard Davis. Johnny Mallory joined the executive session prior to its conclusion. Councilmember Sanford left at 8:45 p.m.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE OF REAL PROPERTY (Section 551.072) - The City Manager of Operations, City Manager of Finance and City Secretary returned at 9:00 p.m. for discussion on the potential purchase of real property.

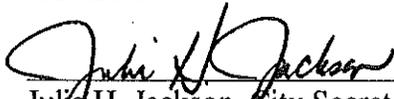
RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 9:20 p.m. Councilmember Wilson made the motion to amend Johnny Mallory's employment contract to specify an accrued vacation time of 30 days and accrued sick leave of 293 hours as of February 2, 2004, and also pursuant to the city's policy upon termination of paying a maximum of 15 days accrued vacation and 480 hours accrued sick leave. Councilmember Roberts seconded, and all voted in favor.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS – Councilmember Roberts requested an item be placed on the next regular agenda to discuss and consider possible action on the Senior Citizens Parking Lot Revenue.

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 9:22 p.m. on a motion by Councilmember Pruitt and second by Councilmember Wilson.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
**CITY OF CANTON, TEXAS**  
 3:30 P.M., THURSDAY, MARCH 4, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Called Meeting of the Canton City Council scheduled for 3:30 p.m., March 4, 2004, was cancelled prior to meeting time.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
**CITY OF CANTON, TEXAS**  
 6:30 P.M., TUESDAY, MARCH 16, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Tommy Roberts, Ron Sanford, Raymond Pruitt and Rusty Wilson. City Attorney Richard Davis was also present.

Discussion and action were as follows:

CALL TO ORDER AND ANNOUNCE QUORUM - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

MAYOR'S WELCOME given by William F. Hilliard.

INVOCATION given by Jim Stephens.

PLEDGE OF ALLEGIANCE led by Mayor Hilliard.

GUEST ITEMS – Jim Fuller reported plans for the Bluegrass Festival were on target. He also noted having distributed 15,000 promotional fans and a box of First Monday calendars. He added they planned to work on the stage, update the website, work with Van Zandt Newspapers for a special edition of the paper the week of the festival, and sell advance tickets through local merchants.

DISCUSS AND CONSIDER APPROVAL OF MINUTES FEBRUARY 17, 2004 MEETING2 OF THE CANTON CITY COUNCIL - The minutes of the February 17, 2004 meeting were approved on a motion by Councilmember Sanford and second by Councilmember Wilson.

**DISCUSS AND CONSIDER APPROVAL OF FEBRUARY 2004 FINANCIAL STATEMENTS**

– The February 2004 Financial Statement were unanimously approved on a motion by Councilmember Pruitt and second by Councilmember Wilson.

**DISCUSS AND CONSIDER APPOINTMENT OF ELECTION JUDGE AND ALTERNATE ELECTION JUDGE AND DESIGNATION OF POLLING PLACE FOR GENERAL AND SPECIAL ELECTIONS ON MAY 15, 2004** – Councilmember Roberts made a motion to appoint Mary Wages election judge and Mary Robertson alternate election judge, to authorize Mary Wages to appoint three election clerks in addition to Ms. Robertson and to designate City Hall, 290 East Tyler, as the polling place for the May 15, 2004 General and Special Elections. Councilmember Sanford seconded, and all voted in favor.

**UPDATE FROM CANTON CHAMBER OF COMMERCE** – Amy Mattingly introduced the Chamber's new president Rona Watson and reported the hiring of Phyllis Vincent as administrative assistant, plans for regular Chamber Open Houses for individual segments of the business community, plans for member recruitment, and the success of the annual banquet and auction.

**DISCUSS AND CONSIDER REQUEST FROM CANTON VOLUNTEER FIRE DEPARTMENT FOR AUTHORIZATION TO CONDUCT ON-STREET SOLICITATION AT THE INTERSECTIONS OF HIGHWAYS 64 AND 198 AND HIGHWAYS 243 AND 198 ON MAY 1 AND 2, 2004** – CVFD's request for a boot drive at the intersections of Highways 64 and 198 and Highways 243 and 198 on May 1 and 2, 2004, was unanimously approved on a motion by Councilmember Sanford and second by Councilmember Wilson.

**BUDGET REVIEW** – Johnny Mallory reported plans for a six-month budget review at the next regular council meeting. He further reported that while some line items were over budget, no funds were currently over budget.

**DISCUSS AND CONSIDER DESIGNATING CITY EMPLOYEES AUTHORIZED TO REQUEST LEGAL SERVICES FROM CITY ATTORNEY** – Charles Fenner asked for direction on which employees should be authorized to engage the services of City attorney Richard Davis for issues other than those directly authorized by the Council. Mayor Hilliard suggested each Councilmember should be authorized to seek legal advice from the City Attorney, but Councilmembers Sanford, Pruitt and Wilson felt Councilmembers should go through the Mayor or Charles Fenner before approaching Richard Davis. Upon Mr. Fenner's recommendation, Councilmember Sanford made the motion to authorize Charles Fenner and Julie Jackson to seek legal counsel from Richard Davis as needed. Councilmember Roberts seconded, and all voted in favor.

**DISCUSS AND CONSIDER GRIEVANCE FILED BY BRIAN MCNEVIN** – Brian McNevin was not present for the grievance hearing. Upon the advice of City Attorney Richard Davis that the Council should proceed in Mr. McNevin's absence, Councilmember Sanford made the motion to uphold the actions taken by city administrator, Charles Fenner, regarding Mr. McNevin's dismissal. Councilmember Roberts seconded, and all voted in favor.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS - GRIEVANCE FILED BY BRIAN MCNEVIN (Section 551.074) - The Mayor closed for an executive session at 6:47 p.m. The Council convened in closed session at 6:50 p.m. for deliberations regarding the City's organizational and salary structure and the potential purchase of real property. The Council did not discuss the grievance filed by Brian McNevin other than to confirm the City Attorney's advice on calling for a vote.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS – ORGANIZATIONAL AND SALARY STRUCTURE (Section 551.074)

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE OF REAL PROPERTY (Section 551.072)

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 7:45 p.m. Upon the recommendation of the staff, Councilmember Sanford made a motion to grant raises consistent with increased responsibility of \$500 per month for Lonny Cluck and \$250 per month for Jim Stephens, plus Mr. Stephens' use of an existing city vehicle. Councilmember Wilson seconded, and all voted in favor.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS - None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 7:50 p.m. on a motion by Councilmember Sanford and second by Councilmember Pruitt.



William F. Hilliard, Mayor

ATTEST:



Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 6:00 P.M., THURSDAY, APRIL 15, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met jointly with the Planning & Zoning Commission at the above-named date and time in the City Hall Council Chambers. Members present were Mayor Hilliard, Tommy Roberts, Ron Sanford, and Raymond Pruitt. Rusty Wilson was absent.

Discussion and action were as follows:

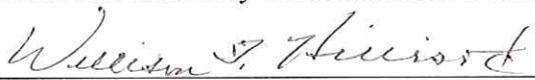
**CALL TO ORDER AND ANNOUNCE QUORUM** – Mayor Hilliard called the meeting to order at 6:00 p.m. and declared a quorum present

**WORKSHOP ON PROPOSED COMPREHENSIVE PLAN FOR CITY OF CANTON** – Dan Sefko presented the Citizen Advisory Committee's draft of the comprehensive plan. He reviewed the executive summary. In the baseline analysis he pointed out the county's growth rate was higher than the city's and that as water becomes harder to come by, the city needs to be in a better position to manage its growth. He reported there were 5.5 square miles in the city limits and 14,000 acres in the city limits and its ETJ, with only 19% developed. He reviewed the goals and objectives developed by the advisory committee and presented thoroughfare and land-use plans.

Following the presentation, the meeting was opened up for comments. Mayor Hilliard expressed his primary traffic concern was solving the problems on Highway 19 during First Monday weekends. Mr. Sefko reviewed the previously discussed options of building a bypass east of Highway 19 or building a double-decked highway, both of which would be expensive. He pointed out the long range solution was the loop. Councilmember Roberts stated he didn't see how a loop would relieve any First Monday traffic since there was little truck or through traffic during the few days. He added he could see how improvements to FM 859 and some other roadways, and the interchange from SH 243 to SH 64 and to IH 20 would be more effective than a loop. He indicated concerns about a loop taking traffic away from downtown. Dan Sefko noted the need for school access and a major thoroughfare on the west side of town. He said it would open up a growth opportunity, and that non-residential development around the loop could be limited and a tight land-use policy implemented so that it would not take away from downtown. David Miller suggested that between Highway 19, FM 859 and I-20, the city could find a way to fix the traffic problems by changing some temporarily to one-way during First Monday peak times. Don Hackney stated the southwest portion of the loop was proposed for ingress and egress to the school. Rick Malone added that 80% of CISD's students live south of SH 243. Dan Sefko reiterated that the loop was a long-term solution supporting growth. Charles Fenner stated that downtown was going to get better and the loop issue was 20 years down the road. He pointed out that New Braunfels had a loop and their downtown was booming, indicating it was a matter of controlled land-use around the loop. He said the proposed plan would allow the City to require future developers to designate right-of-ways in their proposals and site plans as the area is developed. He also pointed out the proposed SH 19 bypass was only 200 feet away from a major thoroughfare versus adding another thoroughfare further out that benefited growth. Mr. Sefko stated that if the City presented TxDOT with plans for the interchange from SH 64 to SH 243 as a phase of loop development, the City might get it developed sooner. Councilmember Roberts said the City would have to annex a lot of property in order to control development along a loop. Mr. Sefko explained the justification for an annexation plan was protecting the city's perimeters. He added the city was not trying to control growth, but to manage and define it. Elisa Heard recommended the City focus on the under-used FM 859 for a short-term solution to First Monday traffic problems. She added she didn't think the community would use a bypass but they would use FM 859, and she'd rather put monies toward helping both the community's and First Monday's traffic issues. Dan Sefko suggested widening FM 859 to four lanes. Chris Howard also suggested that First Monday development could be directed toward FM 859. Mr. Fenner informed those attending the City's next meeting with TxDOT was about adding a left turn lane on FM 859. Elisa Heard pointed out a SH 19 bypass would not help get people to First Monday. Councilmember Sanford added that the State had plans to widen FM 859 and the bridges were

ready. Mr. Sefko said if the plan were adopted it could be presented to TxDOT for inclusion in their regional planning. Don Hackney asked the thoroughfare plan be labeled "2030" to indicate it is a futuristic concept. Councilmember Roberts stated FM 859 was a good starting point, but he'd like to see SH 64 to IH-20 be made four lane to help eliminate some traffic on SH 19. Dan Sefko said that was consistent with their thoughts and FM 859 and SH 64 would be indicated as a priority on the plan. Charles Fenner stated he liked the trolley suggestion. Mr. Sefko said he knew where the City could purchase used trolleys from DART. Chris Howard said he liked the idea of a road on the west side to open up development and would like to see it as the top priority. Charles Huddle said he liked the plan. Lynn Etheridge agreed she liked the idea of having a loop in the plan. Don Hackney concurred and suggested it be left in. Mr. Sefko explained that one public hearing on the comprehensive plan was required by law, and he asked that it be scheduled for May 6<sup>th</sup>. Mayor Hilliard announced a consensus from the Council on presenting the plan with the recommended changes for public hearing and consideration on May 6<sup>th</sup>. The Planning & Zoning Commission concurred.

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 7:11 p.m. on a motion by Councilmember Sanford and second by Councilmember Pruitt.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 6:30 P.M., TUESDAY, APRIL 20, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Tommy Roberts, Raymond Pruitt and Rusty Wilson. Ron Sanford was absent. City Attorney Richard Davis was also present.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Jim Stephens.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

GUEST ITEMS – David Hammonds reported a planned street closing on the east side of the Courthouse for a Child Abuse Awareness Candlelight Ceremony on the evening of April 22nd.

Jim Fuller reported on the Free State Bluegrass Festival activities. He said they lacked 1200 passing out 15,000 promotional fans; the event was being promoted on K104 The Ranch; discount tickets for local people were being given by merchants in town; the newspaper was coming along with the ads for the brochure; 20,000 copies of the extra insert were being printed and would be mailed out; the bands were passing out fans; and he and others were attending events every weekend promoting the festival. He asked for help from everyone and noted how critical it was to get the locals to attend. He also stated they were already booking bands for 2005, but needed a headliner. He added that as soon as they were lined up, he wanted to print fans promoting next year's festival.

DISCUSS AND CONSIDER APPROVAL OF MINUTES MARCH 4 AND 16, 2004 MEETINGS OF THE CANTON CITY COUNCIL - The minutes of the March 4, and 16, 2004 meetings were approved on a motion by Councilmember Pruitt and second by Councilmember Roberts.

DISCUSS AND CONSIDER APPROVAL OF MARCH 2004 FINANCIAL STATEMENTS – The March 2004 Financial Statements were unanimously approved on a motion by Councilmember Wilson and second by Councilmember Pruitt.

UPDATE FROM CANTON CHAMBER OF COMMERCE – Rona Watson reported sixteen new members had joined the chamber since March 8<sup>th</sup>; they were updating the website; they installed new accounting software; they had consolidated all their accounts into one, simplifying their procedures; they were finding ways to do more fundraising, including the “MayFair on the Square” Health and Business Expo, a Christmas bazaar downtown, and publishing a chamber directory; they were hosting the next Business After Hours at Turner’s Organic Store; they were continuing with the mini open houses; they were trying to work on establishing a visitors bureau; they were looking into expanding their hours to Saturdays and Saturday/Sundays of First Monday weekends; and their lease was up in June and they were considering relocating, maybe to the Plaza Museum building.

DISCUSS AND CONSIDER REQUEST FROM CANTON CHAMBER OF COMMERCE FOR DOWNTOWN STREET CLOSINGS FOR “MAY FAIR ON THE SQUARE” BUSINESS AND HEALTH EXPO ON MAY 22, 2004 – Rona Watson presented the request for street closings, noting the expo would be open 10:00 a.m. to 4:00 p.m., the police department agreed to block the streets and control traffic, and 10% of the proceeds would be donated back to the Heart of Canton Main Street. Councilmember Pruitt made the motion to approve closing Buffalo Street between Tyler and SH 64, Tyler Street between Buffalo and Capitol, and Capitol Street between Tyler and SH 64, from 7:00 a.m. to 6:00 p.m. on Saturday May 22, 2004. Councilmember Roberts seconded, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FROM EAST TEXAS SHRINERS FOR AUTHORIZATION TO CONDUCT ON-STREET SOLICITATION FOR THE SHRINER’S HOSPITAL AT THE INTERSECTION OF BUFFALO AND DALLAS STREETS ON OCTOBER 1, 2 AND 3, 2004 – On a motion by Councilmember Pruitt and second by

Councilmember Roberts, the East Texas Shriners were authorized to collect funds for the Shriner's Hospital at the intersection of Buffalo and Dallas Streets on October 1, 2, and 3, 2004.

DISCUSS AND CONSIDER REQUEST FROM VAN ZANDT COUNTY HUMANE SOCIETY FOR AUTHORIZATION TO CONDUCT ON-STREET SOLICITATION AT THE INTERSECTION OF BUFFALO AND DALLAS STREETS DURING JUNE FIRST MONDAY TRADE DAYS – Joyce Adams informed the Council, the Van Zandt County Humane Society was comprised of volunteers and they depended on donations to fund and medicate animals they housed for adoption. Councilmember Wilson made the motion to approve Van Zandt County Humane Society's request to collect funds at the Dallas and Buffalo Street intersection during the June First Monday Trade Days. Councilmember Pruitt seconded, and all voted in favor.

DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION AS A PLANNED DEVELOPMENT DISTRICT OF ALL THAT LOT, TRACT, OR PARCEL OF LAND CONTAINING 40.1 ACRES SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON STATE HIGHWAY 19 NORTH – Charles Fenner presented the petition by applicant Steve Donosky with developers KD Financial, for annexation contingent upon zoning. He described the property's location off Highway 19 north, contiguous to the city limits on the north end of the municipal airport by the country club. Councilmember Roberts stated the property was outside the city limits with no access near the city limits, and it was located in the Edgewood School District. He said he didn't think it was a good idea to annex a development of this magnitude that would overburden the current water and sewer systems and would not benefit the city in any way. Upon Councilmember Wilson's questioning, Rick Malone said there was a 6" water line running 900' along the airport to which they could connect, and that the sewer line crossed under SH 19 to the west side where a manhole was located. He recommended a 6" or 8" water line could be brought up SH 19 to loop the development in, and that sewer was not as big an issue as water. Charles Fenner directed the Council's attention to the usage estimates, noting the property would be developed in phases and the city's plans for plant expansion. He said the bottom line was the city could manage the growth in the city limits but would have no control if it remained in the ETJ other than subdivision and building code enforcement to some extent. He added he felt it would benefit the city, and the city would not bear the cost to extend the lines. Mr. Donosky confirmed their development costs would include off-site connections to the city's water and sewer lines. Mr. Fenner noted the city would only incur a cost if we participated in enlarging the lines. Councilmember Roberts reiterated there was a lot of land between the city limits and the access point to this property, and he was apprehensive about a 40-acre development outside the city limits and CISD. Mr. Donosky pointed out their initial marketing was tied to retirees and golfers, not so much to families. Mr. Fenner informed the Council he was proposing the property be annexed as a Planned Development District. He explained the concept behind planned development districts as a flexible zoning district that started with 10,000 square foot lots (2-3 houses per acre), and depending on the amenities built into the community, could be reduced to no less than 4,000 square foot lots. Rick Malone explained the amenities granting them credits to lot size reduction were such things as adding a gated entry, covered porches on the floor plans, parks, a community center, extra landscaping, etc. Councilmember Roberts said as we expand we wouldn't have a problem, but at this point and time he didn't know if control was a good enough reason to annex. Mr. Fenner noted the subdivision in the ETJ would be regulated by our subdivision ordinance, but we would not have control over land use and that it would be

ten years before 150 homes were developed. Mr. Donosky confirmed that statement. Councilmember Pruitt stated he would like to postpone the discussion. Councilmember Wilson requested a formal presentation. Mr. Donosky explained this was a petition and that the state also required two public hearings. Mr. Fenner stated he was not sure about that, but he did know the petition could not be contingent upon zoning. He said the property would have to be annexed as an agricultural/rural district, then the city would try to zone it as a planned development district. Councilmember Roberts made the motion to deny the petition. His motion failed for lack of a second. Mr. Fenner said he would check into the possibility of re-petitioning after a failed motion to deny.

DISCUSS AND CONSIDER REQUEST FOR ZONING CHANGE OF ALL THAT LOT, TRACT, OR PARCEL OF LAND LOCATED AT 1020 WEST DALLAS, CANTON, TEXAS, OWNED BY ROBIN R. AND RORY RAGSDALE FROM LOCAL BUSINESS DISTRICT (B-1) TO GENERAL BUSINESS DISTRICT (B-2) – Upon a motion by Councilmember Pruitt and second by Councilmember Wilson, the Council unanimously approved Robin and Rory Ragsdale's request to rezone 1020 West Dallas from B-1 to B-2.

DISCUSS AND CONSIDER ADOPTION OF SUPPLEMENT TO CITY OF CANTON ZONING ORDINANCE CREATING A ZONING CLASSIFICATION TO BE KNOWN AS PLANNED DEVELOPMENT DISTRICT (PD) – Charles Fenner presented the proposed supplement noting the Planning & Zoning Commission reviewed it and recommended its approval. He explained the procedure for a standard density (10,000 square foot lot) and standard points for upgrades which would reduce the square footage per lot requirements (minimum 4,000 square foot lot). He said it would act as an incentive zoning program, giving options for quality development. He noted some of the options could be house elevations with porches, hiking trails, etc. and the process would go through the Planning & Zoning Commission with final approval by the Council. Mr. Fenner explained each planned development (PD) would be its own specific ordinance, supplemental to the zoning ordinance, and it would specify specific land uses within the property. He added the developer would submit a site plan and negotiations would begin from there. The minimum acreage to qualify for the PD is three acres for residential and two acres for mixed-use. Rick Malone explained mixed use as different variations of commercial, or residential mixed with retail and commercial, i.e. houses around a community center with a convenience store or cleaners within the development. Other possibilities included industrial/business parks, multi-family developments, or the staged retirement communities with patio homes, assisted living, and nursing home care. Mr. Malone noted the conceptual plan would be developed into a detailed plan that would require Planning & Zoning and City Council approval. Upon Councilmember Pruitt's request, Mayor Hilliard tabled the item for further consideration.

DISCUSS AND CONSIDER ADOPTION OF AMENDMENT TO CITY OF CANTON ZONING ORDINANCE PROVIDING FOR THE ISSUANCE OF A SPECIFIC USE PERMIT FOR BED AND BREAKFAST FACILITIES – Mr. Malone presented the amendment noting Bed & Breakfast was defined as the rental of three or more rooms and that the rental of rooms to two people was already permitted by right in residential and some commercial zones. Mayor Hilliard asked if the home on West Elm would be governed by the amendment. Mr. Malone replied that homes for the mentally handicapped were allowed in any zoning by state law. Councilmember Pruitt made the motion to adopt the proposed amendment to the Canton Zoning Ordinance

providing for the issuance of a specific use permit for Bed and Breakfast facilities. Councilmember Wilson seconded, and all voted in favor.

**DISCUSS AND CONSIDER APPROVAL OF AGREEMENT RETAINING RICHARD DAVIS AS CITY ATTORNEY** – Charles Fenner presented Richard Davis' proposal for services on a retainer basis. He added the agreement would be positive for the City given the current and future needs. The proposal offered up to ten hours legal consultation for a \$1,000 per month retainer, and anything over ten hours at \$125 per hour. Charles also recommended the City pay for his association fees and training through TML. Mr. Davis noted his hourly rate was \$200 and the city's legal fees were approximately \$2000 per month currently. The Council unanimously approved the agreement for retaining Richard Davis as City Attorney on a motion by Councilmember Wilson and second by Councilmember Roberts.

**DISCUSS AND CONSIDER APPROVAL OF AGREEMENT RETAINING GARY BURTON ENGINEERING AS CITY ENGINEERS** – Upon Mr. Fenner's request, Councilmember Pruitt made the motion to table discussion for further research. Councilmember Wilson seconded, and all voted in favor.

**DISCUSS AND CONSIDER BIDS FROM ELECTRIC SERVICE PROVIDERS** – Jay Ten Eyck, presented Direct Energy's 12-month and 24-month proposals, with the 24-month proposal resulting in an annual savings of \$69,000 over TXU's current rates. He noted the agreement included a price re-determination clause that allowed us to renegotiate if the price drops more than a specified level. He pointed out the benefit of locking in a flat rate versus TXU rates which could be raised as costs go up. He added that the PUC was considering a rate hike for TXU now. He also pointed out other benefits, such as offering community connections for employees or citizens which saves them money on their residential electricity; a gift certificate program that pays the city when residential customers sign on; summary billing combining all meters on one bill; around-the-clock customer service with Mr. Ten Eyck representing the city himself; a billing contact familiar with the City's account; representatives who will follow up with Oncor on requests and repair orders; and ongoing consultation support. He suggested the City undertake a master metering project and offered a referral to an experienced person. He finished by stating the city could feel confident in selecting the most financially-stable provider in Texas, having been in Texas since 1989 and being part of a world-wide company with over 23 billion customers. When asked, he said the power supply came from Canada, their office was in Las Calinas, and the main office for Texas was in Houston.

Army Curtis with Curtis & Clark Engineering also presented a proposal. He explained his Nacogdoches-based company searched for the best providers for specific clients. He indicated their detailed analysis showed Canton had 515 electric accounts, not counting street and guard lights, and that 61 accounts were large enough for them to offer competitive rates. He recommended the rest remain with TXU because their rates were favorable to small accounts. He estimated a \$50,000 annual savings on those 61 accounts based on a two-year contract with Cirro Energy. He said Cirro was Texas-based, headquartered in Plano with customer service out of Dallas. He added they offered competitive pricing and excellent customer service. Mr. Curtis confirmed for Councilmember Roberts that his company acted as a broker for service providers.

Charles Fenner said he was in favor of switching if the City could save that much money. He said it worried him that people were always switching then returning to their original provider and he worried about the contract because there were no guaranteed savings. He said he would feel more comfortable if we could be released after two billing cycles. Councilmember Wilson asked about the per kilowatt rate with Cirro. Mr. Curtis said it was 6.0. Direct Energy said it varied. Mr. Curtis said the price to beat from TXU was not a fixed price, varying from 9 cents to 20 cents based on the amount of accounts. Councilmember Wilson suggested we look at a year's worth of history. Mr. Fenner said he could run the figures. He also noted we had accounts that needed to be reviewed. Councilmember Wilson made the motion to take the proposals under advisement. Councilmember Pruitt seconded, and all voted in favor.

BUDGET REVIEW – Tabled in Mr. Mallory's absence.

DISCUSS AND CONSIDER APPOINTMENT OF ADDITIONAL PARK BOARD MEMBERS AND UPDATE ON PARK PLANNING PROGRAM – Mr. Fenner reported consultants were planning to do an intensive three-day study on the 80 acre site for park planning purposes during which they would do a site survey and conduct meetings with different stakeholders—the Main Street Parks Board, a citizens advisory committee, a staff committee and the CEDC. After which, they would present a park plan with an executive summary and maps. He then nominated Ron Fields, Jerry Jones, Chris Howard, Summer Smith, Jade Webster, Kevin Diebert, Julie Chastain, Johnny Blevins, Sally Hale, Wendy Matthews, Cindy Malouf, Kris Lyda and Camille Landry for the citizens advisory committee. Councilmember Pruitt made the motion to appoint those nominated. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER REPORT ON FIRST MONDAY PARK BATHROOMS – Charles Fenner presented estimates from Vinson & Elkins for two new restrooms on the First Monday grounds. He said one proposed site was at the west gate entrance where the port-o-potties were situated across from the log cabin, and another was in the middle of the grounds. Councilmember Wilson asked why the retaining wall was necessary on one restroom. Mr. Fenner replied it was required because that restroom was situated in the flood plain. He said the retaining wall would cost \$40,000 and he felt the city needed to consider other avenues rather than place a restroom in that location. Lonny Cluck added that it would have to be elevated four feet and an 80-foot ramp for wheelchairs would have to be constructed to meet the new codes. Councilmember Roberts asked about different locations. Mr. Cluck said he looked at several other sites, but anything closer to the civic center would be near already existing restrooms, and anything closer to Row 94 would not be out of the flood plain. Councilmember Pruitt suggested proceeding with the restroom near the log cabin and putting the other one on hold for 60 to 90 days. Mayor Hilliard asked if the city needed more shower facilities. Councilmember Pruitt replied it did not since there were showers one hundred yards from that site, plus more in the blue bathrooms. Mr. Cluck indicated the proposed restroom provided equal facilities for men and women. He said the second proposed bathroom was 75% women's. Councilmember Wilson asked if the port-o-potties in the middle of Row 94 would be removed if the city built the second restroom. Councilmember Pruitt noted port-o-potty expenses were running about \$1,900 per month. He then made the motion to start on the proposed bathroom by the log cabin. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER SOLUTIONS FOR COMMUNICATING FIRST MONDAY DAYS OF OPERATION – Charles Fenner reported that a visitor from Oklahoma came to First Monday on Sunday night, stayed in a hotel and missed the sale. She was upset because the name was misleading and wanted to be reimbursed for her hotel expenses. Mr. Fenner said the city should focus on First Monday days of operation in all its communications. The Councilmembers discussed current pamphlets, calendars, brochures and the web site. It was determined that great lengths were taken to explain the namesake and days of operation; therefore no action need be taken.

DISCUSS AND CONSIDER ELM AND BUFFALO ROAD AND DRAINAGE DITCH – Mr. Fenner reviewed the Street Committee's original plan to overlay Elm at a cost of \$8,000 and the Council's decision to participate with TxDOT on the installation of a concrete drainage ditch at Elm and Buffalo at a cost of \$4,000. He noted that concerns were then raised about aesthetics and drainage, which resulted in Gary Burton Engineering's design for an underground drainage project with an overlaid street with curbs added on the north side. He pointed out the cost of that project (\$36,000-\$37,000) was \$25,000 more than the original plans. Mr. Fenner then asked the Council for direction on the project and to designate its funding. He offered one alternative was to use funds from the old capital street improvements bond. It was determined the street would stay in line with the curb started off Highway 19 and would widen the west end by 2-3 feet. Councilmember Pruitt made the motion to find the funds and proceed with the project designed by Gary Burton Engineering. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER REVENUE FROM SENIOR CITIZENS PARKING LOT – Charles Fenner informed the Council he would feel more comfortable if the City took over the parking lot until a new fire chief was hired. He stipulated it would not be a permanent situation and was not an effort to control, but more a matter of timing. He noted he had narrowed the search for a fire chief to one applicant. He also confirmed all current obligations would be paid from the revenue, that it was not an issue of taking the revenue, only an issue of accounting and legalities. Councilmember Roberts made the motion to accept Mr. Fenner's recommendation for the City to operate the Senior Citizens Parking Lot until the situation was resolved with the Fire Department and the Association. Councilmember Pruitt seconded, and all voted in favor. Upon asking what the Association needed to do for the next First Monday, Craig Brown was asked to talk it over with Mr. Fenner.

DISCUSS AND CONSIDER APPROVAL OF CONTRACT WITH ATLAS ENTERPRISES, INC. FOR JULY 4<sup>TH</sup> FIREWORKS DISPLAY – Councilmember Roberts made the motion to approve the contract with Atlas Enterprises and Councilmember Wilson seconded. Julie Jackson raised the question of whether they were approving the \$10,000 or \$12,500 contract. Councilmembers Roberts and Wilson withdrew their motions. Councilmember Wilson made the motion to approve the \$12,500 contract with Atlas Enterprises. Councilmember Pruitt asked about American National Bank's sponsorship, which was determined to be \$500 the previous year. He then stated he would support the increased contract if the city received more participation from sponsors. Charles Fenner said he would work toward that end. Councilmember Wilson amended his motion to approve the \$12,500 contract provided the City received more donations. Councilmember Pruitt seconded, and all voted in favor. Mr. Fenner said he would also negotiate a rainout day.

DISCUSS AND CONSIDER PROCLAMATION NAMING APRIL 18 – 24, 2004 AS NATIONAL VOLUNTEER WEEK – The Council proclaimed April 18-24, 2004 as National Volunteer Week upon a motion by Councilmember Wilson and second by Councilmember Pruitt.

DISCUSS AND CONSIDER RESOLUTION APPOINTING AUTUMN HOLLINGSWORTH AS DEPUTY CITY SECRETARY – The resolution appointing Autumn Hollingsworth a Deputy City Secretary qualifying her to act as an election clerk was adopted on a motion by Councilmember Roberts and second by Councilmember Wilson.

DISCUSS AND CONSIDER RESOLUTION AUTHORIZING AND APPROVING A \$20,000 LOAN FROM AMERICAN NATIONAL BANK FOR ADDITIONAL CONSTRUCTION ON TRADE CENTER IV – A resolution authorizing and approving a \$20,000 loan from American National Bank for the electrical changes to Trade Center IV was unanimously adopted on a motion by Councilmember Pruitt and second by Councilmember Roberts.

DISCUSS AND CONSIDER RESOLUTION AUTHORIZING ENROLLMENT FOR CASH MANAGEMENT SERVICES WITH AMERICAN NATIONAL BANK – Julie Jackson explained the cash management services offered by American National Bank. She noted the ability to monitor account transactions on-line would better enable the City to more tightly manage its funds. She added the system also offered the ability to make on-line wire transfers with built-in security measures. Councilmember Roberts made the motion to approve the resolution authorizing enrollment in cash management services with American National Bank. Councilmember Wilson seconded, and all voted in favor.

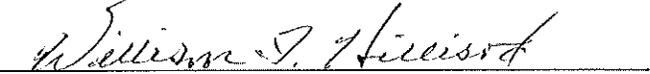
EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – The Council closed the open session at 8:09 p.m. and convened in closed session at 8:13 p.m. to discuss the potential purchase of real property. The item regarding personnel matters was omitted.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE OF REAL PROPERTY (Section 551.072)

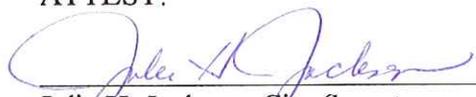
RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 8:45 p.m. with no action taken.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS – Charles Fenner distributed application forms for volunteers interested in volunteering for City boards and commissions and explained their intended use and the City’s plan to advertise for volunteers. He informed the Council that appointments would be on the next regular meeting agenda.

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 8:46 p.m. on a motion by Councilmember Pruitt and second by Councilmember Wilson.

  
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William F. Hilliard, Mayor

ATTEST:

  
Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
5:30 P.M., THURSDAY, MAY 6, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met for a called meeting at the above-named date and time in the City Hall Council Chambers. Members present were Mayor Hilliard, Tommy Roberts, Ron Sanford, Raymond Pruitt and Rusty Wilson.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** – Mayor Hilliard called the meeting to order at 5:30 p.m. and declared a quorum present.

**PUBLIC HEARING AND DISCUSS AND CONSIDER REQUEST FOR ZONING CHANGE OF 0.52 ACRE TRACT ON ETHERIDGE LANE OWNED BY WANDA ETHERIDGE FROM RURAL AGRICULTURE (RA) TO SINGLE FAMILY DETACHED RESIDENTIAL (R-1)** – A public hearing was opened at 5:30 p.m. and closed at 5:31 p.m. hearing no comments. Upon the Planning & Zoning Commission's recommendation, Councilmember Sanford moved to approve the zoning change of a 0.52 acre tract on Etheridge Lane owned by Wanda Etheridge from RA to R-1. Councilmember Roberts seconded, and all voted in favor.

**PUBLIC HEARING AND DISCUSS AND CONSIDER REQUEST FOR A SPECIFIC USE PERMIT FOR A BED AND BREAKFAST FACILITY AT 510 SOUTH BUFFALO OWNED BY DR. J. MICHAEL HACKNEY** – Mayor Hilliard opened the public hearing at 5:31 p.m. Hearing no comments from the public, it was then closed. Upon the Planning & Zoning Commission's recommendation, Councilmember Wilson approved Dr. J. Michael Hackney's request for a Specific Use Permit for a Bed & Breakfast Facility at 510 South Buffalo. Councilmember Pruitt seconded, and all voted in favor.

**PUBLIC HEARING AND DISCUSS AND CONSIDER ADOPTION OF AMENDMENT TO CITY OF CANTON ZONING ORDINANCE LIMITING DISPLAY, SALE AND STORAGE OF OUTDOOR MERCHANDISE** – Rick Malone proposed an amendment to the zoning ordinance limiting outdoor displays inside the city limits. He noted he had received numerous complaints. Mr. Fenner added that screening would be required for open storage and permanent outdoor displays. He also read the list of exceptions allowed by the ordinance, such Christmas tree sales, nurseries, building supplies, etc. He said some type of ordinance needed to be in place before new businesses came in wanting to display outside. When asked about Sears, Mr. Malone said a 10% display out front during normal business hours was allowed. Mayor Hilliard stated he felt the City was meddling. When asked about Tractor Supply, Mr. Malone said farm equipment

was allowed, as well as seasonal merchandise, landscaping and lawnmowers. He added that First Monday zoned properties and car lots were exempt. Councilmember Roberts noted the purpose was to put it out to sell. Mr. Fenner recommended the amendment, stating he felt it was a way to clean up permanent business being conducted outside. When asked about the Dish Barn, he said anything other than an incidental display out front would not be allowed. He said it would restrict the placement of more business in the parking lots. Councilmember Wilson asked if Ace Hardware was considered fenced. Mr. Malone said the fencing did not meet the ordinance's screening requirements, but that Ace met the ordinance since lumber and building materials were excluded. He said the ironworks business on Highway 19 North would have to bring their merchandise in at night. From the audience, Wade Whitaker made the statement that he didn't think there would be many businesses that would object to screening and that garage sales had to get a permit anyway. Mr. Malone pointed out the ordinance was for B-1, B-2, and G-I zoned properties only. Mr. Whitaker said he had received a number of comments about the appearance of buildings and many business owners had spent a lot of money making their properties look nice. He noted the first impression people see is Highways 19 and 64. He suggested the Council table the item for further clarification and noted he didn't think they would receive much opposition. Rick Malone said he spent considerable time drafting the ordinance in order to find a compromise. He added that most cities had such an ordinance and many stipulated no outdoor displays. He said he drafted a mixture and added limitations to try to fit Canton's needs. Councilmember Wilson asked how many properties would be affected. Councilmember Sanford said he thought Canton needed the ordinance, but he was not ready to vote on it. The item was then tabled until Mr. Malone could prepare a list of properties affected.

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 5:47 p.m. on a motion by Councilmember Sanford and second by Councilmember Wilson.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 6:00 P.M., THURSDAY, MAY 6, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met jointly with the Planning & Zoning Commission at the above-named date and time in the City Hall Council Chambers. Members present were Mayor Hilliard, Tommy Roberts, Ron Sanford, Raymond Pruitt and Rusty Wilson. Also in attendance were Planning & Zoning Commission members Elisa Heard and Charles Huddle.

Discussion and action were as follows:

CALL TO ORDER AND ANNOUNCE QUORUM – Mayor Hilliard called the meeting to order at 6:00 p.m. and declared a quorum present

PUBLIC HEARING ON PROPOSED COMPREHENSIVE PLAN FOR CITY OF CANTON – Consultant Dan Sefko explained a steering committee held several workshops on the development of the proposed plan, and that its purpose was to aid the City in realizing common community goals and objectives. He stated it was oriented to the future and long-range planning, and was goal directed and intended to link a means to an end. He also noted it was a continuous process and suggested it be reviewed annually by the Planning & Zoning Commission for recommendations to the City Council. He pointed out it was not a zoning ordinance, but was to be used as a guide to help the City deal with development decisions.

Mr. Sefko then reviewed the baseline analysis, stating Canton had experienced a moderate, steady population change; the largest population group (25.9%) was 65+ years old; the population had become more diversified and had high educational attainment; the medium income levels had risen, all groups over \$25,000 per year had increased; the City and its ETJ contained 14,000 acres of which 74%-75% was undeveloped representing an opportunity to guide growth; and the city limits contained 5.6 square miles. He then pointed out the plan's thirteen goals and ninety-five objectives before reviewing the proposed thoroughfare plan. He said it contained a functional classification system; outlined existing routes and new roadways associated with access; contained a conceptualized loop that was not engineering aligned; and addressed circulation around the high school and other collector streets and arteries. Mr. Sefko stated the plan established standardized road sizes, rights-of-way and designs. He added the loop plan was proposed in phases, beginning with a 2.9 mile section between SH 64 and SH 243 paralleling SH 19, ending on the west side of the high school, with Phase II connecting from SH 243 to SH 19 south. He said even though the loop may not even be considered before 2030, it needed to be conceptualized and prioritized. He suggested FM 859 be widened to become a main access to First Monday. He also included FM 2130, FM 2106 and Dealers Row in his suggestions to improve circulation around First Monday, as well as shuttle routes.

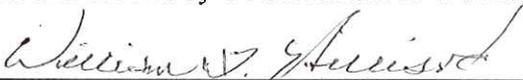
Mr. Sefko then turned to the land-use plan which assumes a 2.5% average annual compound growth rate. He pointed out the proposed mixed-use district on IH 20 was comprised of retail, office and some commercial uses. He recommended increasing guidelines to improve appearances, making single family residential the largest percent of land use, incorporating nonresidential design standards, permitting less intense uses in zoning districts, communicating to visitors through a unified sign system, establishing an integrated, continuous necklace of trails and pathways, and reviewing the plan on a regular basis and continuing to use community involvement. He urged the City to make sure infrastructure decisions were tied to the plan. He said the plan identifies the best development opportunities were to the west and south, and capital improvements should be planned accordingly and implemented a little each year. He suggested the subdivision ordinance be revised to accommodate roadways and wider right-of-ways, and the zoning ordinance should be amended to add the mixed-use district, a low-density residential zoning district with a minimum of 20,000 square foot or one acre lots, and separate residential districts allowing for zero lot line properties for patio homes and multiple family properties.

Mayor Hilliard then opened the Public Hearing at 6:25 p.m. When asked by Wade Whitaker, Mr. Sefko's assistant Daniel Harrison clarified parks was 1.5% of the total land use. Dale Stone asked

about the reasons for the recommended development areas. Mr. Sefko explained the west offered great potential for residential development because water and sewer draws from that direction and it is inside a ridgeline. He said on the northeast side, it would have to be pumped uphill to the sewer treatment plant. He suggested engineers could better help evaluate exact areas for potential growth and infrastructure development. George Pitts asked about the proposed road from SH 64 to SH 243. Mr. Sefko explained the only route on the west side of town was Holland Road which was quite far out. He noted the proposed area was conceptual and connected the west side residents to the school. He said by proposing a loop, TxDOT might participate in the road development. If not, the city would have to do the proposed road on its own. Ken Wilson voiced concerns about the possible use of Holland road, noting it was a county road and was not in good condition. Mr. Sefko noted that all roads would eventually carry more traffic and the county also needed to look at thoroughfare planning. Charles Fenner reported the Council had started on some of the proposed suggestions by considering a planned development district zoning and limiting outdoor displays. Mr. Sefko said the plan allowed the City to be proactive so that as development came in, the ordinances and plans would be in place and they would have to conform to the plans, including preserving right-of-ways for the proposed roads in the ETJ. George Pitts asked if the property owner in the ETJ had to be amenable to be annexed. Mr. Sefko said most cities annexed on a consensual basis, but it could be done by forced annexation if water and sewer were provided to the property. Hearing no further comments, the Public Hearing was closed at 6:44 p.m.

DISCUSS AND CONSIDER ADOPTION OF COMPREHENSIVE PLAN FOR CITY OF CANTON – Councilmember Sanford moved to adopt the proposed comprehensive plan for the City of Canton. Councilmember Wilson seconded, and all voted in favor. For the record, Councilmember Roberts stated he was not opposed to the loop, he just felt the city needed to do other projects first. Charles Fenner said the thoroughfare plan also allowed for developers of large tracts of land to be required to pay their share of the roadways and to meet minimum requirements. Mayor Hilliard stated the City had a new city manager, the people had a voice, and the plan would allow Canton to handle growth in the right way.

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 6:49 p.m. on a motion by Councilmember Pruitt and second by Councilmember Wilson.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 6:30 P.M., TUESDAY, MAY 18, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Tommy Roberts, Ron Sanford, Raymond Pruitt and Rusty Wilson. Also attending was city attorney Richard Davis.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Jim Stephens.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

**GUEST ITEMS** – Jim Fuller reported on the Free State Bluegrass Festival activities, including that all was on course with a good crew of volunteers, all bands were anxious, the Canton Herald insert was ready for insertion on June 17<sup>th</sup>, he was fielding 27 calls a week and he expected a good crowd. He asked for assistance and stated all help was welcome, especially from the City staff and councilmembers at the Wednesday night fish fry.

**DISCUSS AND CONSIDER APPROVAL OF MINUTES APRIL 15 AND 20, 2004 MEETINGS OF THE CANTON CITY COUNCIL** - The minutes of the April 15 and 20, 2004 meetings were approved on a motion by Councilmember Pruitt and second by Councilmember Sanford.

**DISCUSS AND CONSIDER APPROVAL OF APRIL 2004 FINANCIAL STATEMENTS** – The April 2004 Financial Statements were unanimously approved on a motion by Councilmember Sanford and second by Councilmember Wilson.

**UPDATE FROM CANTON CHAMBER OF COMMERCE** – Rona Watson reported the chamber expected a near sellout on booth spaces for the Mayfair on the Square, they had installed the banner over Dallas Street, ads were placed in the newspaper, a front page article appeared in the Canton Herald, KVCJ was promoting the event, and 20 ads on KMOO had been donated by Canton Equine Outlet. She further reported they had logged incoming calls and found 70%-75% (185 per day) of the calls were First Monday related, which increased the week prior to First Monday. She also noted 1138 people (165 average per day) had visited the chamber web site since the counter was installed six days prior, and their office mailed 50-75 brochures and information per week to people who did not have internet access. Ms. Watson reported their Business After Hours program, started two months prior, was being hosted next by merchants from "The Mountain" June 3<sup>rd</sup>, and the chamber's next networking luncheon would feature Mr. and Mrs. Don Plemmons from the Van Zandt County Historical Commission at noon on Thursday. Mayor Hilliard asked if a footnote could be added to the web site explaining First Monday did not last through Monday. Ms. Watson agreed and noted they try to explain that to all who call or come by.

DISCUSS AND CONSIDER APPROVAL OF RESOLUTION AUTHORIZING DOWNTOWN STREET CLOSURES FOR "MAY FAIR ON THE SQUARE" BUSINESS AND HEALTH EXPO ON MAY 22, 2004 – The following resolution was unanimously approved on a motion by Councilmember Pruitt and second by Councilmember Sanford:

**RESOLUTION \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, AUTHORIZING CLOSURE OF A PORTION OF STATE HIGHWAY 198 FOR "MAYFAIR ON THE SQUARE" ACTIVITIES IN THE CITY OF CANTON, TEXAS**

**WHEREAS**, the Canton Chamber of Commerce's first annual "MayFair on the Square Health and Business Expo" is expected to contribute to the economic welfare of the City by promoting local businesses to area citizens, and by drawing more traffic to the downtown merchants; and

**WHEREAS**, vendors will host booths along the streets downtown; and

**WHEREAS**, the Chamber desires to have a portion of State Highway 198, as well as Tyler and Capitol Streets closed on May 22, 2004 from 7:00 a.m. to 6:00 p.m. for this event; and

**WHEREAS**, the City deems it in the best interest of the City of Canton to support these activities and has approved the requested street closings at its regular meeting on April 20, 2004; and

**WHEREAS**, in order to close the state highway, the Texas Department of Transportation requires the City to apply for closure with a supporting resolution;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS,**

**Section 1.** That the City Council requests approval from the Texas Department of Transportation to close to through traffic that portion of State Highway 198 from Tyler Street to State Highway 64.

**Section 2.** That proper barricades be located as needed to reroute traffic around the area to be blocked off.

**Section 3.** That the City Manager be, and is hereby authorized and directed to execute any and all documents required by the Texas Department of Transportation to effectuate this resolution.

**PASSED, ADOPTED AND APPROVED THIS THE 18th DAY OF MAY 2004.**

DISCUSS AND CONSIDER REQUEST FROM SHERRY SHOBE AND KARISSA RODGERS FOR AUTHORIZATION TO CONDUCT ON-STREET SOLICITATION FOR CYSTIC FIBROSIS FOUNDATION AT THE INTERSECTION OF BUFFALO AND DALLAS STREETS OCTOBER 29, 30 AND 31, 2004 – Councilmember Pruitt made the motion to authorize Sherry Shobe's request to collect funds for Cystic Fibrosis at the intersection of Buffalo and Dallas Streets on October 29, 30 and 31<sup>st</sup>. Councilmember Wilson seconded, and all voted in favor.

PUBLIC HEARING AND DISCUSS AND CONSIDER REQUEST FOR ZONING CHANGE OF ALL THAT LOT, TRACT, OR PARCEL OF LAND LOCATED AT 630 WEST STATE HIGHWAY 243, CANTON, TEXAS, OWNED BY HENRY LEWIS FROM SINGLE FAMILY RESIDENTIAL DISTRICT (R-1) TO GENERAL BUSINESS DISTRICT (B-2) – Mayor Hilliard opened the public hearing at 6:44 p.m. After a brief description of the property on which

Backwoods BBQ was situated and hearing no other comments, the public hearing closed at 6:45 p.m. Councilmember Sanford made the motion to approve a zoning change for 630 West SH 243 owned by Henry Lewis from R-1 to B-2. Councilmember Wilson seconded and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF SUPPLEMENT TO CITY OF CANTON ZONING ORDINANCE CREATING A ZONING CLASSIFICATION TO BE KNOWN AS PLANNED DEVELOPMENT DISTRICT (PD)- Mayor Hilliard tabled the item to a future agenda.

DISCUSS AND CONSIDER ADOPTION OF AMENDMENT TO SIGN ORDINANCE 97-03 ESTABLISHING A PERMITTING PROCESS FOR OFF-PREMISE SIGNS ADVERTISING PUBLIC EVENTS AND LIMITING ON-PREMISE BANNERS TO THIRTY DAYS – Upon Charles Fenner's recommendation, Councilmember Sanford made a motion to adopt an amendment to the Sign Ordinance 97-03 establishing a permitting process and guidelines for off-premise signs that advertise public events, and limiting on-premise banners to thirty days. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTING PARK PLAN FOR 80 ACRES ON CHERRY CREEK – Charles Fenner presented an executive summary for the 80-acre Park plan. He explained that four groups of meetings and a final public meeting were held as part of a three-day process in the plan development. He noted he was working on a trails grant application for a \$68,000 grant with a 20% (\$16,000) match which needed to be submitted by June 1<sup>st</sup>. Councilmember Pruitt made the motion to adopt the park plan for the 80-acre site. Councilmember Sanford seconded and asked the media to assist with publicity on the project since the public had been asking for it, volunteers were needed, and it would require a community-wide cooperative effort. All voted in favor of the plan.

DISCUSS AND CONSIDER ALL MATTERS PERTAINING TO WATER PLANT AND WASTEWATER PLANT EXPANSION PROJECTS – Lonny Cluck reviewed the project's history, noting the council had authorized Wisenbaker, Fix & Associates to secure a permit for a \$1 million wastewater plant expansion project, but after \$49,500 in engineering fees, they returned with a proposal for a \$1.912 million project. He suggested the City subcontract the job itself to save money since the city's budget was \$1 million and it was committed to meeting the permit requirements. He said an engineer would still need to sign off on the plan and could be hired on a job by job basis for each phase. Councilmember Roberts asked if the City would save much since it would still need engineers. Mr. Fenner answered he believed the city could save \$900,000 by doing it themselves, noting \$230,000 was built in for contingencies and \$110,000 for engineering fees. Mayor Hilliard asked if the City had a legal right to dissolve the agreement with Wisenbaker, Fix. Councilmember Wilson also asked if it would save on the water plant project. Mr. Fenner answered that the new storage tank was complete and the City needed to get bids on refurbishing the other one or contract with a project engineer. Lonny Cluck noted the water plant projects would take all of the water plant's \$1 million budget. When asked by the Mayor, he said the engineers contributed the increased project cost to an increase in materials costs. Councilmember Pruitt made the motion to authorize the city staff to contract out the wastewater plant expansion project according to procedures recommended by Charles Fenner and the staff.

Councilmember Sanford seconded. Charles Fenner stated the City would maintain the parameters of the permit. All voted in favor.

**DISCUSS AND CONSIDER APPROVAL OF AGREEMENT RETAINING GARY BURTON ENGINEERING AS CITY ENGINEERS** – Charles Fenner presented Gary Burton's proposal for retaining Gary Burton Engineering as city engineers. He noted they had helped the City review plats and a lot of assistance would be needed in the future at the staff level, including reviewing subdivision plats, assessing water and wastewater projects and off-site improvements, updating key maps, plus special services. He stated Burton Engineering was experienced and capable and had assisted the City in the recent past, some for free. He said the local government code allowed cities to negotiate services rather than bidding them out. Mr. Burton agreed to provide 10 hours per month for \$750. Mr. Fenner said he anticipated they would visit the office up to three times per month and attend council meetings when needed. He added the city would not necessarily be tied to Burton Engineering for projects. Councilmember Sanford made the motion to retain Gary Burton Engineering at a cost of \$750 per month for services described in the scope of services proposal. Councilmember Wilson asked about the size of the company. Ray Brumley with Burton Engineering told him they were a small company located in Tyler, but they were capable of handling large and small projects. He added that he lived in the Canton area and was readily available. Councilmember Roberts said he felt they could handle the projects. Charles Fenner stated they were finishing a major plant expansion for Marshall and were capable of doing what the City needed. Richard Davis confirmed the city did not have to go out for bids. Councilmember Roberts seconded Councilmember Sanford's motion, and all voted in favor.

**DISCUSS AND CONSIDER APPOINTMENTS TO A PARKS BOARD** – Charles Fenner reported he was trying to encourage public participation in the parks projects and needed a strong Parks Board made of 7-10 members. Councilmember Pruitt made the motion to appoint Kevin Bradway, Summer Smith, Ron Fields and Clay Niklaus to the Parks Board. Councilmember Sanford seconded. Mr. Fenner said he would like to add another 3 members to the Board and would propose additional names as applications were received. All voted in favor of the Parks Board appointments.

**DISCUSS AND CONSIDER APPOINTMENTS TO PLANNING & ZONING COMMISSION** – Councilmember Sanford made a motion to reappoint Lynn Etheridge and Scott Brooks to the Planning & Zoning Commission. Councilmember Wilson seconded, and all voted in favor.

**DISCUSS AND CONSIDER APPOINTMENTS TO THE BOARD OF ADJUSTMENT** – Councilmember Wilson made the motion to reappoint Alton Smith and Shane Starnes to the Board of Adjustment. Councilmember Sanford seconded, and all voted in favor.

**DISCUSS AND CONSIDER APPOINTMENT TO BOARD OF DIRECTORS OF ECONOMIC DEVELOPMENT CORPORATION** – Councilmember Pruitt made a motion to appoint Billy Jack Peace to fill the vacancy on the Board of Directors of the Economic Development Corporation. Councilmember Wilson seconded. Charles Fenner asked that all appointees and applicants fill out an application. Councilmember Pruitt asked him to take one to Mr. Peace. All voted in favor of the appointment.

DISCUSS AND CONSIDER NEW RESTROOM FOR FIRST MONDAY PARK - Councilmember Sanford said it was important to move ahead on building a second restroom and site problems needed to be resolved. Mr. Fenner said he had reservations about the four-foot retaining wall and the estimated cost of the project in that location was \$170,000. Councilmember Roberts asked if there were any place with a better elevation to which it could be moved. Councilmember Sanford pointed out the location of other restrooms and stated if it was moved it still wouldn't be where the City needed it. It was agreed the City should proceed on the first restroom and work on finding the funds for a second one.

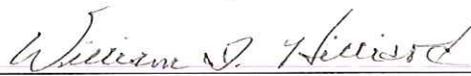
EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – The Council recessed at 7:12 p.m. before convening in closed at 7:17 p.m. to discuss personnel matters and the potential purchase of real property.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE OF REAL PROPERTY (Section 551.072)

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 7:41. Councilmember Wilson made the motion that in Johnny Mallory's absence due to his illness, all duties would fall to Charles Fenner. Councilmember Sanford seconded, and all voted in favor.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS – Charles Fenner reported he was working on a better process for development of city council agendas, including asking the staff to turn in items and reports a week earlier and the council members to let the staff know of any special items one week before packets were distributed. Mr. Fenner also stated he would like to hold a workshop to review building and zoning ordinances and another one for budget preparation. Councilmember Sanford added another workshop was needed for First Monday.

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 7:44 p.m. on a motion by Councilmember Pruitt and second by Councilmember Sanford.

  
 \_\_\_\_\_  
 William F. Hilliard, Mayor

ATTEST:

  
 \_\_\_\_\_  
 Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 12:00 P.M., TUESDAY, MAY 25, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard and Councilmembers Tommy Roberts, Ron Sanford and Rusty Wilson. Councilmember Raymond Pruitt was absent.

Discussion and action were as follows:

**CALL MEETING TO ORDER - Mayor Hilliard called the meeting to order at 12:00 p.m. and announced a quorum was present.**

**CANVASS MAY 15, 2004 GENERAL AND SPECIAL ELECTIONS RETURNS -** The Council canvassed the election returns for the May 15, 2004 general election of three councilmembers and special election to fill a vacancy for a one-year term as follows:

**GENERAL ELECTION FOR THREE COUNCILMEMBERS**

<u>CANDIDATE</u>	<u>OFFICE</u>	<u># OF VOTES</u>
J.L. McCann	Councilmember	108
Rusty Wilson	Councilmember	165
Chris Howard	Councilmember	105
Raymond Pruitt	Councilmember	185
Scott Brooks	Councilmember	83
Ross Maris	Councilmember	211
Brian R. McNevin	Councilmember	114

**SPECIAL ELECTION FOR COUNCILMEMBER-ONE YEAR TERM**

<u>CANDIDATE</u>	<u>OFFICE</u>	<u># OF VOTES</u>
Charles E. Lide	Councilmember	63
Robert Brockman	Councilmember	249
TOTAL NUMBER OF VOTES CAST:		388

Councilmember Sanford made a motion to accept the above returns as presented by the Election Judge. Councilmember Wilson seconded the motion and all voted in favor.

ADJOURN - There being no further items for discussion, the meeting adjourned at 12:03 p.m. on a motion by Councilmember Wilson and second by Councilmember Roberts.

\_\_\_\_\_  
William F. Hilliard, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
6:30 P.M., TUESDAY, JUNE 15, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Ron Sanford, and Raymond Pruitt. Councilmember Rusty Wilson was absent. Also attending were former Councilmember Tommy Roberts and City Attorney Richard Davis.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Jim Stephens.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

**PRESENTATION TO TOMMY ROBERTS FOR SERVICE ON THE CITY COUNCIL** - Mayor Hilliard presented Tommy Roberts with a service plaque thanking him for serving two terms on the City Council well. He said he had a wealth of knowledge, would be missed, and hoped he would remain involved. Tommy Roberts accepted the plaque and stated it had been a privilege and he enjoyed serving on the council and working with everyone.

**OATH OF OFFICE ADMINISTERED TO ELECTED COUNCIL MEMBERS** - Judge Lilia Durham administered the oath of office to newly-elected Councilmembers Ross Maris, Robert Brockman, and Raymond Pruitt.

**APPOINTMENT OF MAYOR PRO TEM BY CITY COUNCIL** - Raymond Pruitt was unanimously appointed Mayor Pro Tem upon motion by Councilmember Sanford and second by Councilmember Brockman.

**GUEST ITEMS** - Jim Fuller reported being on target with preparations for the Free State Bluegrass Festival June 23-26. He asked all to attend and lend a hand, especially during the Wednesday afternoon fish fry.

**DISCUSS AND CONSIDER APPROVAL OF MINUTES FROM MAY 6, 18 AND 25, 2004 MEETINGS OF THE CANTON CITY COUNCIL** - The minutes of the May 6, 18 and 25, 2004 meetings were approved on a motion by Councilmember Sanford and second by Councilmember Pruitt.

DISCUSS AND CONSIDER APPROVAL OF MAY 2004 FINANCIAL STATEMENTS – The May 2004 Financial Statements were unanimously approved on a motion by Councilmember Sanford and second by Councilmember Brockman.

DISCUSS AND CONSIDER AUTHORIZATION AND ADOPTION OF SUPPORTING RESOLUTION FOR DOWNTOWN STREET CLOSURES FOR JULY 3<sup>RD</sup> INDEPENDENCE DAY FESTIVAL AND PARADE – To accommodate a scheduling conflict, Mayor Hilliard called item thirteen early in the agenda. On behalf of the Heart of Canton Main Street organization, Vince Leibowitz asked for street closings for the Independence Day celebration parade, ceremony and festival downtown scheduled for July 3<sup>rd</sup>. After determining the patrons of the Canton Square Bed & Breakfast were cooperative last year, emergency personnel had been consulted, and the street closings would not significantly impact First Monday traffic, Councilmember Sanford moved to close the requested streets and approve the following resolution:

**RESOLUTION 2004-08**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, AUTHORIZING CLOSURE OF A PORTION OF STATE HIGHWAYS 198 AND 64 FOR INDEPENDENCE DAY CELEBRATION PARADE IN THE CITY OF CANTON, TEXAS**

**WHEREAS**, the Heart of Canton Main Street sponsors the annual Independence Day Celebration parade and downtown festival for the local citizens; and

**WHEREAS**, the Heart of Canton Main Street desires to have a portion of State Highway 64 closed on July 3, 2004 from 10:00 a.m. until approximately 10:20 a.m. for an Independence Day parade, and portions of State Highway 198, closed from 2:00 a.m. until approximately 10:20 a.m. for a downtown festival, as well as portions of Tyler and Capitol Streets closed from 2:00 a.m. until 3:30 p.m.; and

**WHEREAS**, the City deems it in the best interest of the City of Canton to support these activities and has approved the requested street closings at its regular meeting on June 15, 2004; and

**WHEREAS**, in order to close state highways, the Texas Department of Transportation requires the City apply for closure with a supporting resolution;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS,**

**Section 1.** That the City Council requests approval from the Texas Department of Transportation to close to through traffic that portion of State Highway 198 from Tyler Street to State Highway 64 from 2:00 a.m. until approximately 10:20 a.m. on July 3, 2004, and that portion of State Highway 64 from Wills Point Street to State Highway 19 from 10:00 a.m. until approximately 10:20 a.m. for the duration of the parade only.

**Section 2.** That barricades shall be erected on State Highway 198 at Tyler Street and the south side of SH 64, and on Capitol at Tyler Street and the south side of SH 64, that police officers shall be directed to block access to the SH 64 street sections only during the procession of the parade.

**Section 3.** That the City Manager be, and is hereby authorized and directed to execute any and all documents required by the Texas Department of Transportation to effectuate this resolution.

**PASSED, ADOPTED AND APPROVED THIS THE 15th DAY OF JUNE 2004.**

Councilmember Maris seconded, and all voted in favor.

UPDATE FROM CANTON CHAMBER OF COMMERCE – Rona Watson reported the June 3<sup>rd</sup> Business After Hours meeting on “The Mountain” went well. She also reported the chamber would be hosting a hospitality booth for the National Finals Drill Team Competition at Myrtle Springs on July 22-24<sup>th</sup>. She indicated over 400 competitors and their families from all over the

United States and Canada would be shopping Canton and filling the hotels and restaurants. She asked for support in helping impress the group since they were considering moving to Athens.

DISCUSS AND CONSIDER PROCLAMATION NAMING THE THIRD WEEK IN JUNE EACH YEAR AS BLACKWELL FAMILY HERITAGE WEEK – The following proclamation was passed upon motion by Councilmember Pruitt and second by Councilmember Sanford:

#### PROCLAMATION

**WHEREAS**, Henry F. Blackwell Sr. and his wife Sarah, moved to Canton in 1852 and raised their children Henry Fisher II, Creed, Missouri, Rosa, Nannie and Eugenia; and  
**WHEREAS**, Henry F. Blackwell Sr. was one of Canton's first merchants, was elected Van Zandt County Treasurer in 1854 and served through 1855, was a Civil War prisoner from 1863 to 1865, then returned to Canton until his death; and  
**WHEREAS**, Henry F. Blackwell II built the Blackwell House, in 1886, where he and his wife Nannie Jane Barlett had eight children, Henry Fisher III, Rebel, Robert Lee, Janie, Bonnie, Rose, Helen and a child who died at birth; and  
**WHEREAS**, Henry F. Blackwell II was elected sheriff of Van Zandt County in 1887 and served 1887-1900 and 1902-1904, and cultivated farmland raising cotton, corn, sugarcane, garden vegetables, along with cows and hogs; and  
**WHEREAS**, the Blackwell family home was continuously occupied by the immediate Blackwell Family members from 1887-1975 and was a meeting place where old settlers returning to Canton liked to visit and talk old times on the front porch; and  
**WHEREAS**, Rebel Blackwell, on behalf of himself, Joyce Y. Blackwell, Lola Black and Marguerite Chambers, presented the Blackwell House and 7.5 acres as an historical gift to the City of Canton on December 12, 1988; and  
**WHEREAS**, the Blackwell House, now marked by an Historical Marker designating it as the oldest home in Canton, was carefully restored by the City and a dedicated committee of volunteers, and is now under the direction of the Canton Museum Board; and  
**WHEREAS**, we wish to celebrate the family's great heritage and their gift to our community;  
**NOW, THEREFORE**, I, William F. Hilliard, by virtue of the authority vested in me as Mayor and on behalf of the Canton City Council and all citizens hereof, do hereby proclaim June 14-20, 2004, as

#### Blackwell Family Heritage Week

in Canton, Texas, urging all citizens to join me in honoring the historic Blackwell family and to make arrangements to visit The Blackwell House Museum.

**IN OFFICIAL RECOGNITION WHEREOF**, I hereby affix my signature this 15<sup>th</sup> day of June, 2004.

DISCUSS AND CONSIDER REQUEST FROM QUALITY FURNITURE FOR "NO PARKING LOADING ZONE" DESIGNATION ON HIGHWAY 64 BEHIND 145 WEST DALLAS – Charles Fenner offered two possible solutions: (1) designating a loading zone on Grand Saline Street which would have little affect on traffic, or (2) setting hours for loading and unloading on Dallas Street. He indicated Dallas Street was not a good area for loading, and parking was already limited downtown. Councilmember Pruitt moved to deny Quality Furniture's request for a loading zone on Dallas Street. Councilmember Brockman seconded, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FROM DENNIS HEDDIN FOR 1" WATER TAP OUTSIDE THE CITY LIMITS AT 1640 VZCR 2205 – Councilmember Brockman questioned

Mr. Heddin's request for a one-inch tap. Stating the City had problems already, he made a motion to deny Dennis Heddin's request for a water tap at 1640 VZCR 2205. Councilmember Sanford seconded, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FROM SEARS FOR ¾" WATER TAP OUTSIDE THE CITY LIMITS ON HIGHWAY 64 WEST – Councilmember Brockman stated his earlier comments also pertained to this request and moved to deny. Charles Fenner advised the City would like property owners outside the city limits to petition for annexation in order to receive city services. Sharon Kotch and Charlotte Marlow from Sears were in the audience. Ms. Kotch explained a six-inch line ran along the TXI driveway which they also shared. Mr. Fenner indicated from this point on, he would like to work with property owners to annex them into the city limits, even if we needed to assist with getting properties in between to also annex. Ms. Kotch said they wanted to keep the Sears store in Canton, but they either had to build or close due to limitations at their current site. Councilmember Brockman asked that the item be withdrawn until the property could be annexed. Mr. Fenner stated he would work with the owners of the Sears property and any property in between it and the city limits. Before tabling the matter, Mayor Hilliard suggested they consider a larger tap since it was a commercial property.

DISCUSS AND CONSIDER REQUEST FROM GRACE FAMILY FOR WATER AND SEWER TAPS OUTSIDE THE CITY LIMITS AT 340 VZCR 2201 – Item previously withdrawn by owners.

DISCUSS AND CONSIDER ADOPTION OF SUPPLEMENT TO CITY OF CANTON ZONING ORDINANCE CREATING A ZONING CLASSIFICATION TO BE KNOWN AS PLANNED DEVELOPMENT DISTRICT (PD) – Charles Fenner directed the Council's attention to the example shown in their packets. He said it was common to have a Planned Development District zoning option which gives cities an opportunity to negotiate with developers. He said the specific restrictions would be established in an individual ordinance and that certain criteria could be attached to the zoning. Upon Mr. Fenner's recommendation, Councilmember Pruitt made a motion to adopt the following supplement creating a Planned Development District classification in the City's zoning ordinance:

**ORDINANCE NO. 2004-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF CANTON, TEXAS, AMENDING THE 1985 ZONING ORDINANCE FOR THE CITY OF CANTON, TEXAS, AS HERETOFORE AMENDED, BY PROVIDING FOR THE ESTABLISHMENT OF A PLANNED DEVELOPMENT DISTRICT; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**SECTION 1:** That Article 5-A titled Planned Development District (PD) be added as a supplement to read as follows:

**ARTICLE 5-A  
PLANNED DEVELOPMENT DISTRICT (PD)**

**SECTION 5-A-1. PURPOSE.**

The Planned Development District, "PD" prefix, is intended to provide for combining and mixing of uses allowed in various districts with appropriate regulations, and to permit growth flexibility in the use and design of land and buildings such as office commercial centers, industrial parks, residential

developments with multiple or mixed housing types, and to permit new and innovative concepts in land utilization.

After a public hearing has been convened and proper notice to all the affected property owners has been made in accordance with Article 18-5 of the Ordinance, and after a recommendation by the Planning and Zoning Commission has been submitted, the City Council may authorize the creation of a (PD) Planned Development District on:

- a. Residential developments on tracts of three (3) acres or more; or
- b. Mixed use developments on tracts of two (2) acres or more.

#### SECTION 5-A-2. PERMITTED USES.

Any use shall be permitted if such use is specified in the ordinance granting a (PD) Planned Development District. The size, location, appearance, and method of operation may be specified to the extent necessary to ensure compliance with the purpose of this Ordinance.

#### SECTION 5-A-3. DEVELOPMENT REQUIREMENTS.

- a. Development requirements for each separate (PD) district shall be set forth in the amending ordinance granting the (PD) district and may include, but not be limited to, uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, and other requirements as the City Council and the Planning and Zoning Commission may consider to be appropriate.
- b. All (PD) Planned Development Districts must have a sidewalk plan as a part of the granting ordinance.
- c. The following point system is established as a guide for those (PD) development districts that deviate from a standard density found in the Canton Zoning Ordinance. See Table 1.

**TABLE 1.**

10,000 sq. ft. **Base Lot Density**

1,000 points = 1,000 sq. ft. off Base Square Footage

4,000 sq. ft. **Minimum Lot Density**

**Parks:**

4% of total development = 750 points

6% of total development = 1500 points

8% of total development = 2000 points

**Park Equipment:**

Tennis Court = 500 points

Basketball Court = 500 points

Baseball and/or Soccer Field = 500 points

**Home Upgrades:**

40 sq. ft. covered front porch = 200 points

80 sq. ft. covered front porch = 500 points

Roof Pitch Over 6/12 Min. 3 Elevations = 100 points

Front Gables = 100 points

Landscaping Plan and One Hardwood Tree 4" Caliper or Larger = 150 points

**Note:** These deductions are per development phase, with a maximum of three (3) phases per (PD) qualifying for a deduction. This does not limit the phases in any given (PD).

**Development Upgrades:**

Mid-Block Mailbox Center = 100 points

Brick and/or Stone Main Entryway = 150 points

**Example:**

6% for Parks

1500

2 Tennis Courts (500 each)	1000
1 Basketball Court	500
60 sq. ft. Front Porches in 3 phases (200 each)	<u>600</u>
<b>Total</b>	<b>3600 points</b>

10,000 sq. ft. base lot size  
3,600 less deduction points  
 6,400 sq. ft. minimum lot size

- d. The (PD) Planned Development District shall conform to all other sections of the Ordinance unless specifically excluded in the granting ordinance.
- e. In establishing a (PD) Planned Development District in accordance with this section, the City Council shall approve and file, as part of the amending ordinance, appropriate plans and standards for each (PD) Planned Development District. During the review and public hearing process, the Planning and Zoning Commission and City Council shall require a conceptual plan and/or a development plan (or a detailed site plan).
1. **Conceptual Plan.** This plan shall be submitted by the applicant. The plan shall show the applicant's intent for the use of the land within the proposed (PD) Planned Development District in a graphic manner and as may be required, supported by written documentation of proposals and standards for development.
  2. A conceptual plan for residential land use shall show general use, thoroughfare and preliminary lot arrangements. For a residential development which does not propose platted lots, the conceptual plan shall set forth the size, type and location of the buildings and the building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas and other pertinent development data.
  3. **Nonresidential Concept Plan.** A concept plan shall be submitted with any nonresidential (PD) zoning request, and shall clearly show pertinent aspects of the type and nature of the proposed development. The concept plan shall show the types of use(s) proposed, access, topography and boundaries of the (PD) area, existing physical features of the site, existing and proposed streets, alleys, easements and lot lines, location of existing or proposed public facilities, building heights and locations, parking areas and ratios, fire lanes, screening and landscaped areas, project phasing and scheduling, and other pertinent development data to adequately describe the proposed development.
  4. A detailed site plan shall be submitted for approval (in accordance with Article 17 of this Ordinance) within one (1) year from the approval of the concept plan for all or some portion or phase of the planned development covered by the overall concept plan. If a detailed site plan is not submitted within one (1) year, then the concept plan may be subject to review by the Planning and Zoning Commission and the City Council to determine its continued validity. If the City determines that the concept plan is no longer valid or that the proposed development is no longer viable, then a new concept plan (along with a zoning application to amend the (PD) ordinance and its accompanying concept plan) must be submitted for review and approval prior to detailed site plan review/approval for any portion of the (PD) District.
- f. Every structure must contain a minimum of 50% brick and/or stone on all exterior elevations.

#### SECTION 5-A-4. APPROVAL PROCESS AND PROCEDURE.

- a. The procedure for establishing a (PD) Planned Development Zoning District shall follow the procedures for zoning amendments as set forth in Section 18-5 of this Ordinance. This procedure shall be expanded to include consideration and approval or denial of the concept plan and/or the detailed site plan or preliminary plat for a residential (PD), which is submitted along with the (PD) zoning request application. The public hearings conducted for, and the subsequent actions taken upon the (PD) zoning request shall also include the accompanying concept plan and/or detailed site plan/preliminary plat.
- b. The ordinance establishing the (PD) Planned Development Zoning District shall not be approved or adopted until the accompanying concept plan and/or a detailed site plan and/or a preliminary plat is

recommended by the Planning and Zoning Commission and approved by the City Council, and until all other procedural requirements set forth in Sections 17-5 and 18-5 are satisfied.

- c. All Planned Development Zoning Districts (PD) approved in accordance with the provisions of this Ordinance in its original form, or by subsequent amendments thereto, shall be referenced on the Zoning Map, and a list of such (PD) Planned Development District, showing the uses permitted and any other special stipulations of each (PD) district, shall be maintained as part of this Ordinance.

#### **SECTION 2. VIOLATION AND PENALTY**

Any violation of this Ordinance shall be a misdemeanor and each day that said violation occurs shall be a separate misdemeanor and the penalty for violating the provisions of this Ordinance shall be a fine not to exceed Two Hundred and no/100 (\$200.00) Dollars.

#### **SECTION 3. REPEAL OF CONFLICTING ORDINANCE**

That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

#### **SECTION 4. SEVERABILITY CLAUSE**

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

#### **SECTION 5. EFFECTIVE DATE**

The City Manger of the City of Canton is hereby authorized and directed to cause a true and correct copy of the caption, penalties, and effective date of this ordinance to be published in a newspaper having general circulation in the City of Canton, Texas prior to its effective date. Following the publication, this ordinance shall be in full force and effect.

**PASSED** by a majority vote of the City Council of Canton, Texas, on this the 15<sup>th</sup> day of June, 2004, to attest which we hereunto set our hands and seal.

Councilmember Sanford seconded. Councilmember Brockman said he was experienced with this type ordinance and recommended approval. All voted in favor.

**DISCUSS AND CONSIDER RETAINING CONWAY & COMPANY FOR GASB 34 IMPLEMENTATION** – Charles Fenner reported changes in the audit reporting requirements and asked the Council to approve retaining Conway & Company's services in meeting the new requirements. He noted they had been exceptionally helpful and he felt it was important to stay with the same company through these changes. Councilmember Sanford made the motion to retain Conway & Company for GASB 34 implementation. Councilmember Maris seconded. Councilmember Sanford then amended his original motion to also include approval of retaining Conway & Company to conduct the 2003-2004 audit. Councilmember Maris seconded the amended motion, and all voted in favor.

**DISCUSS AND CONSIDER RETAINING CONWAY & COMPANY FOR FY 2003-2004 AUDIT AND FINANCIAL SOFTWARE CONVERSION** – Included in previous item.

**DISCUSS FIRST MONDAY PLANNING** – Charles Fenner notified the Council he wanted to develop a conceptual master plan for First Monday. Councilmember Sanford recommended a workshop. Mr. Fenner suggested the Council work with an aerial photo to discuss storage

opportunities, traffic issues, shuttle service, drainage and a theme concept. He noted funds would be available after retiring the debt on Trade Center III, and asked for direction on how the Council wanted to use those funds—to retire short-term debt or work on projects. Councilmember Brockman pointed out the planning process with the parks went well and he wanted to see a master plan developed for First Monday. Councilmember Sanford added that he felt the planner needed the Council's input first. Mr. Fenner stipulated the Council would be part of the planning process and would have ultimate approval. Councilmember Maris suggested the Council hold a workshop and that Mr. Fenner try to locate a suitable consultant. Mayor Hilliard recommended a consultant be involved from the inception of the planning process. Charles Fenner stated he would find a consultant, provide him with the basic information and try to have him available for the Council workshop. The item was then tabled.

**DISCUSS WATER AND WASTE WATER RATES** – Charles Fenner provided the Council with the water and sewer rates charged by other cities in the county. He noted Canton's rates were 50% of the county average. He also pointed out Canton had some real issues with its infrastructure that needed to be addressed and some projects that needed to be started. He recommended going to \$14.00 for the first 1500 gallons of water in a bundle package. Councilmember Brockman stated he would like to see rates tied into the budget process. Councilmember Maris asked how much revenue it would generate and if it would be enough. Mr. Fenner said the staff was currently working on the budget and he was planning a Council retreat workshop in July. Mayor Hilliard asked would we not be doing the public justice to raise rates rather than rely on obligation bonds. Councilmember Brockman added he would like the Council to consider impact fees which would generate revenue for improvements. Mr. Fenner answered that it was recommended in the comprehensive plan and would cost approximately \$15,000 to do an impact fee study. Mayor Hilliard suggested the City look at offering incentives to volume users to encourage use. Charles Fenner asked if the Council also wanted to tie in Mr. Cluck's proposed \$15.00 sewer charge for RV hook-ups. Councilmember Pruitt stated he would like the Council to consider it at the time the water and sewer rates were considered. Lonny Cluck said the people making money off First Monday should put some back into the City to help with the water and sewer plant and collection and distribution system expenses. Mr. Fenner pointed out the \$2 million transferred out of First Monday was typical of a tax base for other cities. He added there was a cost associated with treating sewer and providing water, which was affected by government mandates and the skilled personnel required to run the plants. Councilmember Brockman stated each utility should stand on its own. Councilmember Sanford noted the RV charge should be mandatory per available hook-up whether it was rented or not. Mayor Hilliard tabled the item until the budget workshop. Tommy Roberts stated the low rates subsidized by First Monday were what the citizens put up with First Monday for. He asked the Council to be careful with what it did with the rates. Charles Fenner reiterated that First Monday was in essence our tax base, which was generally used to subsidize the general fund. He said utilities should pay for themselves and First Monday should be providing other services such as police, fire and parks. He said he knew higher rates would be difficult, but otherwise the City would have to consider establishing a tax base. He added his focus was to run more efficiently, and that the City could not think that First Monday would pay for all infrastructure. City Auditor Mike Conway said historically water and sewer revenue paid 2/3 of its cost.

**DISCUSS AND CONSIDER FIRE EQUIPMENT STAGED ON NORTH SIDE OF CANTON** – Chief Tim Gothard explained that over time the north side fire station had diminished from

several to one man living in the area and from a covered shed housing the fire truck to leaving it out in the open. He recommended it be moved for liability and safety reasons. Councilmember Pruitt made the motion to accept Chief Gothard's recommendation to conduct an inventory of the truck and move the truck to the sewer plant where two to three city personnel were staged and able to respond to fire calls. Councilmember Sanford seconded, and all voted in favor.

DISCUSS AND CONSIDER APPOINTING WILLS POINT AND GRAND SALINE MUNICIPAL JUDGES AS ASSOCIATE JUDGES TO THE CITY OF CANTON – Judge Lilia Durham recommended the appointment of associate judges so they could cover and arraign in her absence. Upon Charles Fenner's recommendation, Councilmember Brockman made the motion to appoint Wills Point, Grand Saline and Van judges as Associate Judges for Canton. Councilmember Sanford seconded, and all voted in favor.

DISCUSS AND CONSIDER APPOINTMENTS TO A PARKS BOARD - Mayor Hilliard turned the meeting over to Mayor Pro Tem Raymond Pruitt as his daughter was being considered for appointment. Upon Charles Fenner's recommendation, Councilmember Sanford made a motion to appoint Amy Huddle, Chris Howard, Johnny Blevins, Nancy Jeanes, Ron Crumpler, and Scott Pinkerton to the Parks Board. Councilmember Brockman seconded, and all voted in favor.

DISCUSS AND CONSIDER APPOINTMENT TO CANTON ECONOMIC DEVELOPMENT BOARD – Councilmember Pruitt recommended Jack Etheridge be appointed to the Canton Economic Development Corporation's Board, and so moved. Councilmember Sanford seconded, and all voted in favor.

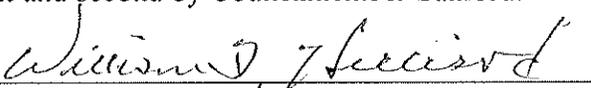
EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – The Council recessed at 7:44 p.m. before convening in closed session at 7:46 p.m. to discuss personnel matters and the potential purchase and sales of real property.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE AND SALE OF REAL PROPERTY (Section 551.072)

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 9:15 p.m. Councilmember Maris made the motion to build Etheridge Road as a thirty-two foot road on the east end narrowing to twenty-eight feet in front of the Dawson, Watkins & Huddle properties. Councilmember Sanford seconded, and all voted in favor.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS – None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 9:16 p.m. on a motion by Councilmember Pruitt and second by Councilmember Sanford.

  
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 William F. Hilliard, Mayor

ATTEST:

  
Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
1:00 P.M., THURSDAY, JULY 15, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard and Councilmembers Ross Maris, Robert Brockman and Ron Sanford. Councilmembers Raymond Pruitt and Rusty Wilson were absent.

Discussion and action were as follows:

**CALL MEETING TO ORDER - Mayor Hilliard called the meeting to order at 1:02 p.m. and announced a quorum was present.**

**DISCUSS AND CONSIDER AWARDING BID FOR FIRST MONDAY RESTROOM -** Charles Fenner reported receiving three bids with the lowest coming from Athens Steel. Rather than award the bid, he recommended re-bidding as a hadite block or all-masonry building. Lonny Cluck explained that since the price of steel was so high, it might be close to the cost of a block or masonry building, which would look nicer and also provide a little better shelter for vendors and customers in the event of severe weather. The Council discussed adding architectural elements to improve the aesthetics of the building, including washed aggregate or split-faced block, a higher-pitched roof, a forest green or colored tin roof, and overhangs over entrances. They discussed adding dropped ceilings if and when air conditioning was added. Engineer Kenneth Tillman was asked to return with a couple of concepts for the Council's consideration, including a 5 or 6 to 12 pitch roof. Councilmember Brockman made the motion to reject the bids and proceed with Lonny Cluck's suggestions. Councilmember Maris seconded, and all voted in favor.

**WORKSHOP FOR FIRST MONDAY PLANNING -** Charles Fenner recapped earlier talks about developing a conceptual plan, finding ways to generate more revenue, making capital improvements on the drainage and streets, and building a couple of structures. He suggested building structures that would generate immediate revenue, having an improvements program each year, and using the grounds for more events to generate additional revenue. For example, he cited an opportunity to build a 5,000 square-foot brick building at an individual vendor's request at a cost of \$25 per square foot, then leasing it for \$1.10 per square foot, maybe with a loft upstairs for vendors quarters. The building would cost about \$125,000 and would rent for about \$5,000 per month. He also noted another vendor interested in a 2,000-3,000 square foot building, and alternately building less expensive \$20 or \$15 per square foot buildings instead. He proposed three areas for this type development, one of which was on the hill on Row 1 or 3. Mayor Hilliard noted the hill might present problems with ADA compliance. Mayor Hilliard suggested building in the area south of Trade Center I to bring people in the Groves area. Charles Fenner also mentioned building a large restroom east of Trade Centers I and II. Mr. Cluck said

80% of the area south of the Trade Centers was leased and Councilmember Maris pointed out it was in the flood plane. When asked why he was considering building on the hill, Mr. Fenner explained it could be used more often throughout the month. Other revenue-generating structures he suggested included building shed-type buildings in the creek area along Row 11. These mini pavilions would offer more desired covered space, but could be built more affordably and nice enough to generate income. He added he would like to redo the creek area. Another idea presented by Mr. Fenner was to improve areas with current parking issues. Lonny Cluck suggested having one row with parking on both sides and the next row with sheds or mini 12x20 pavilions. Mr. Fenner said he would like to focus on specific areas, doing a little at a time without taking out loans, and putting the revenue back toward beautification. He noted the City did not put a lot of money back into First Monday this year except on Row 43A. He said the City needed to talk about a maintenance plan, a pavement assessment plan, a conceptual plan and income for the immediate future. Charles Fenner estimated a design plan might cost about \$5,000, but it would be difficult identifying an appropriate consultant. The Mayor stated the creek needed to be cleaned up and used as part of the design enhancement. Mr. Fenner agreed it should be included whether it be retainage, redirection or beautification. Councilmember Maris made the motion to authorize the hiring of a planner for the First Monday Park. Councilmember Sanford seconded. Councilmember Maris said the Council needed to provide input to the planners. Mayor Hilliard suggested hiring the planner, then having a called meeting. He called for a vote and all voted in favor. Councilmember Maris suggested the Council hold a brainstorming session with the City Secretary recording everyone's thoughts. He added the planner needed to also become familiar with First Monday. Councilmember Brockman stated the design and concept the Council likes should be carried through with other buildings. Councilmember Maris said he liked the idea of mini pavilions, but would like to see vendors park in vendor parking areas instead of aisles devoted to parking. Mr. Fenner confirmed he would locate a planner then bring him/her to First Monday and also schedule a meeting with the Council.

ADJOURN - There being no further items for discussion, the meeting adjourned at 1:40 p.m. on a motion by Councilmember Sanford and second by Councilmember Maris.



William F. Hilliard, Mayor

ATTEST:



Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 6:30 P.M., TUESDAY, JULY 20, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Ross Maris, Robert Brockman,

Ron Sanford, and Raymond Pruitt. Councilmember Rusty Wilson was absent. City Attorney Richard Davis also attended.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Jim Stephens.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

**GUEST ITEMS** -David Collier announced Oncor's name change to TXU Electric Delivery and the CEO's efforts to increase the company's stock and focus on its core value of delivering electricity. He said they had earlier approved the sale of their facilities in Australia and recently announced the sale of TXU Gas. He thanked the City for its assistance and offered TXU's service in any way needed. Councilmember Pruitt voiced opposition to the manner in which they were trimming trees.

**DISCUSS AND CONSIDER APPROVAL OF MINUTES FROM JUNE 15, 2004 MEETING OF THE CANTON CITY COUNCIL** - The minutes of the June 15, 2004 meeting were unanimously approved on a motion by Councilmember Sanford and second by Councilmember Brockman.

**DISCUSS AND CONSIDER APPROVAL OF JUNE 2004 FINANCIAL STATEMENTS** - The June 2004 Financial Statements were unanimously approved on a motion by Councilmember Pruitt and second by Councilmember Sanford.

**UPDATE FROM CANTON CHAMBER OF COMMERCE** - Rona Watson reminded the Council the equestrian drill teams were in town with wristbands and the Chamber would be hosting a hospitality booth at the event. The Mayor agreed to participate in the Friday morning ceremony in which Dan Flynn would present a proclamation, and all others were invited to attend. Ms. Watson reported the hotels were sold out, several restaurants were staying open late to accommodate the visitors, a local merchant was hosting a band and barbeque Friday night, and merchants were participating in a promotion in which participants' names were entered for a drawing at each store and they had to visit the store to see if they won. She said the event had a web site and they were talking a lot about Canton.

**UPDATE ON FREE STATE BLUEGRASS FESTIVAL** - Jim Fuller thanked the Council and staff members who helped with the fish fry that fed 644-674 people, along with the First Monday crew that did a great job throughout the event. He reported that most bands were already booked for 2005, except a few award winners they would try to recruit at the International Bluegrass Music Awards. He said they were also already working on advertising--the fans went over well but were expensive, and they planned to have a color postcard, newspaper insert, corporate advertisers, and radio spots. He asked the Council if they could enclose the back of the stage to

store their paraphernalia and if they could host their own web site. Charles Fenner said the City was currently working on its web site and they could work together. The Mayor instructed Mr. Fuller to work through Mr. Fenner. The Mayor then presented a certificate to Margaret Strange commending her for her thoughtful acts. Mr. Fuller said she had been coming to the Bluegrass Festival for 17-18 years and helped welcome folks as they arrived, and picked up trash and visited with everyone daily. He added Ms. Strange would receive an engraved plaque as a lifetime member of the Free State Bluegrass Association and would be admitted to any of its functions free of charge.

**DISCUSS AND CONSIDER APPLICATION TO BECOME A PRESERVE AMERICA COMMUNITY** – Don Plemmons outlined a new program designating cities as a Preserve America Community, noting that 15 cities and counties had already been so designated. He said the application process was lengthy, but he, the secretary who was a gifted writer, and Jim Stephens were willing to prepare it. He said the program began with the President and First Lady, and that grants were set aside (with more to be added) to encourage and support the preservation of a city's or county's particular culture and heritage. He added it would be a boon to tourism, receiving national publicity and free inclusion on a web site. He said it would add a new source of funding for parks, the Main Street program, etc. He also stated if the Council agreed to apply, he would return for approval of a proclamation. He noted the executive director of the Texas Historical Commission was praising the program and the regular chairman of the Texas Historical Commission was also the Washington, D.C. chairman for this program. Councilmember Brockman encouraged the Council to apply, stating he had some experience with the program. He then made a motion to apply to become a Preserve America Community. Councilmember Sanford seconded, and all voted in favor. Mayor Hilliard thanked Mr. Plemmons for all his efforts.

**DISCUSS AND CONSIDER REQUEST FOR REMOVAL OF "NO PARKING" SIGNS IN 200 AND 300 BLOCKS OF LIVE OAK STREET** – Charles Fenner presented Paula Ray's request. He noted other "no parking" signs had recently been erected in the middle of town and they all needed to be enforced consistently. He posed two questions: 1) did the City need to take down the signs on Live Oak, and 2) did the Council want to keep enforcing the no parking zones around town. He pointed out any new development was required to have off-street parking, but the problem with older areas was that houses used for businesses didn't have enough parking except on the street. He then recommended enforcing all "no parking" signs consistently, and since they would have to be enforced if they remained up, removing the signs on Live Oak. Councilmember Sanford made the motion to remove the signs in the 200 and 300 blocks of Live Oak, but noted it may be creating problems. It was determined there were no longer any residences in the area. Mayor Hilliard stated the issue would have to be re-addressed if it became a problem. Councilmember Brockman seconded, and all voted in favor. Charles Fenner reiterated that new development had to have off-street parking which meant no street parking. Mayor Hilliard said that First Monday was located at its present site because the State Fire Marshall said to move it off the street or close it. Upon Mr. Fenner's request for clarification on sign enforcement, Mayor Hilliard instructed it be placed on a work session agenda.

**DISCUSS AND CONSIDER REQUEST FROM DENNIS HEDDIN FOR ¾" WATER TAP OUTSIDE THE CITY LIMITS AT 1640 VZCR 2205** – Charles Fenner made his standing recommendation to deny requests for city services outside the city limits. Dennis Heddin

complained there was no notice of the city's new policy in the paper and water was available at his property. He said it might not be legal to deny the request. He argued that two taps were just made near him. Mr. Fenner said the taps had been approved through Council action last October, prior to enactment of the new policy. Mr. Heddin said he actually talked to city officials prior to selling some property who said it would be no problem getting water. He added the Mayor was quoted in the paper saying there was plenty of water. He pointed out it was not a matter of adding lines and his neighbors said they had plenty of water pressure. Mayor Hilliard asked Mr. Heddin if he was interested in annexing into the city limits. Mr. Heddin said his father brought the line out there and he asked the City to justify not giving him water. Mr. Fenner explained the City was going through the process of upgrading at the water plant. Mr. Heddin replied he had no problem with the City raising rates. He said he just sold land under the assumption the new owner could get city water, but it was not worth what was paid for it without water. Mr. Fenner noted Mr. Heddin's property did not adjoin the city limits, but the church was also applying for water and they were adjacent. Councilmember Pruitt said to see if the property could be brought into the city limits since the issue was decided at the last meeting. He asked if Mr. Heddin was willing to work with Mr. Fenner on annexation. He then made the motion to work towards annexation and grant a water tap if annexed, but deny the request if not. Councilmember Sanford seconded, and all voted in favor. Mayor Hilliard requested he make application and do what was recommended. He asked Mr. Fenner to follow-up and bring it back to the Council.

DISCUSS AND CONSIDER REQUEST FROM NANCY FISHER FOR ¾" WATER TAP OUTSIDE THE CITY LIMITS AT 533 VZCR 2201 – Mr. Fenner made the same recommendation as in the previously discussed item. He noted he would love to have the property in the city limits and bring water and sewer to it. Mr. Fisher said he was 200 yards from water and he agreed that Mr. Heddin spoke to city employees about water prior to his buying the property. Mayor Hilliard stated they did not talk to the right people. Councilmember Pruitt made the motion to work towards annexation and grant a water tap if annexed, but deny the request if not. Councilmember Sanford seconded, and all voted in favor. Mayor Hilliard once again asked Mr. Fenner to follow-up.

DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION OF 26.24 ACRES SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON VZCR 2106 OWNED BY CANTON ECONOMIC DEVELOPMENT CORPORATION – Mr. Fenner noted the property was across from the Homemade Gourmet business park. Councilmember Pruitt made the motion to accept the petition for annexation. Councilmember Brockman seconded, and all voted in favor. Public Hearings were set for August 17<sup>th</sup> and 24<sup>th</sup>.

DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION OF 6.20 ACRES SITUATED IN THE J. DOUTHIT SURVEY, A-198, LOCATED ON THE SOUTHEAST CORNER OF SH 64 AND SH 243 OWNED BY THE W.L. PIERCE ESTATE – Mr. Fenner reported Sears had been before the Council requesting water and it was recommended they work to come into the city limits which end at John Crow Pontiac. He noted this property being petitioned for annexation would join the city limits with the Sears property. Councilmember Sanford made the motion to accept the petition for annexation. Councilmember Brockman seconded, and all voted in favor. Public Hearings were set for August 17<sup>th</sup> and 24<sup>th</sup>.

DISCUSS AND CONSIDER ADOPTION OF STANDARD SPECIFICATION FOR PUBLIC WORKS CONSTRUCTION – NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS – Mr. Fenner presented the standard specifications for public works construction established by the North Central Texas Council of Governments. He said it included standards for underground conduit, concrete parking lots, etc. and it would help in the interpretation of the standards because there would be specifications to hand out. He noted Canton was in the East Texas Council of Governments' territory, but they did not have anything for the city to follow. Councilmember Pruitt made the motion to adopt the North Central Texas Council of Government's Standard Specifications for Public Works Construction. Councilmember Maris seconded, and all voted in favor.

DISCUSS AND CONSIDER STREETS AND RELATED PROJECTS – The Council discussed the Elm Street project. It was determined the gas line was plastic and had been recently replaced from Buffalo to Highway 19. Mr. Cluck reported the bids for the Lazy U and Etheridge Road projects were to be opened August 17.

DISCUSS AND CONSIDER REQUIRING FIRST MONDAY VENDORS BUILDING STRUCTURES ALONG THE CREEK TO COST-SHARE IN A RETAINING WALL - Stating a hard policy was needed, Councilmember Sanford made the motion to require vendors building structures along the creek to cost-share in a retaining wall. Councilmember Maris said the City was getting a planner involved in a comprehensive plan and he'd like to incorporate creek plans into that, whether it be a retaining wall or other beautification efforts. He added he'd like to see a four to five foot setback from the creek required for any building and that Jim Stephens told him TxDOT was willing to help clean out the creek. He also noted a retaining wall may or may not help. Councilmember Brockman agreed the Council should wait until a plan is formulated. Councilmember Sanford said a building was about to be built. Councilmember Maris replied he understood they had agreed to a setback and thought they could also preserve the trees. Councilmember Sanford explained Kenneth Pruitt was building and he also wanted the City to abandon Row 45. Councilmember Pruitt stated the wall stops erosion. Charles Fenner interjected he was under the impression there was a hold on all building until a plan was in place. Mayor Hilliard also stated the city needed to have a plan in order to make it lasting and have aesthetics. Councilmember Maris asked whatever was done, that continuity with the existing wall be maintained. Mayor Hilliard restated the Council had called a halt until a planner was hired. Dorisene Groves noted she thought a plan to beautify the creek had been adopted. Councilmember Pruitt referenced Beth Whitaker who knew more on the issue. Councilmember Maris suggested stair stepping a wall and putting in plantings. Charles Fenner reported he had met with Senators Hutchison's and Cornyn's offices and told them the City needed funds to help with erosion control. The Mayor's concern was having a hodge-podge of structures on the grounds. He then called for a second. Councilmember Pruitt seconded. Motion failed with Councilmembers Sanford and Pruitt voting in favor, Councilmembers Brockman and Maris opposed, and Mayor Hilliard casting the deciding vote in opposition.

DISCUSS AND CONSIDER REQUIRING FIRST MONDAY VENDORS ON ROWS 46 AND 94 TO COST-SHARE IN REBUILDING THE RETAINING WALL – Councilmember Sanford reported that Paul Michael was originally to pay 100% of the retaining wall, but he and Lonny Cluck felt the City should cost-share. Councilmember Brockman stated he would like to see a

plan first. Councilmember Maris asked if the wall's failure was imminent. Mr. Cluck said he was not qualified to answer. The item was then passed per Councilmember Sanford's request.

DISCUSS AND CONSIDER CLOSING ROW 45 AT THE FIRST MONDAY PARK – Councilmember Sanford explained that Row 45 was angled and didn't serve much purpose, stating the traffic from the north on Row 46 typically crossed the creek. He noted Kenneth Pruitt wanted to build in the area. He suggested if Row 45 were closed off, traffic would travel down Row 46 to 43A creating a better chance for it to go toward the civic center. Councilmember Brockman expressed concerns about keeping buildings off the creek and Councilmember Maris said Kenneth Pruitt indicated he could stay off the creek and back from Row 43A. Mayor Hilliard said it was okay to close the street, but any building should wait until a planner was hired. Councilmember Maris pointed out the area had been set aside for building. Charles Fenner mentioned there had been discussions about widening the road and Councilmember Maris said nothing should be allowed preventing the widening of the road. Lonny Cluck suggested another bridge be built and making each one-way, or that one be designated for pedestrians and the other for vehicles. Councilmember Maris agreed more traffic was needed on the west side of the creek. Mayor Hilliard reiterated the Council had agreed not to do anything until it got a planner. Councilmember Sanford said he did not think that was in the minutes and this building was planned. Councilmember Maris said there were already a number of buildings in the area and if it were going to be compatible and met the established standards, he didn't think it would conflict with any future plan. He added Kenneth Pruitt's building was a nice design. Councilmember Sanford made the motion to close Row 45 on the First Monday Park. Councilmember Maris seconded, Councilmember Pruitt abstained, and all others voted in favor.

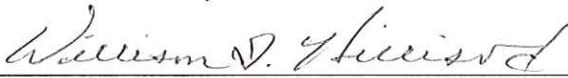
EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS AND CONTRACTUAL AGREEMENTS (Section 551.074) – The Council recessed at 7:37 p.m. before convening in closed session at 7:42 p.m. to discuss personnel matters and contractual agreements, and the potential purchase and sale of real property.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE AND SALE OF REAL PROPERTY (Section 551.072)

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 8:30 p.m. with no action taken.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS – None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 8:30 p.m. on a motion by Councilmember Pruitt and second by Councilmember Sanford.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
**CITY OF CANTON, TEXAS**  
6:30 P.M., TUESDAY, AUGUST 17, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Ron Sanford, and Rusty Wilson. Councilmember Raymond Pruitt was absent. City Attorney Richard Davis also attended.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Jim Stephens.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

**GUEST ITEMS** – Citizen and former Councilmember Tommy Roberts presented his concerns about recent organizational changes. He stated Charles Fenner had hired the new Fire Chief as Public Safety Director over the police and fire departments, which he thought should have come back to the Council for approval. He added that Mr. Fenner had posted a new position of senior safety officer without first telling Chief Hammonds, and that his cell phone had been taken from him and given to Jim Stephens. He also noted Lonny Cluck had been placed over animal control when his plate was already full, and a part-time employee had been hired at \$10 per hour (more than the full-time animal control officer) without the council's knowledge. He stated that he didn't think the new position could be created without a new organizational chart approved. When the Mayor asked for comments, Councilmember Brockman stated that it should first be discussed among the Council.

Thirty-five year city resident and former Mayor Don Hackney said he had received a poorly-written, third-grade level, unsigned letter addressed Dear Citizen, and in response wanted to tell the councilmembers that they are his Council and he supports them, even though he might not always agree with them.

**DISCUSS AND CONSIDER APPROVAL OF MINUTES FROM JULY 9, 15, and 20, 2004 MEETINGS OF THE CANTON CITY COUNCIL** – The minutes of the July 15 and 20, 2004, meetings were unanimously approved on a motion by Councilmember Sanford and second by Councilmember Maris.

**DISCUSS AND CONSIDER APPROVAL OF JULY 2004 FINANCIAL STATEMENTS** – The July 2004 Financial Statements were unanimously approved on a motion by Councilmember Brockman and second by Councilmember Sanford.

UPDATE FROM CANTON CHAMBER OF COMMERCE – Rona Watson announced plans to attend the Dallas Women’s Visions Expo, the chamber’s annual membership meeting would be held September 20 at which the membership would be nominating and voting on four board positions and the officers, the March banquet preparations had begun, and the next networking luncheon was scheduled for the following Thursday.

PRESENTATION ON CHILD ADVOCACY CENTER – Criminal District Attorney Leslie Poynter Dixon discussed the development of a child advocacy center in Van Zandt County on which she would ultimately like to make a power point presentation to the Council. She noted there was a growing problem with cases involving the abuse and neglect of children and with children witnesses to violent crimes. She said specially-trained individuals needed to develop information in a way that would not further hurt the children, and that currently they were brought to centers in Tyler or Athens but were often refused when those centers were full. She informed the Council the legislature had created a statute allocating funds for this type program and she had been working with agencies in Van Zandt County to develop a center. She said she would draft a memorandum of understanding with all organizations that would utilize the center, and would ultimately come to the governing bodies to seek execution on an interlocal agreement and to ask for funding to match the grants offered by the Attorney General’s office. She said they had a task force for fundraising from private donors and the center would save resources in the police department since a child would not have to be taken out of the city by an officer. She noted the articles of incorporation and grant applications were due by July 2005 and their targeted opening date was September 1, 2005.

DISCUSS AND CONSIDER AUTHORIZATION AND ADOPTION OF SUPPORTING RESOLUTION FOR NORTH BUFFALO STREET CLOSURE ON AUGUST 28<sup>TH</sup> FOR VAN ZANDT COUNTY DEMOCRATIC PARTY HEADQUARTERS’ GRAND OPENING – Upon Vince Leibowitz’ request and Charles Fenner’s recommendation, Councilmember Sanford made the motion, seconded by Councilmember Wilson to adopted the following resolution:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, AUTHORIZING CLOSURE OF A PORTION OF STATE HIGHWAY 198 FOR THE GRAND OPENING OF THE DEMOCRATIC PARTY OF VAN ZANDT COUNTY HEADQUARTERS IN THE CITY OF CANTON, TEXAS.**

**WHEREAS**, the Van Zandt County Democratic Party desires to host a Grand Opening Party for the Democratic Party of Van Zandt County Headquarters on Saturday, August 28, 2004; and

**WHEREAS**, the Party desires to have a portion of State Highway 198 closed on said date from 8:00 a.m. to 2:00 p.m. for this event; and

**WHEREAS**, the City of Canton has approved the requested street closings at its regular meeting on August 17, 2004; and

**WHEREAS**, in order to close the state highway, the Texas Department of Transportation requires the City to apply for closure with a supporting resolution;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS,**

**Section 1.** That the City Council requests approval from the Texas Department of Transportation to close to through traffic that portion of State Highway 198 from the north side of State Highway 64 to Groves Street.

**Section 2.** That proper barricades be located as needed to reroute traffic around the area to be blocked off.

**Section 3.** That the City Manager be, and is hereby authorized and directed to execute any and all documents required by the Texas Department of Transportation to effectuate this resolution.

**PASSED, ADOPTED AND APPROVED THIS THE 17<sup>th</sup> DAY OF AUGUST 2004.**

All voted in favor.

FIRST PUBLIC HEARING ON ANNEXATION OF 26.24 ACRES SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON VZCR 2106 OWNED BY CANTON ECONOMIC DEVELOPMENT CORPORATION – Mayor Hilliard opened the Public Hearing at 6:49 p.m. Charles Fenner reported the property was owned by CEDC which planned to seek designation as an enterprise zone and industrial zoning upon annexation, and to use the property as an industrial park. Hearing no further comments, the Public Hearing closed at 6:50 p.m.

FIRST PUBLIC HEARING ON ANNEXATION OF 6.20 ACRE TRACT SITUATED IN THE J. DOUTHIT SURVEY, A-198, LOCATED ON SOUTHEAST CORNER OF SH 64 AND SH 243 OWNED BY W.L. PIERCE ESTATE – Mayor Hilliard opened the Public Hearing at 6:50 p.m. and hearing no comments, closed at 6:51 p.m.

DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION AS A PLANNED DEVELOPMENT DISTRICT OF 40.1 ACRE TRACT SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON STATE HIGHWAY 19 NORTH – Charles Fenner reported the property was located north of the airport and that developers had agreed to pay to bring water and sewer to the property under an agreement with a pro-rata share to be charged to others who tapped on. He said the Council's acceptance of the petition authorized the process for hearings, and upon completion of the second public hearing, an annexation ordinance would be presented to the Council for consideration. He said developers would then seek zoning as a planned development district at which time negotiations with the developers on subdivision attributes would take place. Councilmember Sanford made the motion to accept the petition for annexation of a 40.1 acre tract in the Q.C. Nugent Survey, A-618. Councilmember Brockman seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF RESOLUTION AUTHORIZING APPLICATION TO BECOME A PRESERVE AMERICA COMMUNITY – Upon Don Plemmons' recommendation, Councilmember Brockman made the motion to adopt the following resolution authorizing the City's application to become a Preserve America Community:

**RESOLUTION 2004-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, AUTHORIZING THE CITY MANAGER TO APPLY TO BECOME A PRESERVE AMERICA COMMUNITY.**

**WHEREAS**, *Preserve America* is a White House initiative developed in cooperation with the Advisory Council on Historic Preservation, the U.S. Department of the Interior, and the U.S. Department of Commerce; and

**WHEREAS**, the goals of this initiative include a greater shared knowledge about our Nation's past, strengthened regional identities and local pride, increased local participation in preserving the country's irreplaceable cultural and natural heritage assets, and support for the economic vitality of communities; and

**WHEREAS**, this initiative is compatible with our community's interests and goals related to historic preservation; and

**WHEREAS**, designation as a *Preserve America* Community will improve our community's ability to protect and promote its historical resources;  
**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of Canton will apply for the designation of the City of Canton as a *Preserve America* Community; and  
**BE IT FURTHER RESOLVED**, that the City Council of the City of Canton will protect and celebrate our heritage, use our historic assets for economic development and community revitalization, and encourage people to experience and appreciate local historic resources through education and heritage tourism programs.  
**PASSED, ADOPTED AND APPROVED THIS THE 17<sup>th</sup> DAY OF AUGUST, 2004.**

Councilmember Maris seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF RESOLUTION AUTHORIZING LOAN FROM AMERICAN NATIONAL BANK OF TEXAS TO CANTON ECONOMIC DEVELOPMENT CORPORATION – Charles Fenner reported the bank required the Council's approval on a \$493,851 CEDC loan for the purchase of 60 acres on Highway 19 south. The following resolution was unanimously adopted upon motion by Councilmember Wilson and second by Councilmember Maris:

**RESOLUTION 2004-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, VAN ZANDT COUNTY, TEXAS, AUTHORIZING AND APPROVING A \$493,830.51 LOAN FROM THE AMERICAN NATIONAL BANK OF TEXAS TO THE CANTON ECONOMIC DEVELOPMENT CORPORATION, AND DELIVERY OF ALL NECESSARY LOAN DOCUMENTS AND OTHER RELATED INSTRUMENTS; APPROVING CERTAIN RESOLUTIONS OF THE CANTON ECONOMIC DEVELOPMENT CORPORATION; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the Canton Economic Development Corporation was established by ordinance of the Canton City Council subsequent to an election to impose and assess a one-half cent sales tax for economic development within the City of Canton; and

**WHEREAS**, one of the purposes for which the Canton Economic Development Corporation was established is to provide for the creation of jobs and increase the tax base of the City of Canton; and

**WHEREAS**, the Board of Directors of the Canton Economic Development Corporation intends to recruit companies which will provide jobs and increase the tax base by implementing qualified projects; and

**WHEREAS**, Section 25(f) of the Economic Development Corporation Act of 1979, Article 5190.6, Texas Revised Civil Statutes, as amended, ("the Act") requires that the governing body of the city of Canton approve the resolution of the Canton Economic Development Corporation providing for the approval of the indebtedness no more than sixty (60) days prior to the execution and delivery of the documents evidencing such debt;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, VAN ZANDT COUNTY, TEXAS, THAT:**

DISCUSS AND CONSIDER APPOINTMENTS TO PARKS BOARD – Upon Charles Fenner's recommendation, Councilmember Sanford moved to appoint Rollin Sinninger and Dr. Tina Ingram to the City's Parks Board. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER AMENDING GUIDELINES FOR INDIVIDUAL STRUCTURES ON VENDOR LOTS AT THE FIRST MONDAY PARK – Rick Malone requested the guidelines

be amended to require structures be fully guttered. Councilmember Maris made the motion to adopt the following guidelines for individual structures on the First Monday Park:

#### GUIDELINES FOR INDIVIDUAL STRUCTURES ON VENDOR LOTS

##### Specifications

- Minimum lot size 480 sq. ft.
- Minimum front and back setbacks of five feet and minimum side setbacks of two feet.
- Metal structures only -
  - If prefabricated (with engineering seal), does not require city engineer's approval.
  - If not, must be approved by city's engineer.
- Must be made with new materials.
- Open all sides, 7' minimum clearance -
  - Partial side panels permissible if meet minimum clearance.
- All eaves, overhangs, and doors (open or closed) must be inside lot boundaries.
- *All buildings must have a complete gutter system on the building prior to opening.*
- Set on concrete slab, ground level, constructed so that area can be maintained with tractor mower, no weed-eating.
- Light earth tones only (tan, white, sand, etc.); no bright colors.

##### Approval Process

- No structure may be placed on a vendor's lot without prior consent from First Monday management.
  - Structures only considered in areas designated by First Monday management.
  - Vendor must submit a written proposal and structure plans for approval.
  - Each proposal will be evaluated on a case-by-case basis.
  - First Monday management reserves the right to deny requests for any reason.
  - First Monday management reserves the right to inspect and require repairs, if needed.
  - A vendor may not remove the structure without prior consent from First Monday management.
  - Should a vendor give up or lose his lots, the structure may be removed by the vendor.
  - Removal must pass inspection by First Monday management.
  - Vendors with structures shall pay all charges for utility services.
- First Monday management and the City of Canton reserve the right to amend or change these Guidelines without prior written notice.

Approved 3/11/97, Revised 7/16/98, Revised 2/20/01, Revised 8/17/04

Councilmember Wilson seconded, and all voted in favor.

**DISCUSS AND CONSIDER AMENDING FIRST MONDAY POLICIES AND PROCEDURES-** Councilmember Maris stated he would like to see clarification on the First Monday rules. He proposed the following: All real estate on the City of Canton's section of First Monday is owned by the City and will be managed for the city's best financial interest; Management will determine the best use of all property within the First Monday Park; Open-air lots will be rented on a month to month basis for the sole purpose of displaying merchandise and will be renewed for succeeding months at the sole discretion of management; Management will set policies for display and sale of merchandise; Persons renting lots have no rights of ownership, no right to sell their interest in or transfer their rights to others, or to sublet lots; Lots not being used for the intended purpose may not be renewed. Councilmember Maris said some rules appear, but he felt they were not being enforced, especially regarding the selling of lots. He added many rented lots were not being used or were being parked on and people didn't want to walk through an open area. He said if it wasn't controlled, it would become a parking lot instead of a market.

Councilmember Wilson asked about parking for vendors who own their own building. Councilmember Maris said it was to their advantage to have merchandise visible and they would be at a disadvantage to have a motor home or something blocking the view. He noted there used to be a rule requiring merchandise be displayed and allowing the vendor to park behind the merchandise. Councilmember Wilson stated he was not opposed, but was concerned about the vendors who owned a building and rented additional spots to have close parking. He added that if a vendor had an adjacent lot with merchandise displayed on it, it would be okay. Councilmember Maris pointed out many vendors reserve anywhere just to park, and that several with four or five lots held their lots but never even set up, to the detriment of neighboring vendors. He also pointed out the pavilions were not operated that way. When Councilmember Wilson said the building owners paid for nearby parking and the pavilion vendors had parking available, Councilmember Maris said he didn't think they were the ones causing problems. He reiterated Councilmember Sanford's proposal to make one row merchandise and the next one parking. He then recommended disallowing the transfer of lots, noting the City should get the money when a lot is sold and may even want to consider auctioning off lots. Councilmember Maris made a motion to authorize First Monday management to require merchandise be displayed on rented lots. Councilmember Wilson asked for clarification on the wording of the rule rather than voting yet. Councilmember Sanford said criteria were needed before management could deny a renewal. Councilmember Wilson noted the city had to be careful not to hinder free enterprise. Councilmember Maris suggested if a vendor did not set up for two months, management had the option to rent the lots to someone else. Councilmember Wilson warned the Council to consider the potential loss of revenue and vendors this requirement might cause. Councilmember Sanford asked if Councilmember Maris would get with Lonny Cluck to see what wording they could recommend. Councilmember Maris withdrew his motion.

**DISCUSS AND CONSIDER ADOPTION OF ORDINANCE PROVIDING FOR POLICIES AND PROCEDURES REGARDING THE OPERATION OF FIRST MONDAY TRADE DAYS**  
 – Item tabled per discussion above.

**DISCUSS AND CONSIDER FIRST MONDAY RESTROOMS** – Item requested by Councilmember Pruitt and tabled in his absence.

**DISCUSS AND CONSIDER FIRST MONDAY PLANNER** – Councilmember Wilson noted First Monday's uniqueness and questioned whether a consultant would fully understand it. Councilmember Sanford suggested determining what the Council wanted prior to hiring a consultant. Mayor Hilliard noted the City's limitations on design abilities and was concerned the City get a finite plan for structure design in place. Councilmember Wilson recommended the City talk to the vendors also. Mayor Hilliard stated the previous vote on hiring a consultant would stand until it was officially overridden. Councilmember Maris added that he also wanted another meeting prior to hiring a consultant so that the Council could organize and prioritize its suggestions for incorporation into any proposal. Charles Fenner explained he was planning to hire a consultant to evaluate the economy, the commerce of the whole area, the placement of structures, and ways to generate more revenue. The Council then agreed to meet to gather input prior to hiring a consultant.

**DISCUSS AND CONSIDER RETAINING WALL BEHIND PAUL MICHAEL'S BUILDING ON FIRST MONDAY PARK** – Councilmember Wilson asked why the Council did not want to

put up the retaining wall behind Paul Michael's building. Councilmember Maris said he had no objection if Mr. Michael wanted to put it up, but thought the retaining wall was part of Mr. Michael's foundation and his responsibility. He noted that it would take the City four years to recoup a \$16,000 expenditure at the rate of \$350 per month generated from the lot rent, while Mr. Michael could recoup in four months from what he was earning off those same lots. He stated it was poor policy for the city to get involved and that the wall was an integral part of Mr. Michael's structure. He pointed out that a vendor on Rows 2 and 3 paid \$50,000 extra to build on a slope and put in drainage, but the city didn't offer to pay any of that. Councilmember Wilson countered that the City oftentimes paid for concrete and that Mr. Michael always optioned to pay some of that expense. Councilmember Maris noted the concrete benefited all who walked the pathways, but a wall only benefited Mr. Michael. He added that the City required the builder to have an engineered plan, and that should include the slab to hold up the building and to keep it from being undermined by the creek. Councilmember Wilson asked if the City were liable if it fell. Attorney Richard Davis said he would have to look at the contract, but believed the sole responsibility for maintaining the structure rested with the owner of the building. Councilmember Brockman stated the city should treat all vendors equally and it could not afford to spend the money. Mayor Hilliard asked if Councilmember Wilson was satisfied, to which he answered yes, he just wanted clarification.

DISCUSS AND CONSIDER HEALTHCARE BENEFITS FOR EMPLOYEES – Councilmember Wilson asked that this and the next item be discussed in executive session.

DISCUSS AND CONSIDER APPROVAL OF NEW ORGANIZATIONAL CHART AND SALARIES -

DISCUSS AND CONSIDER ENFORCEMENT OF "NO PARKING" SIGNS – In answer to Charles Fenner's request for direction, the Council agreed they approved the enforcement of the City's "No Parking" signs.

Mayor Hilliard recognized resident Bob Stout who asked for clarification on Councilmember Brockman's earlier statement following Tommy Roberts comments under Guest Items. Mr. Brockman said he was not in favor of discussing personnel issues in an open meeting.

Realtor George Pitts spoke on the item regarding acceptance of an annexation petition from a developer proposing a 40-acre residential subdivision on Highway 19 North. He voiced his opposition and stated it was in the Edgewood School District and would not benefit the Canton School District, and the City would be doling out money to maintain the streets and provide police protection without receiving any benefit, except the selling of water. Charles Fenner offered that two Public Hearings would be held on the issue affording him an opportunity to present his opposition to the Council.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – CITY MANAGER OF FINANCE CONTRACT NEGOTIATIONS - The Council recessed at 7:29 p.m. before convening in closed session at 7:36 p.m. to discuss healthcare benefits, the city's organizational chart and salaries, and the city manager of operations' position, as well as to negotiate the City Manager of Finance's retirement agreement.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS  
(Section 551.074) – DISCUSS STATUS OF CITY MANAGER OF OPERATIONS’ POSITION

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS  
(Section 551.074) – SALARIES AND BENEFITS

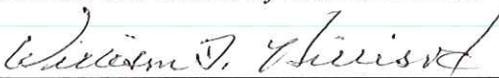
EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE  
OF REAL PROPERTY (Section 551.072)

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS  
DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 8:49  
p.m.

Mayor Hilliard announced no action was taken on healthcare benefits, the organizational chart or employees’ salaries. He further announced Mr. and Mrs. Johnny Mallory had agreed to accept a \$20,000 final payment upon Mr. Mallory’s retirement effective August 29, 2004, and that a committee consisting of Councilmember Sanford, Charles Fenner and Jim Stephens had negotiated this agreement with the Council’s approval. Councilmember Brockman then made a motion to accept Johnny Mallory’s resignation and approve the \$20,000 final payment. Councilmember Maris seconded, and all voted in favor. Richard Davis was asked to draft the termination agreement and a retirement reception in Mr. Mallory’s honor was recommended. Mayor Hilliard announced Mr. Fenner’s title would change from City Manager of Operations to City Manager effective October 1, 2004, and that his contract would be amended to change his tenure to October 1 through September 30, with the amount of salary to be determined as part of the budgetary process. Councilmember Sanford so moved, Robert Brockman seconded, and all voted in favor.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS -  
None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 8:55 p.m. upon motion by Councilmember Brockman and second by Councilmember Wilson.

  
\_\_\_\_\_  
William F. Hilliard, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie H. Jackson, City Secretary

CALLLED MEETING OF CANTON CITY COUNCIL  
CITY OF CANTON, TEXAS  
5:30 P.M., TUESDAY, AUGUST 24, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above named date and time in the City Hall Council Chambers. Councilmembers present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Ron Sanford and Raymond Pruitt. Councilmember Rusty Wilson arrived at 6:31 p.m. Attorney Richard Davis was also present.

Discussion and action were as follows:

**CALL MEETING TO ORDER - Mayor Hilliard called the meeting to order at 5:30 p.m. and announced a quorum was present.**

SECOND PUBLIC HEARING ON ANNEXATION OF 26.24 ACRES SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON VZCR 2106 OWNED BY CANTON ECONOMIC DEVELOPMENT CORPORATION – Mayor Hilliard opened the Public Hearing at 6:30 p.m. and closed at 6:31 p.m. hearing no comments.

SECOND PUBLIC HEARING ON ANNEXATION OF 6.20 ACRE TRACT SITUATED IN THE J. DOUTHIT SURVEY, A-198, LOCATED ON SOUTHEAST CORNER OF SH 64 AND SH 243 – Mayor Hilliard opened the Public Hearing at 6:31 p.m. No comments were offered and the Hearing closed at 6:31 p.m.

DISCUSS AND CONSIDER AWARDED BIDS ON LAZY U AND EHTERIDGE ROAD CONSTRUCTION PROJECTS – Gary Burton reported three companies bid on both projects— Simon Traylor & Sons, Ashland Paving & Construction Inc., and Atlas Excavation & Construction. He said Simon Traylor & Sons was the low bidder on both projects, coming in at \$670,872 for the base bid and \$699,972 for the base bid plus alternate bid items on Etheridge Road; and \$571,559.25 for the base bid plus alternate B on Lazy U. He noted that Simon Traylor & Sons was a reputable and qualified company that did a lot of road construction and TxDOT work. He added the Lazy U project would have a five-month completion date from notice to proceed. In response to Mayor Hilliard's concerns about the effects of winter on the completion date, Mr. Burton responded that no one expressed concerns at the pre-construction meeting. Councilmember Sanford asked about easements. Mr. Cluck said all were in place except Mr. Bobo's who wanted the City to build another street and purchase a right-of-way. Councilmember Brockman asked about natural drainage. Mr. Cluck confirmed there were two drainage pipes in place, but no written easement, although an implied easement might apply. Councilmember Maris asked if the existing drainage needed to be increased. Mr. Burton said one pipe was 24" and the other an unknown size, while the plans called for their replacement with two 24" pipes. Councilmember Sanford asked where the City stood if it proceeded with Lazy U and went with an implied easement. Attorney Richard Davis said if the pipe were the same size and not touching Mr. Bobo's property, the City could proceed as long as it was all within the right-of-way. Councilmember Sanford made the motion to award the Lazy U project to the low bidder, Simon Traylor & Sons, and to proceed immediately, with the exception of the drainage pipe work unless Mr. Bobo granted the easement. Councilmember Wilson seconded. Councilmember Brockman indicated he had a relative living in the area and, therefore, abstained. All others voted in favor. Due to problems securing easements, a motion was made to reject all bids on Etheridge Road. It was subsequently withdrawn since the Council had sixty days to consider the bids. Ray Brumley said he would bring the Lazy U contracts for execution. Richard Davis asked for confirmation from the engineers on their statement that improvements would not put any more water on the

Bobo property and that there would be no changes made to the drainage structures in place. Gary Burton said it was his understanding they were not widening, only re-paving the street. Mr. Brumley noted that before the 24" pipe was put in, it was an open waterway. Then the City put in the pipe and it was covered with fill. He said it wouldn't be an issue if it had not been filled in. Richard Davis said he thought the city's plans were as cautious as they could be.

**EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE OF REAL PROPERTY (Section 551.072)** – The Council recessed at 5:46 p.m. before convening in closed session at 5:56 p.m. to discuss real property issues.

**RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION** – The Council returned to open session at 6:05 p.m. with no action taken.

**COUNCIL AND STAFF WORK SESSION FOR 2004-2005 FISCAL YEAR BUDGET** – Charles Fenner reviewed changes to the proposed budget. He started with the increase in water and sewer revenues affected by the proposed rate increases. He proposed an increase from \$8.50 for the first 1500 gallons of water to \$11.00 for the first 2000 gallons of water, and from \$3.50 to \$4.00 per 1000 gallons thereafter. He also proposed raising the sewer rate from \$7.00 to \$8.00 for the first 1500 gallons of water and from \$0.70 to \$1.00 per 1000 gallons thereafter with an \$18.00 cap on residential customers. He noted the average usage was 8,000 gallons and those customers would receive a \$4.75 monthly increase. He also explained he had considered raising the base usage to 3,000 gallons out of concern for those on a fixed income, but pointed out some of those on fixed incomes were above average users. Mr. Fenner also discussed his conservative estimate of \$3,000 per month generated from the \$15.00 per RV site charge. Councilmember Pruitt asked if it was \$15.00 per RV lot if they had water and sewer, to which Mr. Fenner answered yes. Mayor Hilliard asked about the effects of increasing the base rate to 4,000 gallons per month, stating the City needed to be considerate of the general citizenry. Mr. Fenner said he could work on those numbers. He added that the increase was necessary for infrastructure maintenance, citing as an example that \$130,000 was budgeted for a sewer trunk line. Mr. Fenner referenced that \$1.1 million revenue could be generated by a \$0.40 tax per \$100 dollars property value, stating he was not suggesting a tax, only using it for comparison. He suggested the City implement a three to five year plan to raise water and sewer rates. Councilmember Brockman agreed a small increase was appropriate, as production was getting more expensive and old lines needed to be replaced. Councilmember Wilson stated that lower water and sewer rates were part of the reason citizens put up with First Monday. He said, and the Mayor agreed, that there would be a point where it was not right for Canton's citizens. Councilmember Maris indicated the Council needed to determine what it wanted First Monday to support and that water was supposed to be an enterprise that should at least break even. He added that otherwise, the City might have to replace an ad valorem tax to subsidize the city and also water. Councilmember Sanford said revenue was needed and the City would have to go up on water and sewer since the lines and facilities would require a quarter million dollars in repairs over the next several years. He added everything couldn't keep coming out of First Monday and some needed to be reinvested to keep it up. Councilmember Maris indicated First Monday revenue was increasing 3.77% which was not enough to keep up with expenses, and the City was not leaving enough in the First Monday budget to make improvements that would generate more revenue. Charles Fenner noted the City would be hit with penalties the next year for water and sewer plant violations.

Councilmember Maris asked if Mr. Fenner felt he had kept the increases to a minimum. Mr. Fenner replied he had and he showed the proposed rates were still below average for this area. Mr. Fenner then noted Olympic's requested rate change on trash service (the first since 1997) which was 3% on bag/cart residential and commercial customers, and 25% on containers. Councilmember Wilson asked about the cap on sewer. Mr. Fenner said the extra \$1.00 on the cap would generate approximately \$50,000 on 1880 meters. Mayor Hilliard commented on the number of past-due water customers. Mr. Fenner said a new policy was being implemented and the City would begin cutting meters off after thirty days. Mayor Hilliard asked him to sensitive where there was a problem in the family. Jim Stephens confirmed that was addressed in the policy. The Mayor also asked about a mechanism for the elderly on a fixed income. Mr. Fenner said there was not a provision for the elderly per se since many over 65 were high-end users, but an adjustment to a 3,000-4,000 base rate might be possible. Councilmember Pruitt said he was concerned about those at the base rate and asked if there were any way to freeze those customers who didn't use the minimum. Mr. Fenner suggested he try a 3,000 base rate at \$10.00. Councilmember Sanford suggested staying at a base rate of 2,000-2,500 and going up to \$4.00 per thousand on additional usage. Charles Fenner said for the 30 users of more than 100,000 gallons, there was a substantial proportionate rate increase at the \$4.00 rate. Mayor Hilliard noted it was one of the privileges of living in Canton and that it was one of a few places where citizens still received special treatment. He requested that if a change was needed, that the Council make sure it was right. Councilmember Maris said if the budget were cut, it would hit the City harder in the future, and the City could not save on what it had to spend on water and sewer. In further discussion on low-end users, Mr. Fenner noted the rate system could be tiered with 2,000 gallons at \$8.50 and over 2,000 at \$11.00. Councilmember Sanford asked Mr. Fenner to run the figures on a base of 2,000, of 5,000 and of 10,000 with sewer included, then adjust the base price down a dollar for each and raise the minimum on sewer. Councilmember Wilson said he was not opposed to an increase, but to put the bulk of the increase in the middle.

Moving on, Mr. Fenner indicated a 3% increase in First Monday revenue was proposed. Mayor Hilliard asked how the RV water/sewer rates were handled. Mr. Fenner explained the revenue was built into the water and sewer fund and the City's were charged from First Monday to that fund. Mr. Fenner said the \$15.00 charge was not about generating revenue, but about covering the cost of treatment. Lonny Cluck explained a manual inventory would have to be taken the first time, then any additional sites would be noted as developers requested building permits.

Mr. Fenner reported the bulk of the change in expenses was in the water and sewer departments. He indicated total expenses increased 7% (\$500,000) with a major portion being capital expenditures. He added the salaries had increased approximately 3%, included in that was the shuffling of salaries among the departments and the creation of four new positions—a parks person, a marketing professional and a part-time firefighter. He noted that Johnny Mallory's salary would be used to hire someone to oversee finance, grants and purchasing, or a split of those functions. Councilmember Pruitt asked why the firefighter was part-time. Mr. Fenner explained a person was needed at the station during the day and during First Monday to cover calls while fewer volunteers were available to respond. He added the firefighters would perform other duties while on the clock. Councilmember Brockman asked about the retirement program. Mr. Fenner said the 20-year retirement eligibility was included, but an increase to a 6% employee contribution would cost another \$18,000. Councilmember Brockman said he would like to see

what difference that would make at retirement and would like to see it increased to 6%. Mayor Hilliard asked Councilmember Brockman to work with Mr. Fenner.

On the animal control budget, Mr. Fenner said the \$90,000 proposed budget included two people, and under the reorganization they would be picking up extra duties in code enforcement. He reported Grand Saline had offered to give a \$10,000 gift and pay \$750 a month. He further reported the staff was getting bids and looking at alternate sites for the shelter—at its current site, at the sewer plant or by the water plant. Mayor Hilliard said pressure should be put on the county leaders to take over the shelter. Mr. Fenner said he had talked to the county, but they were having budget problems. They offered a swap of the library for the animal shelter, but that would increase the City's budget. Mr. Fenner asked if he was hearing that the City should provide this service for itself and no one else, including the county. Councilmembers Sanford, Maris, Brockman, Pruitt and Wilson replied yes. Lonny Cluck said he met with the citizens about their concerns for the shelter and they were putting together a proposal for volunteer help and raising funds.

Mr. Fenner pointed out the addition of \$88,000 for capital street improvements and that he wanted to include any necessary renovation on water and sewer lines when undertaking a major street project. He said another \$80,000 was added for capital parks projects, including the City's part of a matching grant for the 80-acre park, the tennis courts, equipment at the Old City Lake park and maybe a skate pad. He noted a survey for the master park plan was currently being conducted and the city may also try to incorporate elements from that survey. The Mayor pointed out the development created more demand for maintenance. Lonny Cluck said the Parks Board was working hard, had a lot of great ideas on raising funds, and would providing a lot of volunteer help. Charles Fenner also pointed out a new parks employee was added for that reason.

Mr. Fenner recapped the budget, stating the general fund was increased about 5% and there were big changes in the water and sewer fund, including a \$192,000 increase in capital improvements. Councilmember Wilson asked for clarification. Mr. Fenner said it included running a new trunk line from Wal-Mart to dog alley so the lift station could be eliminated.

Councilmember Pruitt asked about the chamber's allocation. Mr. Fenner noted \$30,000 was in the budget. Councilmember Pruitt stated they were doing a good job, but even though we were giving \$30,000, the city was still sending someone to the shows. Councilmember Wilson suggested asking the chamber to increase the amount they spend on shows. Mayor Hilliard appointed himself and Councilmembers Brockman and Pruitt to work with Mr. Fenner on a proposal.

Mr. Fenner reported a large sum was budgeted for First Monday capital improvements, noting he wanted to make improvements without borrowing to do it. Councilmember Wilson asked if salaries included a consultant. Mr. Fenner said it would come from salaries or special projects. Councilmember Wilson asked for clarification on the increase in salaries. Mr. Fenner explained his, Mr. Cluck's, and a grant employee's salaries were split out in the different accounts, the salaries were down in the police department, and Walter Hall had been moved from Parks to First Monday.

Mr. Fenner reviewed the debt service fund, stating \$625,000 was budgeted for payments of principal on the bonds and \$119,960 for principal on loans. He said \$575,000 would be transferred from First Monday to Debt Service and \$536,000 from First Monday to General Operating. He added that one-fourth of the tax proceeds (\$575,000) would be deposited in the debt service fund.

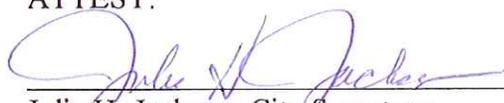
Councilmember Maris asked about plans for the airport. Mr. Fenner noted the upgrades were not budgeted, but the city was fixing a few things every year. In discussing a possible grant to make the improvements, Lonny Cluck reported the City did not qualify since the airstrip could not be lengthened. Councilmember Maris requested a committee be formed to see what was needed. Names suggested were Don Hackney, Jesse Thompson, Paul Orf, Daryl Mize and Jerry Rand. Councilmember Wilson asked where the city was on selecting an electric service provider. Mr. Fenner said Direct Energy was putting together a comparison on the major accounts.

Councilmember Maris stated he would like to see a Town Hall meeting scheduled to present the budget to the citizens and allow them to ask questions. Mayor Hilliard said a hearing would be held during the regular meeting. Charles Fenner asked the Council's direction on how it wanted to handle amendments to the budget. Councilmembers Wilson and Brockman suggested quarterly updates since the monthly financial statements were included in the regular meeting packets.

ADJOURN - There being no further items for discussion, the meeting adjourned at 7:28 p.m. on a motion by Councilmember Pruitt and second by Councilmember Wilson.

  
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 William F. Hilliard, Mayor

ATTEST:

  
 \_\_\_\_\_  
 Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 5:30 P.M., TUESDAY, SEPTEMBER 14, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above named date and time in the City Hall Council Chambers. Councilmembers present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Ron Sanford and Raymond Pruitt. Councilmember Rusty Wilson was absent.

Discussion and action were as follows:

**CALL MEETING TO ORDER - Mayor Hilliard called the meeting to order at 5:30 p.m. and announced a quorum was present.**

DISCUSS AND CONSIDER APPROVAL OF RATE INCREASE FROM OLYMPIC WASTE SERVICES – Charles Fenner explained Olympic Waste was requesting a 3% rate increase on residential service, 25% on commercial service, and charging for hauling sludge from the wastewater treatment plant. He noted the last time Olympic requested a rate increase was 1997, and the budget had been adjusted to include the requested increase. Upon Charles Fenner's recommendation, Councilmember Sanford made a motion to accept the rates. Councilmember Maris seconded, and Councilmembers Sanford, Maris and Brockman voted in favor while Councilmember Pruitt voted against. Councilmember Pruitt objected to the 25% increase for commercial customers, stating it was an unheard of increase, that 10-12% was acceptable due to rising fuel costs and the long period without an increase. He stated the City should make a counter offer. Charles Fenner said it was their breakeven rate, they had provided great service, and it would have to go out to bid if it wasn't approved soon. Councilmember Sanford said he thought Olympic had been fair, treated the City well, and provided good service for the past four years. Councilmember Pruitt pointed out the road damage at the end of Etheridge caused by the trucks. Councilmember Pruitt and Brockman said they'd like to see Olympic use smaller trucks. Charles Fenner noted they were negotiating with Olympic to get \$8,000-\$10,000 to help on the road to the transfer station. Upon Councilmember Brockman suggestion, Councilmember Sanford rescinded his motion and Councilmember Maris withdrew his second, all voted in favor. Councilmember Brockman then made the motion to authorize Fenner to negotiate with Olympic Waste Services. Councilmember Pruitt seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE AMENDING TRANSFER STATION FEES – Upon motion by Councilmember Brockman and second by Councilmember Maris, the following ordinance amending transfer station fees was unanimously adopted:

ORDINANCE NO. 2004 - 16

**AN ORDINANCE ESTABLISHING RATES CHARGED FOR THE COLLECTION OF SOLID WASTE AT THE CANTON TRANSFER STATION; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, there is a necessity for the City of Canton, Texas to charge for the collection of solid waste at the transfer station in order to pay for the proper disposal of solid waste, and the maintenance and operations of the facility;

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Canton, Texas:

SECTION 1.

That rates shall be charged for the collection of solid waste at the Canton Transfer Station as follows:

<u>Service</u>	<u>County Residents</u>	<u>Non-County Residents</u>
Compacted household trash may be prorated - \$5.00 min.	\$17.50 per cubic yard	\$27.50 per cubic yard
Loose household trash may be prorated - \$3.00 min.	\$15.00 per cubic yard	\$25.00 per cubic yard

Items placed in open-top containers such as construction debris, excluding shingles	\$17.50 per cubic yard	\$27.50 per cubic yard
Shingles	\$20.00 per cubic yard	\$30.00 per cubic yard
Furniture, mattresses, television sets and other large items:		
up to 1 cubic yard	\$17.50 each	\$27.50
1.5 cubic yards	\$25.00 each	\$35.00 each
2.0 cubic yards	\$30.00 each	\$40.00 each
Major appliances such as refrigerators, stoves or ranges, hot water heaters, washers, dryers, etc.	\$10.00 each	\$20.00 each

No tires, batteries or drums with lids will be accepted.

#### SECTION 2.

That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

#### SECTION 3.

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word, or provision hereof given full force and effect for its purpose.

#### SECTION 4.

This Ordinance shall become effective and in full force and effect October 1, 2004.

PASSED, ADOPTED, AND APPROVED on this the 14th day of September, 2004.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE AMENDING CHARGES FOR HAULED-IN HOUSEHOLD SEWAGE – The following Ordinance No. 2004-17 increasing charges for hauled-in household sewage from \$8.00/100 gallons to \$12.00/100 gallons was unanimously adopted upon motion by Councilmember Pruitt and second by Councilmember Brockman:

#### ORDINANCE NO. 2004 - 17

AN ORDINANCE AMENDING ORDINANCE 2001-01 PASSED BY THE CANTON CITY COUNCIL ON FEBRUARY 20<sup>TH</sup>, 2001, AS AMENDED BY ORDINANCE 2003-14 BY THE CANTON CITY COUNCIL ON NOVEMBER 18, 2003; PROVIDING FOR AN INCREASE IN THE CHARGES FOR HAULED-IN HOUSEHOLD SEWAGE; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

SECTION 1. That the section titled (2) Charges Per Load under Article I Rates and Charges of Ordinance 2001-01 passed and approved by the City Council on the 20<sup>th</sup> day of February 2001, as amended by Ordinance 2003-14 passed and approved by the City Council on the 18<sup>th</sup> day of November, 2003, be and the same is amended to read as follows:

The following charges shall be made for each load of hauled-in waste in addition to the annual permit fee.

Treatment choice of:

- (7) \$12.00 per 100 gallons of tank capacity of household septage; or
- (8) \$12.00 per 100 gallons of a mutually agreed to metering system provided and maintained by the septage hauler.
- (9) Trip tickets for each load of septage disposed at the City's Wastewater Treatment Plant will be forwarded to the Water Utility Department for billing. A statement will be rendered within the first two (2) weeks of the month.

SECTION 2. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 3. That if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word, or provision hereof given full force and effect for its purpose.

SECTION 4. This ordinance shall become effective and in full force on and after October 1, 2004.

**PASSED, ADOPTED, AND APPROVED** on this the 14th day of September, 2004.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE AMENDING WATER AND WASTEWATER RATES – Based upon local rate comparisons and a study in Texas Town & City Magazine, Charles Fenner proposed water rates of \$8.50 for the first 750 gallons, \$4.00/1000 for 751 – 150,000 gallons and \$3.50/1000 for anything over 150,000 gallons. He said there were 160 active accounts out of 1770 that used under 750 gallons and the typical bill is \$25.00. He indicated the average bill would increase by approximately \$4.75 per month. He added he was still concerned that the base rate was too low and also concerned about the high-end user. Mayor Hilliard suggested giving a break at some point. Charles Fenner informed him the projected figures fell short when the break was increased. Councilmember Pruitt was concerned high-end water users were getting charged higher sewer rates. Mr. Fenner pointed out there was a cap on residential sewer rates and pricing was tiered down at 150,000 gallons and over. He said the city's rates were still low at 5,000 gallons usage, which should be \$28.00 at that level. Councilmember Sanford stated he was not opposed to \$4.50 or \$5.00 per 1000 gallons over 750 gallons. Mayor Hilliard asked if the increase would cover the bond payment. Mr. Fenner said it would only cover the bond payment, and he had to cut \$150,000 needed capital improvements from the budget. He pointed out the 11% increase in expenditures was mostly capital. When asked about the breakeven rate, Mr. Fenner stated he felt it was at breakeven if capital improvements were not included. He said the rate increase wouldn't provide enough revenue for the needed sewer line.

Local laundromat owner, Heidle Baskin, opposed the proposed rate increase, stating the water rates had been increased 40% (from \$2.50 to \$3.50 per 1000) two years prior, and the currently proposed increase would bring that to a 60% increase in the past 24 months. He said his business

dealt with single moms and others for whom a laundromat was a necessity for cleanliness, health and hygiene, unlike a car wash which was a luxury. He noted that he could pass on the increase to his customers, but they were ill-equipped to afford it. He added that laundromats were more efficient on water usage than residential machines. He suggested the base rate be adjusted, noting a \$12.00-\$14.00 base rate was not unreasonable.

Councilmember Maris asked how many people would be affected by an increase in the base rate. Charles Fenner suggested the City could offer a discount to laundromats. He then noted the proposed rates were based on the Council's direction and he would much rather see a \$20.00 base rate. Councilmember Sanford made the motion to adopt the proposed water and sewer rate schedule. Councilmember Pruitt seconded, and all voted in favor of the following ordinance:

**ORDINANCE NO. 2004 - 18**

**AN ORDINANCE AMENDING ORDINANCE 92-9 PASSED BY THE CANTON CITY COUNCIL ON OCTOBER 20, 1992, AS AMENDED BY ORDINANCE 93-12 PASSED BY THE CITY COUNCIL ON SEPTEMBER 21, 1993, BY ORDINANCE 95-09 PASSED BY THE CITY COUNCIL ON OCTOBER 17, 1995, BY ORDINANCE 99-12 PASSED BY THE CITY COUNCIL ON SEPTEMBER 21, 1999, BY ORDINANCE 2002-06 PASSED BY THE CITY COUNCIL ON JULY 16, 2002; AND BY ORDINANCE 2003-02 PASSED BY THE CITY COUNCIL ON FEBRUARY 18, 2003; PROVIDING FOR AN INCREASE IN THE RESIDENTIAL AND COMMERCIAL WATER AND SEWER RATES; PROVIDING FOR A FEE FOR SEWER ON ALL HOOK-UP SITES FOR RECREATIONAL VEHICLES; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**SECTION 1:** That the section titled Water Service Monthly Charges under Division 1. Rates and Charges of Ordinance 92-9 as amended by Ordinance 93-12 passed and approved by the City Council on the 21st day of September, 1993, as amended by Ordinance 95-09 passed and approved by the City Council on the 17<sup>th</sup> day of October, 1995, as amended by Ordinance 99-12 passed and approved by the City Council on the 21<sup>st</sup> day of September, 1999, as amended by Ordinance 2002-06 passed and approved by the City Council on July 16<sup>th</sup>, 2002, be and the same is amended to read as follows:

<u>WATER RATES</u>	<u>INSIDE CITY LIMITS</u>	<u>OUTSIDE CITY LIMITS</u>
0 to 750 gallons	\$8.50	\$20.00
750 - 150,000 gallons	\$4.00 per thousand	\$ 4.00 per thousand
over 150,000 gallons	\$3.50 per thousand	\$ 3.50 per thousand

**SECTION 2:** That the section titled Sewer Service Monthly Charge under Division 1. Rates and Charges of Ordinance 92-9 passed and approved by the City Council on the 20th day of October, 1992, as amended by Ordinance 99-12 passed and approved by the City Council on the 21<sup>st</sup> day of September, 1999, as amended by Ordinance 2002-06 passed and approved by the City Council on July 16<sup>th</sup>, 2002, as amended by Ordinance 2003-02 passed and approved by the City Council on February 18, 2003, be and the same is amended to read as follows:

Sewer rates are charged based on water usage as follows:

<b>Residential:</b>	
0 to 1,500 gallons	\$ 8.00
over 1,500 gallons	\$ 1.00 per thousand
Maximum rate	\$18.00

Commercial:	
0 to 1,500 gallons	\$ 8.00
over 1,500 gallons	\$ 1.00 per thousand
No maximum	

Surcharge for all recreational vehicle connections (RV hook-ups) \$15.00 per water connection on site

**SECTION 3:** That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

**Effective Date**

This ordinance shall become effective and in full force on and after the October 2004 billing, due October 10, 2004.

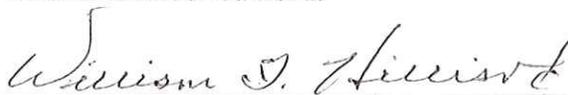
**PASSED** by a majority vote of the City Council of Canton, Texas, on this the 14<sup>th</sup> day of September, 2004, to attest which we hereunto set our hands and seal.

Mayor Hilliard stated he would like to see someone give Charles Fenner the authority to negotiate with laundromat owners. Charles Fenner pointed out the sewer was raised \$1.00, but still extremely low.

**COUNCIL AND STAFF WORK SESSION FOR 2004-2005 FISCAL YEAR BUDGET** – Mayor Hilliard asked if a decision had been made regarding the chamber. Charles Fenner noted \$30,000 had been budgeted. He suggested if less were given, it could be put toward a marketing program and incentives. Councilmember Pruitt and Charles Fenner confirmed \$2200 and \$2400 per month had also been discussed. Councilmember Maris added he thought that was contingent upon the Chamber's move into the Plaza Museum building.

Mr. Fenner pointed out additional funds for matching an increase in employees' retirement contribution to 6% had been included in this draft.

**ADJOURN** - There being no further items for discussion, the meeting adjourned at 6:01 p.m. on a motion by Councilmember Pruitt and second by Councilmember Sanford.

  
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 William F. Hilliard, Mayor

**ATTEST:**

  
 \_\_\_\_\_  
 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
6:30 P.M., TUESDAY, SEPTEMBER 21, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Raymond Pruitt and Rusty Wilson. Councilmember Ron Sanford was absent. City Attorney Richard Davis also attended.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Jim Stephens.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

**GUEST ITEMS** – Jim Fuller reported he was on his way to the International Bluegrass Music Festival in Louisville, Kentucky to promote Canton's festival. He said he had a good group of volunteers and all were working hard for the 2005 festival.

Alan Thompson reported the Masonic Lodge's rummage sale generated \$3,700 for the City's Park Project, and their fundraising efforts would continue until they reached their goal. He said the Lodge voted to place the funds in a separate account designated for the project, to purchase equipment for the park, and to have a donation plaque placed on the equipment. He then challenged other civic organizations to meet or exceed their goal. Mayor Hilliard thanked the Lodge, commended the community's group efforts, and encouraged everyone to rally around the park projects.

**DISCUSS AND CONSIDER APPROVAL OF MINUTES FROM JULY 9, AND AUGUST 17 AND 24, 2004 MEETINGS OF THE CANTON CITY COUNCIL** – The minutes of the July 9 and August 17 and 24, 2004 meetings were unanimously approved on motion by Councilmember Brockman and second by Councilmember Maris.

**DISCUSS AND CONSIDER APPROVAL OF AUGUST 2004 FINANCIAL STATEMENTS** – The August 2004 Financial Statements were unanimously approved on motion by Councilmember Pruitt and second by Councilmember Wilson.

**PUBLIC HEARING ON PROPOSED BUDGET FOR FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005** – Mayor Hilliard opened discussion by noting the City's budget was tight and apologizing for the lack of communication with the Chamber of Commerce regarding its allocation. He then deleted the item from the proposed

budget and suggested the city staff meet with the chamber within a few days. Charles Fenner pointed out changes since the last meeting: the principal and interest payments on the \$650,000 loan for the pavilion and a restroom were included in debt service previously, but a \$125,000 expenditure line item was added for the actual construction of the restroom; additional funds would have to be found if a second restroom was to be included; the Blackwell House and Library maintenance expenses were increased for termite control; and the general fund was re-balanced by increasing the transfer payments from First Monday. He noted the budget was based on the rates and fee structures proposed at the previous meeting. He added that he had talked with Olympic Waste and felt they were close to an agreement on rates, but they would not affect the budget because it would be a pass-through item. He presented a chart on the difference in revenue structure over the previous year and the expenditure changes, along with a pie-chart showing disbursements.

Mayor Hilliard opened the Public Hearing at 6:43 p.m. Councilmember Brockman commended Mr. Fenner and the staff for their work on the budget. Mr. Fenner announced Julie Jackson's appointment to Finance Officer and thanked her for her service and commitment. Hearing no comments from the audience, the Public Hearing closed at 6:45 p.m.

**DISCUSS AND CONSIDER ADOPTION OF ORDINANCE APPROVING PROPOSED 2004-2005 BUDGET** – Mayor Hilliard reiterated the Chamber's allocation would be amended following discussions with the Chamber. The following Ordinance No. 2004-19 was then unanimously adopted upon motion by Councilmember Brockman and second by Councilmember Maris:

**ORDINANCE NO. 2004-19**

**AN ORDINANCE MAKING APPROPRIATIONS FOR THE SUPPORT OF THE CITY OF CANTON FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005; APPROPRIATING MONEY TO A SINKING FUND TO PAY INTEREST AND PRINCIPAL DUE ON THE CITY'S OUTSTANDING INDEBTEDNESS; ADOPTING THE ANNUAL BUDGET OF THE CITY OF CANTON FOR THE 2004-2005 FISCAL YEAR; PROVIDING A SAVINGS CLAUSE, FOR THE REPEAL OF ALL ORDINANCES AND APPROPRIATIONS IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City Manager of the City of Canton, Texas has submitted to the City Council a proposed budget of the revenues and expenditures of the City of Canton for the period beginning October 1, 2004, and ending September 30, 2005 and which said proposed budget has been compiled from detailed information obtained from several departments, divisions, and offices of the City; and,

WHEREAS, a copy of said proposed budget was timely filed with the City Secretary of the City of Canton, Texas; and

WHEREAS, the City Council of the City of Canton did sit as a committee of the whole in the Council Chamber at the City Hall in the City of Canton on September 21, 2004, at 6:30 o'clock p.m., after public notice having been given, to hear any complaints, suggestions or observations during a public hearing on the proposed budget; and

Whereas, said Council is of the opinion that the same should be approved and adopted,

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

SECTION 1. That the proposed budget of the Revenues and Expenses of the City of Canton, Texas for the period beginning October 1, 2004, and ending September 30, 2005, as submitted to the City Council of said City be, and the same is in all things adopted and approved as the budget of all the current expenses as well as the fixed charges against said City, for the period beginning October 1, 2004 and ending September 30, 2005.

SECTION 2. That the sum of \$2,486,615.00 for the payment of General Fund operating expenses and necessary transfers to other funds of the City as hereinafter itemized is hereby appropriated to:

GENERAL FUND

Administration	\$ 783,040.00
Police Department	\$ 783,860.00
Animal Control Dept.	\$ 91,701.00
Municipal Court	\$ 53,615.00
Fire Department	\$ 167,233.00
Street Department	\$ 360,906.00
Parks Department	\$ 246,260.00

SECTION 3. That the sum of \$1,243,865.00 is appropriated from the revenues and balances on hand in the Water Department to operating, capital outlay, debt service and inter-fund transfers of the Water Department. That the sum of \$692,035.00 is appropriated from the revenues and balances on hand in the Sewer Department to operating, capital outlay, debt service and inter-fund transfers of the Sewer Department.

SECTION 4. That the sum of \$3,564,320.00 is appropriated out of the First Monday Fund and ordered expended for the proposed outlined expenses in the First Monday Fund budget for the budget period.

SECTION 5. That the sum of \$1,150,570.00 is appropriated out of the Debt Service Fund to provide for a sinking fund for the payment of the principal and interest and the retirement of the bonded debt of said city coming due during the budget period.

SECTION 6. That the City Council hereby confers upon the City Manager general authority to contract for expenditures without further approval of the Council for all budgeted items the cost of which do not exceed the constitutional and statutory requirements for competitive bidding.

SECTION 7. That this ordinance shall be and remain in full force and effect from and after its passage and approval by the City Council and that all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 8. If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

PASSED, ADOPTED, AND APPROVED on this the 21<sup>st</sup> day of September, 2004.

UPDATE FROM CANTON CHAMBER OF COMMERCE – Rona Watson reported the Chamber welcomed a great turnout for its first annual membership meeting. She said the Chamber's goals were the same as the City's and they wanted to make sure they were profitable and healthy in the future. She said they attended the Womens Visions Expo in Dallas and noticed

things they'd like to improve upon, and they would be attending another trade show in August. She added the Chamber was holding its first election since 1997 for the officers and four directors, and encouraged members to exercise their right to vote. She indicated their goal was to turn the chamber back over to its members. She also accepted the Masonic Lodge's challenge to meet or exceed their fundraising efforts for the City Park.

**DISCUSS AND CONSIDER RENEWAL OF CHAMBER OF COMMERCE SERVICE AGREEMENT** – Item tabled.

**DISCUSS AND CONSIDER PLAZA MUSEUM LEASE/CURATOR AGREEMENT WITH CHAMBER OF COMMERCE** – Representing the Plaza Museum Board of Directors, Donna Rakestraw thanked the Council for their support of the museum and stated she was proud of the museum's continuing progress. She said the Plaza Museum would make a wonderful welcome place for visitors and the Chamber's tenancy would allow it to be open all the time so more could visit this city highlight. She said the Board reviewed the proposal and urged the Council to confirm the agreement. Upon Ms. Rakestraw's and Mr. Fenner's recommendation, Councilmember Brockman made a motion to approve the Plaza Museum Lease/Curator agreement with the Chamber of Commerce. Councilmember Maris seconded, and all voted in favor.

**DISCUSS AND CONSIDER PROCLAMATION HONORING JOHNNY MALLORY UPON HIS RETIREMENT FROM CITY SERVICE** – Mayor Hilliard recommended the proposed proclamation and invited the public to attend a reception in Mr. Mallory's honor on September 23, 2004 at the Blackwell House. The following proclamation was passed upon motion by Councilmember Pruitt and second by Councilmember Wilson:

**PROCLAMATION HONORING  
JOHNNY M. MALLORY  
FOR DISTINGUISHED SERVICE**

**WHEREAS**, Johnny Mallory was born in Lindale to Hazel Baldwin Mallory and John R. Mallory, has been married to Ann Jordan Mallory for twenty-nine years, has four children, Russell Mallory, Sherry Williams, Richard Bellar and Chris Bellar, and fourteen grandchildren; and

**WHEREAS**, Johnny Mallory was educated through the Lindale public schools, Tyler Junior College, Texas A&M, and the school of hard knocks, and began his distinguished career in the printing business with the LINDALE NEWS and THE MINEOLA MONITOR before serving as City Manager in Lindale from 1972-1987, in Grand Saline from 1987-1988, and in Canton from 1988-2004; and

**WHEREAS**, Johnny Mallory's accomplishments are many, starting in Lindale where he served on the City Council before accepting the City Manager's position, and during his tenure brought the I-20/Hwy 69 area into Lindale's extraterritorial jurisdiction, bringing in many new businesses; developed a new water well, water treatment plant, and wastewater treatment plant; and created an employee retirement program; and

**WHEREAS**, Johnny Mallory's many contributions to the City of Canton since his employment in 1988 have been critical to the overall success of the City, and his leadership has taken the City through times of remarkable advancement, including the streamlining and

computerization of the City's governmental and First Monday functions; the development of a retirement program and sick leave bank for employees; the construction of a civic center, a new water tower, new water and sewer lines, a major wastewater treatment plant expansion, and a major on-going streets improvement program; extensive improvements to the First Monday Park including expansion of vendor areas, paved walkways, bridges, three pavilions, two restrooms, RV parks, and parking lots; extensive improvements to the Mill Creek swimming area, the soccer fields, the playground at Old City Lake and the City's parks; the establishment of the Canton Economic Development Corporation; the refurbishment of the historic water tower downtown and the designation of Canton as a Texas and National Main Street City and all the development programs associated therewith; the planning and receipt of grant funding for a major downtown sidewalk renovation project; the development of planning tools such as the city's comprehensive plan; the enhancement and expansion of fire and police services; and the development of a major tourism program; and

WHEREAS, Johnny Mallory's most notable achievement was the respect he commanded from all who worked with him throughout his distinguished career -- respect earned through the vast knowledge, integrity, honesty, and fairness with which he dealt with all situations, peers, employees and citizens; and

WHEREAS, Johnny Mallory's dedicated interest and devotion to duty have had a valuable effect on this City for which the City is deeply appreciative; and

WHEREAS, it is appropriate to pause to honor Johnny Mallory upon his retirement from a lifetime of service to his community;

NOW, THEREFORE, by virtue of the authority vested in me as Mayor of the City of Canton and on behalf of the Canton City Council and all citizens hereof, I do hereby proclaim September 23, 2004, as

## Johnny Mallory Day

in Canton, Texas, urging all citizens to join me in honoring Johnny M. Mallory upon his retirement and in extending best wishes for his continued success in life's pursuits.

IN WITNESS, WHEREOF, I do hereby set my hand, and cause the Corporate Seal of the City to be affixed this the 21<sup>st</sup> day of September 21, 2004.

DISCUSS AND CONSIDER AUTHORIZATION AND ADOPTION OF SUPPORTING RESOLUTION FOR DOWNTOWN STREET CLOSURES ON OCTOBER 9<sup>TH</sup> FOR CANTON MAIN STREET AUTUMN STROLL – Diane Milliken requested street closures for the Autumn Stroll and Classic Car Show on Saturday, October 9, 2004 until 7:00 p.m. She confirmed downtown merchants had been asked. Councilmember Pruitt made the motion to approve the street closures and adopt the following resolution seeking authorization for highway closures from TxDOT:

### RESOLUTION NO. 2004-12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, AUTHORIZING CLOSURE OF A PORTION OF STATE HIGHWAY 198 FOR THE CANTON MAIN STREET AUTUMN STROLL AND CLASSIC CAR SHOW IN THE CITY OF CANTON, TEXAS**

WHEREAS, the Canton Main Street sponsors the annual Autumn Stroll and Classic Car Show each October as a fundraiser for the Main Street Program; and

**WHEREAS**, the Canton Main Street desires to have a portion of State Highway 198, and Tyler and Capitol Streets closed on October 9, 2004 until 7:00 p.m. for the Autumn Stroll and Classic Car Show; and

**WHEREAS**, the City deems it in the best interest of the City of Canton to support these activities and has approved the requested street closings at its regular meeting on September 21, 2004; and

**WHEREAS**, in order to close a state highway, the Texas Department of Transportation requires the City apply for closure with a supporting resolution;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS,**

**Section 1.** That the City Council requests approval from the Texas Department of Transportation to close to through traffic that portion of State Highway 198 from Tyler Street to State Highway 64 until 7:00 p.m. on October 9, 2004.

**Section 2.** That barricades shall be erected on State Highway 198 at Tyler Street and the south side of SH 64.

**Section 3.** That the City Manager be, and is hereby authorized and directed to execute any and all documents required by the Texas Department of Transportation to effectuate this resolution.

**PASSED, ADOPTED AND APPROVED THIS THE 21<sup>ST</sup> DAY OF SEPTEMBER 2004.**

Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF RESOLUTION AUTHORIZING PLACEMENT OF "NO PARKING" SIGNS IN FRONT OF FAMILY & COSMETIC DENTISTRY AT 240 EAST HIGHWAY 243 – Mr. Fenner presented Family & Cosmetic Dentistry's request for "no parking" signs in front of the their office on Hwy. 243 where 18-wheelers had been parking and blocking visibility for those entering and leaving the parking lot. He explained TxDOT advised them a resolution requesting the signs was required from the City. The following resolution was adopted upon motion by Councilmember Wilson and second by Councilmember Maris:

**RESOLUTION NO. 2004-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS, AUTHORIZING "NO PARKING" SIGNS BE PLACED IN FRONT OF 240 EAST STATE HIGHWAY 243 IN THE CITY OF CANTON, TEXAS.**

**WHEREAS**, the City of Canton has received a request for "No Parking" signs in front of the business located at 240 East State Highway 243;and

**WHEREAS**, the Canton City Council deems it necessary for the added safety of vehicular traffic entering and leaving the property and has approved the request at its regular meeting on September 21, 2004; and

**WHEREAS**, in order to consider a request for the placement of said signs on a state highway, the Texas Department of Transportation requires the City adopt a resolution approving such placement;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS,**

**Section 1.** That the City Council requests approval from the Texas Department of Transportation to place "No Parking" signs on the shoulder of State Highway 243 in front of the Family & Cosmetic Dentistry business located at 240 East Highway 243.

**Section 2.** That the City Manager be, and is hereby authorized and directed to execute any and all documents required by the Texas Department of Transportation to effectuate this resolution.

**PASSED, ADOPTED AND APPROVED THIS THE 21<sup>ST</sup> DAY OF SEPTEMBER 2004.**

DISCUSS AND CONSIDER REQUEST FROM ROGER HEDDIN FOR 2" WATER TAP OUTSIDE CITY LIMITS AT 1874 VZCR 2205 – Councilmember Pruitt reminded the Council they had previously voted not to provide water outside the city limits. Councilmember Brockman then made the motion to deny Roger Heddin's request for a water tap at 1874 VZCR 2205. Councilmember Pruitt seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE ON ANNEXATION OF 26.24 ACRE TRACT SITUATED IN THE Q. C. NUGENT SURVEY, A-618, LOCATED ON VZCR 2106 OWNED BY CANTON ECONOMIC DEVELOPMENT CORPORATION – Charles Fenner explained CEDC wanted to develop an industrial park on this site located on Wynne Road across from the existing Industrial Park. Upon his recommendation, Councilmember Maris moved to adopt Ordinance No. 2004-20 annexing a 26.24 acre tract situated in the Q. C. Nugent Survey, A-618, owned by Canton Economic Development Corporation:

**CITY OF CANTON, TEXAS  
ANNEXATION ORDINANCE NO. 2004-20**

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF CANTON, VAN ZANDT COUNTY, TEXAS AND EXTENDING THE BOUNDARIES OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY LIMITS AND GRANTING TO SAID TERRITORY AND TO ALL FUTURE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF THE SAID CITY.**

WHEREAS, a petition has been duly signed and acknowledged by each and every person or corporation having an interest in the territory proposed to be annexed;

WHEREAS, said petition was presented to the governing body and approved such petition not less than five (5) days and not more than thirty (30) days;

WHEREAS, the tract of land is contiguous to the City and is not more than one-half (1/2) miles in width, and on which fewer than three (3) qualified voters reside;

WHEREAS, the City has prepared a service plan for said tract which is attached as Exhibit "B" to this ordinance;

WHEREAS, the City has published notice of hearings on said annexation and held hearings as required by state law; and

WHEREAS, after hearing such petition and the arguments for and against the same, the governing body as voted to grant such petition and to annex said territory into the city.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CANTON, TEXAS:

**Section 1.** All of that territory more particularly described in "Exhibit A" attached hereto and made a part hereof is hereby annexed into the City, and the boundary limits of the City of Canton are hereby extended to include said territory within the city limits of the City, and said land and the future inhabitants thereof shall hereafter be entitled to all rights and privileges of other citizens of the City and shall be bound by the acts and ordinances of said City.

**Section 2.** That the municipal service plan for the herein annexed territory provided for in Exhibit "B" attached hereto is hereby adopted.

**Section 3.** That the property owner's agreement to incur all costs associated with the provision of water and sewer service lines to this voluntarily-annexed property provided for in Exhibit "C" attached hereto is hereby adopted.

**Section 4.** That the City Secretary is hereby directed to file with the County Clerk and other appropriate officials and agencies, as required by state and federal law and city annexation procedures, certified copies of this ordinance.

PASSED by an affirmative vote of the Governing Body of the City of Canton, Texas, this the 21<sup>st</sup> day of September, 2004.

Councilmember Brockman seconded, and all voted in favor.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE ON ANNEXATION OF 6.20 ACRE TRACT SITUATED IN THE J. DOUTHIT SURVEY, A-198, LOCATED ON SOUTHEAST CORNER OF SH 64 AND SH 243 OWNED BY W.L. PIERCE ESTATE – Upon Charles Fenner's recommendation, Councilmember Pruitt moved to adopt Ordinance No. 2004-21 annexing a 6.20 acre tract situated in the J. Douthit Survey, A-618, owned by W.L. Pierce Estate, contingent upon their agreement to be responsible for the extension of water and sewer lines to the property. Councilmember Brockman seconded, and all voted in favor.

**CITY OF CANTON, TEXAS  
ANNEXATION ORDINANCE NO. 2004-21**

**AN ORDINANCE ANNEXING THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF CANTON, VAN ZANDT COUNTY, TEXAS AND EXTENDING THE BOUNDARIES OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY LIMITS AND GRANTING TO SAID TERRITORY AND TO ALL FUTURE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF THE SAID CITY.**

WHEREAS, a petition has been duly signed and acknowledged by each and every person or corporation having an interest in the territory proposed to be annexed;

WHEREAS, said petition was presented to the governing body and approved such petition not less than five (5) days and not more than thirty (30) days;

WHEREAS, the tract of land is contiguous to the City and is not more than one-half (1/2) miles in width, and on which fewer than three (3) qualified voters reside;

WHEREAS, the City has prepared a service plan for said tract which is attached as Exhibit "B" to this ordinance;

WHEREAS, the City has published notice of hearings on said annexation and held hearings as required by state law; and

WHEREAS, after hearing such petition and the arguments for and against the same, the governing body as voted to grant such petition and to annex said territory into the city.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CANTON, TEXAS:

**Section 1.** All of that territory more particularly described in "Exhibit A" attached hereto and made a part hereof is hereby annexed into the City, and the boundary limits of the City of Canton are hereby extended to include said territory within the city limits of the City, and said land and the future inhabitants thereof shall hereafter be entitled to all rights and privileges of other citizens of the City and shall be bound by the acts and ordinances of said City.

**Section 2.** That the municipal service plan for the herein annexed territory provided for in Exhibit "B" attached hereto is hereby adopted.

**Section 3.** That the property owner's agreement to incur all costs associated with the provision of water and sewer service lines to this voluntarily-annexed property provided for in Exhibit "C" attached hereto is hereby adopted.

**Section 4.** That the City Secretary is hereby directed to file with the County Clerk and other appropriate officials and agencies, as required by state and federal law and city annexation procedures, certified copies of this ordinance.

PASSED by an affirmative vote of the Governing Body of the City of Canton, Texas, this the 21<sup>st</sup> day of September, 2004.

FIRST PUBLIC HEARING ON ANNEXATION OF 40.1 ACRE TRACT SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON STATE HIGHWAY 19 NORTH – Mayor Hilliard opened the Public Hearing at 7:00 p.m. Charles Fenner directed the Council's attention to the concept plan for the property, discussed its proposed future zoning as a mixed-use planned development district, and reviewed his minimum recommendations for property attributes—two points of access, two car garages, set back issues, 50% brick or rock exteriors. He also reminded the Council it was not a zoning hearing, but development plans were related. Tommy Casler, representing the developers, said they welcomed input and nothing would scare them away, realizing it was not unusual for the owners and the community to work together to come to the best alternative solutions in a planned development district. He said they were in Canton for the long-term, the community was growing, and they were here to answer questions and work with the City. Councilmember Pruitt asked how long it would take to develop the full 40 acres. Mr. Casler estimated three to five years. Mayor Hilliard stated it would affect the infrastructure and an impact fee might be assessed. Tommy Addudel asked if there would be public information about the plans, to which he answered yes. Hearing no further comments, Mayor Hilliard closed the Public Hearing at 7:06 p.m.



NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and agreements contained herein, the parties mutually agree, as follows:

PURPOSE

It is the purpose of the parties to this Interlocal Agreement to set forth the terms, rights and duties of the parties hereto for overlaying Old Kaufman Road from State Highway 64 to Cherry Creek.

PART I - SERVICES

1. CITY agrees to furnish the materials for a two-inch overlay and base patching on Old Kaufman Road from State Highway 64 to Cherry Creek, and to pay \$2,000 for equipment rental for said project.
2. COUNTY agrees to furnish the labor and any other materials and equipment necessary for patching the base and overlaying Old Kaufman Road from State Highway 64 to Cherry Creek.

PART II - SEVERABILITY

In case any one or more of the provisions contained in this Interlocal Agreement shall for any reason be invalid, illegal or unenforceable in any respect, such invalidation, illegality or unenforceability shall not affect any other provision hereof and this Interlocal Agreement shall be construed as if such invalid, illegal or unenforceable provision(s) had never been contained herein.

PART III - ENTIRETY

This Interlocal Agreement contains the entire Agreement of the parties regarding the maintenance of Sewer Plant Road.

IN WITNESS WHEREOF, COUNTY and CITY enter into this Interlocal Agreement EFFECTIVE the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE AMENDING ANIMAL SHELTER FEES – Charles Fenner indicated the new fee schedule included a \$30.00 fee for animals received from individuals outside the city limits, not cities or the county. He asked if the Council wanted to keep the shelter closed to anyone outside the city limits. He said the City had already stopped accepting animals outside the city limits and many had been turned away. Councilmember Maris asked if \$30.00 was enough to cover the cost. Lonny Cluck pointed out if it were too high, citizens would dump the animals at the gate. Councilmember Pruitt made a motion to adopt the following Ordinance No. 2004-22 amending the animal shelter fees and allowing for the receipt of animals from individuals outside the city limits:

ORDINANCE NO. 2004-22

REVISING AND AMENDING ORDINANCE NO. 99-16 PASSED BY THE CITY COUNCIL ON NOVEMBER 16, 1999 AS AMENDED FEBRUARY 19, 2002 BY THE CANTON CITY COUNCIL AND AS FURTHER AMENDED MARCH 23, 2002 BY THE CANTON CITY COUNCIL; PROVIDING FOR AN INCREASE IN FEES; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

**Section 1.** That SECTION 11.1 (f) (g) (h) and (i) FEES AND PENALTIES of Ordinance 99-16 as amended by the Canton City Council on February 19, 2002 and further amended on March 23, 2002, be and the same is amended to read as follows:

11.1 The following fee schedule is hereby adopted and approved by the City Council of the City of Canton:

f. Adoption fee – dog	\$50.00
Adoption fee - cat	\$25.00
Adoption fee – registered pure breed	\$50.00
g. Fee to bring an animal to the animal shelter	
From inside city limits	\$20.00
From outside city limits	\$30.00
h. Fee to dispose of dead animals	\$20.00
i. Strays from Inside City Limits	free

**Section 2. PENALTIES**

In addition to any other fines, fees or penalties provided in Section 11 any person found guilty of violating any other provisions of this ordinance shall be fined not less than \$10 nor more than \$500 for each offense. A separate offense shall be held to have been committed each day that such violation shall occur or continue as may be determined by the Municipal Judge or appropriate authority.

**Section 3. SAVINGS CLAUSE**

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

**Section 4. CONFLICT CLAUSE**

All ordinances, or parts of ordinances, in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**Section 5. EFFECTIVE DATE**

This Ordinance shall take effect from and after its publication one time in the official publication of the City of Canton, Texas, which publication shall contain the caption stating in summary the purpose of the ordinance and the penalty for violation thereof.

**PASSED, ADOPTED AND APPROVED** on this the 21<sup>st</sup> day of September, 2004.

Councilmember Maris seconded, and all voted in favor.

**DISCUSS AND CONSIDER LOCATION OF ANIMAL SHELTER** – After reviewing alternate sites, Lonny Cluck recommended building the new shelter close to the existing one so it could be used for overflow and different needs. However, he said the City was working with Olympic on a proposal for them to take over the transfer station, and if that occurred the City wouldn't have business out there. He asked the Council to authorize Mr. Fenner to make the decision on where to put the shelter. Councilmember Maris so moved. Councilmember Brockman seconded, and all voted in favor.

**DISCUSS AND CONSIDER ADOPTION OF AMENDMENT TO SIGN ORDINANCE 97-03 PERMITTING PROJECTION SIGNS IN THE CENTRAL BUSINESS DISTRICT** – Charles

Fenner informed the Council it was not uncommon to have projecting signs downtown; however, there were height and size restrictions. He noted some merchants wanted a variance to the sign ordinance, and some projecting signs were grandfathered as long as they remained the same, so he recommended amending the ordinance instead. He added the signs helped direct people. Councilmember Maris asked if they fit in with the Main Street concept and Mr. Stephens confirmed they did. Councilmember Maris made the motion to adopt an amendment to Sign Ordinance No. 97-03 permitting projecting signs in the Central Business District as follows:

**Article I, Section II Signs Located in Central Business District**  
**(A) Permitted Uses**

3) Projecting Signs

Minimum and Maximum Heights – The lowest portion of a projecting sign must be no less than seven and one-half (7 ½) feet, or no greater than twelve (12) feet above the sidewalk surface.

Area – Maximum four (4) square feet per sign one-sided or two-sided.

Projection – Projecting signs shall be no greater than two (2) feet from the building surface. A distance of at least two (2) feet shall be maintained between the outer edge of the projecting sign and any traffic control sign.

Movement – Projection signs shall not be permitted to move, rotate, gyrate, or give the impression of movement.

Number – One (1) projecting sign per building shall be allowed.

Separation – All projecting signs shall be no closer than twenty (20) feet from neighboring signs, measured by the nearest face to the nearest face.

B) Prohibitions - The following types of signage (both interior and exterior) shall not be permitted within the CBD: Off premise, Portable, Projecting, Pole (except by special exception), Vehicular, Banner (except by special exception), Bench Signs, Roof Signs, Flashing, and any other type of sign which does not come under the three (3) classifications stipulated in this section.

Councilmember Brockman seconded, and all voted in favor.

**DISCUSS AND CONSIDER AMENDING FIRST MONDAY POLICIES AND PROCEDURES**

-Charles Fenner presented policies proposed by Councilmembers at a previous meeting and asked for clarification. Councilmember Wilson asked if one had a business on the grounds, did that prevent them from voting on this item. Richard Davis recommended that if a Councilmember, or an immediately family member, had a business on the grounds then there was a conflict of interest. Councilmember Maris noted the rules applied to all on the grounds. Mr. Davis read the statute and said it was a matter of interpretation as to whether it specifically affected the councilmember or the general public. Councilmember Maris stated he saw no proposed changes that specifically affected him. Following discussion, the Council approved the following new policies: (1) All real estate on the City of Canton's section of First Monday is owned or managed by the City and will be managed for the City's best financial interest. (upon condition of approval from entities involved in leases) (2) Management will determine the best use of all property within the First Monday Park. (3) Open-air lots will be rented on a month to month basis for the sole purpose of

displaying merchandise and will be renewed for succeeding months at the sole discretion of management. (4) Persons renting lots have no rights of ownership, no right to sell their interest in or transfer their rights to others, or to sublet lots without prior written consent of management. (5) Merchandise is to be displayed across the front of all rented lots. Parking is permitted on the back of each lot behind displayed merchandise or on lots specifically designated by management for parking. Free vendor parking with a vendor pass is available west of the log cabin office (replacing Vendors may park on the back of their lot with merchandise displayed across the front. Free dealer parking with a vendor pass is available inside the City's west gate entrance.) (6) Vendors who do not set up a minimum of four times per year are subject to losing their lots. The following proposed changes were not approved: (1) Management will set policies for display and sale of merchandise. (2) Lots not being used for the intended purpose may not be renewed. The above was then officially adopted upon motion by Councilmember Maris and second by Councilmember Brockman. All voted in favor.

**DISCUSS AND CONSIDER ADOPTION OF ORDINANCE PROVIDING FOR POLICIES AND PROCEDURES REGARDING THE OPERATION OF FIRST MONDAY TRADE DAYS** – Councilmember Brockman made the motion to adopt the following Ordinance No. 2004-23 with the changes in policies stated above:

**ORDINANCE NO. 2004 -23**

**AN ORDINANCE PROVIDING FOR THE POLICIES AND PROCEDURES FOR THE OPERATION OF THE CITY OF CANTON'S FIRST MONDAY TRADE DAYS; PROVIDING FOR THE COLLECTION OF RENT AND PROCEDURE FOR PAYMENT, RESERVATION AND RENEWAL OF VENDOR SPACES, MERCHANDISE, SALES, SOLICITATIONS, AND SET-UP ON THE PREMISES, AND TRAFFIC AND PARKING ON THE PREMISES; PROHIBITING SUBLEASING, SELLING AND TRANSFERRING LOTS; PROVIDING FOR PENALTIES FOR FAILURE TO COMPLY WITH SUCH ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS THAT:**

The City Council hereby adopts this ordinance, to supercede previous ordinances, declaring as follows:

**Section 1. Title.** This ordinance shall be referred to as the First Monday Policies & Procedure ordinance.

**Section 2. Adoption of Policies and Procedures.** The City Council of the City of Canton has previously adopted, on an annual basis, certain "Policies & Procedures" concerning the operation of the City's First Monday Trade Days. Said "Policies & Procedures" are incorporated into a brochure for distribution to the public. The "Policies & Procedures" set out in the attached brochure are hereby adopted and incorporated herein by reference as if cited herein verbatim.

**Section 3. Ratification of Adoption of Policy and Procedures for Termination of Lot Rentals.** On April 21, 1998, the City Council adopted its policy regarding procedures for termination of lot rentals due to failure to comply with the aforementioned "Policies & Procedures." By this Ordinance, the following policy is hereby ratified and confirmed and incorporated into this Ordinance:

Upon determination by First Monday management that a vendor has failed to comply with First Monday Policies and Procedures as adopted by the City Council, management shall notify said vendor in writing,

addressed to the last known address provided by the vendor, that the vendor space rental will not be renewed for the following market. Such written notice shall:

Describe the vendor's violation of First Monday Policies and Procedures

Inform the vendor of his right to appeal management's decision to the City Council's First Monday Committee in writing addressed to City Hall within ten days from receipt of the written notice

Upon receipt of a written appeal, the First Monday Committee, at its option, may schedule a meeting with management and the vendor to review the matter. The First Monday Committee shall notify the vendor, in writing, of their determination of the appeal.

**Section 4. Amendments, Revisions, and Rescission.** The City's "First Monday Policies & Procedures" and the "Policy and Procedure for Termination of Lot Rentals" may be amended, revised, or rescinded by the City Council of the City of Canton at any properly noticed meeting of the Council at which a quorum is present.

**Section 5. Gender and Number.** In this ordinance, unless the text otherwise requires, words in the singular number include the plural and in the plural include the singular; words of the masculine gender include the feminine and the neuter; and when the sense so indicates, words in the neuter gender may refer to any gender.

**Section 6. Penalties.** Failure to comply with the policies and procedures referred to herein may result in removal and/or eviction of violator and/or violator's employer, inductor, or licensor from the premises and/or loss of or eviction from the lots rented, subject only to the provisions of Section 3 above.

**Any person found guilty for violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of the "Traffic & Parking" provisions of the First Monday Policies & Procedure, may be cited and, upon conviction thereof, shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.**

**Section 7. Severability of Provisions.** If any provision, clause, sentence, paragraph, section, or part of this ordinance, or application thereof to any person, firm, corporation, public agency or circumstance, shall for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provisions to other persons, firms, corporations, public agencies, or circumstances, but shall be continued in its operation to the provisions, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, public agency, or circumstances involved. It is hereby declared to be the legislative intent of the City Council that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not be included.

**Section 8. Repeal.** All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed to the extent of such conflict.

**Section 9. Effective Date.** This ordinance shall become effective and in full force and effect on and after 12:00 a.m. on October 1, 2004.

**Passed and approved this 21<sup>st</sup> day of September, 2004.**

Councilmember Maris seconded, and all voted in favor.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – CITY MANAGER CONTRACT – The City Council recessed at 8:20 p.m. before convening in closed session at 8:25 p.m. for negotiations regarding the city manager’s contract and to discuss the potential purchase of real property.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE, SALE OR LEASE OF REAL PROPERTY (Section 551.072)

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION – The Council reconvened in open session at 8:48 p.m. Councilmember Brockman made the motion to approve the City Manager’s proposed contract with changes as stipulated by the City attorney. Councilmember Maris seconded, and all voted in favor.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS - None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 8:49 p.m. upon motion by Councilmember Pruitt and second by Councilmember Brockman.

  
\_\_\_\_\_  
William F. Hilliard, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
6:00 P.M., TUESDAY, SEPTEMBER 28, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above named date and time in the City Hall Council Chambers. Councilmembers present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Ron Sanford, Raymond Pruitt and Rusty Wilson. Attorney Richard Davis was also present.

Discussion and action were as follows:

**CALL MEETING TO ORDER - Mayor Hilliard called the meeting to order at 5:30 p.m. and announced a quorum was present.**

DISCUSS AND CONSIDER ADOPTING ORDINANCE LEVYING TAX RATE FOR FISCAL YEAR BEGINNING OCTOBER 1, 2004 AND ENDING SEPTEMBER 30, 2005 – The

following Ordinance No. 2004-24 adopting a 0% tax rate was unanimously approved on motion by Councilmember Sanford and second by Councilmember Wilson:

**ORDINANCE NO. 2004 - 24**

**AN ORDINANCE LEVYING TAXES FOR ALL TAXABLE PROPERTY IN THE CITY OF CANTON, TEXAS FOR THE USE AND SUPPORT OF THE CITY OF CANTON, TEXAS FOR THE ENSUING FISCAL YEAR COMMENCING ON OCTOBER 1, 2004, AND ENDING SEPTEMBER 30, 2005.**

WHEREAS, the City Council of the City of Canton, Texas met in a called session at 6:00 p.m., on September 28, 2004, and after having heard and adopted the Annual Budget for the City of Canton, Texas, for the ensuing 2004-2005 fiscal year, and it having been determined that a tax rate of \$0.00 per \$100.00 valuation will support and ensure the payment of all proposed expenses and liabilities of the City for the ensuing 2004-2005 fiscal year as set forth in the Annual Budget adopted September 21, 2004, in a regular meeting of the City Council; and

WHEREAS, the proposed tax rate and increase or decrease, if any, does not exceed the requirements imposed by law;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

**SECTION 1.**

A tax is hereby levied in the amount of \$0.00 per \$100.00 valuation upon all property, real, personal, and mixed, within the corporate limits of the City of Canton subject to taxation to defray all expenses and liabilities of the City and for the purposes specified in the Annual Budget duly adopted for the ensuing fiscal year beginning October 1, 2004, and ending September 30, 2005.

**SECTION 2.**

That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**SECTION 3.**

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word, or provision hereof given full force and effect for its purpose.

**SECTION 4.**

This Ordinance shall become effective and in full force and effect October 1, 2004.

PASSED, ADOPTED, AND APPROVED on this the 28th day of September, 2004.

DISCUSS AND CONSIDER ADOPTION OF TEXAS MUNICIPAL RETIREMENT SYSTEM ORDINANCE AUTHORIZING UPDATED SERVICE CREDITS, INCREASING RETIREMENT ANNUITIES, AND INCREASING EMPLOYEE'S CONTRIBUTION TO 6% - The following TMRS Ordinance No. 2004-25 increasing the employee's contribution to 6% was unanimously adopted on motion by Councilmember Maris and second by Councilmember Brockman:

**ORDINANCE NO. 2004 - 25**

**AN ORDINANCE AUTHORIZING AND ALLOWING, UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM, "UPDATED SERVICE CREDITS" IN SAID SYSTEM ON AN ANNUAL BASIS FOR SERVICE PERFORMED BY QUALIFYING MEMBERS OF SUCH SYSTEM WHO AT THE EFFECTIVE DATE OF THE ALLOWANCE ARE IN THE EMPLOYMENT OF THE CITY OF CANTON; PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY; TO INCREASE THE RATE OF DEPOSITS TO THE TEXAS MUNICIPAL RETIREMENT SYSTEM BY THE EMPLOYEES OF THE CITY; AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:**

**Section 1. Authorization of Updated Service Credits.**

- (a) On the terms and conditions set out in Sections 853.401 through 853.404 of Subtitle G of Title 8, Government Code, as amended (hereinafter referred to as the "TMRS ACT"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who has current service credit or prior service credit in the System in force and effect on the 1<sup>st</sup> day of January of the calendar year preceding such allowance, by reason of service in the employment of the City, and on such date had at least 36 months of credited service with the System, shall be and is hereby allowed "Updated Service Credit" (as that term is defined in subsection (d) of Section 853.402 of the TMRS Act).
- (b) On the terms and conditions set out in Section 853.601 of the TMRS Act, any member of the System who is eligible for Updated Service Credits on the basis of service with this City, who has unforfeited credit prior service and/or current service with another participating municipality or municipalities by reason of previous service, and was a contributing member on the 1<sup>st</sup> day of January of the calendar year preceding such allowance, shall be credited with Updated Service Credits pursuant to, calculated in accordance with, and subject to adjustment as set forth in said Section 853.601, both as to the initial grant hereunder and all future grants under this ordinance.
- (c) The Updated Service Credit hereby allowed and provided for shall be 100% of the "base Updated Service Credit" of the member (calculated as provided in subsection (c) of Section 853.402 of the TMRS Act).
- (d) Each Updated Service Credit allowed hereunder shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.
- (e) In accordance with the provisions of subsection (d) of Section 853.401 of the TMRS Act, the deposits required to be made to the System by employees of the several participating departments on account of current service shall be calculated from and after the effective date of this ordinance on the full amount of such person's compensation as an employee of the City.

**Section 2. Increase in Retirement Annuities.**

- (a) On terms and conditions set out in Section 854.203 of the TMRS Act, the City hereby elects to allow and to provide for payment of the increases below stated in monthly benefits payable by the System to retired employees and to beneficiaries of deceased employees of the City under current service annuities and prior service annuities arising from service by such employees to the City. An annuity increased under this Section replaces any annuity or increased annuity previously granted to the same person.
- (b) The amount of the annuity increase under this Section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by 70% of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of this Section.

- (c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.
- (d) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereunder.
- (e) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of the City and of its account in the municipality accumulation fund of the System.

**Section 3. Dates of Allowances and Increases.** The initial allowance of Updated Service Credit an Increase in Retirement Annuities hereunder shall be effective on January 1, 2005, subject to approval by the Board of Trustees of the Sytem. An allowance of Updated Service Credits and an increase in retirement annuities shall be made hereunder on January 1 of each subsequent year until this ordinance ceases to be in effect under subsection (c) of Section 853.404 of the TMRS Act, provided that, as to such subsequent year, the actuary for the System has made the determination set forth in subsection (d) of Section 853.404 of the TMRS Act.

**BE IT FURTHER ORDAINED:**

**Increased Deposit Rate.** All employees of the City, who are members of the Texas Municipal Retirement System, shall make deposits to the System at the rate of 6% of their individual earnings effective the 1<sup>st</sup> day of October, 2004.

**Effective Date.** Subject to approval by the Board of Trustees of the System, this ordinance shall be and become effective on the 1<sup>st</sup> day of October, 2004.

Passed and approved this the 28<sup>th</sup> day of September, 2004

**PUBLIC HEARING AND DISCUSS AND CONSIDER ADOPTION OF TEXAS MUNICIPAL RETIREMENT SYSTEM ORDINANCE ESTABLISHING RETIREMENT ELIGIBILITY AFTER 20 YEARS OF CREDITED SERVICE** – The Public Hearing opened at 6:02 p.m. Charles Fenner reported the reduction of retirement eligibility from 25 to 20 years of credited service plus the increase of the employee's contribution to 6% would raise the city's contribution from 7.79% to 9.6% and that it had been included in the FY 2004-2005 budget. Hearing no further comments from the public, the hearing closed at 6:04 p.m. The following TMRS Ordinance No. 2004-26 lowering retirement eligibility from 25 years to 20 years of credited service was unanimously adopted on motion by Councilmember Brockman and second by Councilmember Maris:

**ORDINANCE NO. 2004 – 26**

**AN ORDINANCE AFFECTING PARTICIPATION OF CITY EMPLOYEES IN THE TEXAS MUNICIPAL RETIREMENT SYSTEM GRANTING THE ADDITIONAL RIGHTS AUTHORIZED BY SECTION 854.202(g) OF TITLE 8, TEXAS GOVERNMENT CODE, AS AMENDED, AND PRESCRIBING THE EFFECTIVE DATE FOR THE ORDINANCE.  
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:**

**Section 1.** Pursuant to the provisions of Section 854.202(g) of Subtitle G of Title 8, Texas Government Code, as amended, which Subtitle shall herein be referred to as the "TMRS Act", the City of Canton, Texas, adopts the following provisions affecting participation of its employees in the Texas Municipal Retirement System (herein referred to as the "System"):

- (a) Any employee of the City who is a member of the System is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the System performed for one or more municipalities that have adopted a like provision under Section 854.202(g) of the TMRS Act.
- (b) Prior to adopting this ordinance, the governing body of the City has: (1) prepared an actuarial analysis of member retirement annuities at 20 years of service; and (2) held a public hearing pursuant to the notice provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code.
- (c) The rights hereinabove authorized shall be in addition to the plan provisions heretofore adopted and in force at the effective date of this ordinance pursuant to the TMRS Act.

**Section 2.** This ordinance shall become effective on the first day of October, 2004.

Passed and approved this the 28<sup>th</sup> day of September, 2004.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE REPEALING ORDINANCES NO. 2004-02 AND NO. 2004-03 CREATING THE OFFICES OF CITY MANAGER OF FINANCE AND CITY MANAGER OF OPERATIONS – The following Ordinance No. 2004-27 repealing Ordinances 2004-02 and 2004-03 was unanimously approved on motion by Councilmember Sanford and second by Councilmember Brockman:

ORDINANCE NO. 2004 - 27

**AN ORDINANCE REPEALING EXISTING ORDINANCES, ORDINANCE NO. 2004-02 AND ORDINANCE NO. 2004-03.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

Ordinance No. 2004-02, Sections 1 through 8, an Ordinance creating the Office of City Manager of Finance of the City of Canton, Texas effective January 22, 2004, is hereby repealed in its entirety.

Ordinance No. 2004-03, Sections 1 through 8, an Ordinance creating the Office of City Manager of Operations of the City of Canton, Texas effective January 22, 2004, is hereby repealed in its entirety.

PASSED by a majority of the City Council of Canton, Texas, on this the 28<sup>th</sup> day of September, 2004, to attest which we hereunto set out hands and seal.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE CREATING THE OFFICE OF CITY MANAGER OF THE CITY OF CANTON – The following Ordinance 2004-28 creating the office of city manager was unanimously adopted on motion by Councilmember Brockman and second by Councilmember Wilson:

ORDINANCE NO. 2004 - 28

**AN ORDINANCE CREATING THE OFFICE OF CITY MANAGER OF THE CITY OF CANTON, TEXAS; PROVIDING FOR THE FILLING OF THAT OFFICE BY APPOINTMENT; PRESCRIBING DUTIES THEREFORE; PROVIDING TENURE BY SUCH APPOINTMENT; PROVIDING COMPENSATION BY ARTICLE 977 V.T.C.S. CONTAINING A SEVERABILITY CLAUSE, AND CONTAINING A REPEALER CLAUSE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

Section 1. There is hereby created the Office of City Manager of the City of Canton, Texas.

Section 2. The Office of City Manager of the City of Canton, Texas, shall be filled by appointment of the City Council of Canton, Texas.

Section 3. The duties of said City Manager shall include (1) management and control of the financial affairs of the City and (2) advising and counseling the City Council in the performance of its governmental functions.

Section 4. The holder of the office of said City Manager shall serve pursuant to the written agreement entered into between City of Canton and City Manager.

Section 5. The City Council of the City of Canton, Texas, by a majority vote thereof, shall set a rate of compensation for the office of City Manager.

Section 6. This is adopted and the office of City Manager is created under and by authority of Article 977 of Vernon's Texas Civil Statutes.

Section 7. If any portion hereof shall be held to be unconstitutional or invalid, such holding shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

Section 8. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED by a majority of the City Council of Canton, Texas, on this the 28<sup>th</sup> day of September, 2004, to attest which we hereunto set our hands and seal.

DISCUSS AND CONSIDER RESOLUTION APPROVING SEPARATION AGREEMENT BETWEEN JOHNNY MALLORY AND CITY OF CANTON – The following resolution approving Johnny Mallory's employment separation agreement was unanimously approved on motion by Councilmember Maris and second by Councilmember Wilson:

**RESOLUTION NO. 2004-14**

**RESOLUTION APPROVING THE SEPARATION AGREEMENT  
BETWEEN JOHNNY MALLORY AND THE CITY OF CANTON**

WHEREAS, Johnny Mallory has submitted his resignation as to the office of City Manager of Finance to the City of Canton and has requested a change to his Agreement for Employment as City Manager of Finance to allow his resignation to be effective as of 12:00 a.m., August 28, 2004;

WHEREAS, the City of Canton has agreed to the change in Johnny Mallory's Agreement for Employment as City Manager of Finance with the City of Canton;

WHEREAS, the City of Canton has entered into a Separation Agreement and Release of All Claims with Johnny Mallory and the City Commissioners have had the opportunity to review the Separation Agreement and Release of All Claims;

IT IS RESOLVED, that the City Commissioners for the City of Canton hereby support and approve the changes to the Agreement for Employment as City Manager of Finance of Johnny Mallory as contained in the Separation Agreement, support and approve the Separation Agreement, and hereby direct the Mayor and City Secretary to enter into the amended agreement and sign the Separation Agreement.

Adopted on the 28<sup>th</sup> day of September, 2004.

DISCUSS AND CONSIDER RESOLUTION AUTHORIZING AND APPROVING RENEWAL OF A \$528,000 LOAN FROM AMERICAN NATIONAL BANK FOR TRADE CENTER IV –

Julie Jackson reported the bank president indicated a resolution was not required, only council action. Councilmember Sanford made a motion to modify and extend a \$528,000 loan from American National Bank for one year. Councilmember Maris seconded, and all voted in favor.

DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION OF A 21 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761, OWNED BY CANTON ECONOMIC DEVELOPMENT CORPORATION – The above stated annexation petition was accepted upon motion by Councilmember Wilson and second by Councilmember Brockman.

DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION OF FOUR TRACTS OWNED BY HENRY LEWIS--A 14 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761; A 5.0 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761 AND THE Q.C. NUGENT SURVEY, A-618; A 9.342 ACRE TRACT AND A 41.1968 ACRE TRACT SITUATED IN THE Q.C. NUGENT SURVEY, A-618 – The above stated annexation petition was accepted upon motion by Councilmember Sanford and second by Councilmember Brockman.

DISCUSS AND CONSIDER ACCEPTANCE OF PETITION FOR ANNEXATION OF 5.6 ACRE TRACT SITUATED IN THE J. DOUTHIT SURVEY, A-198, LOCATED ON VZCR 2201 OWNED BY GRACE FAMILY CHURCH – After determining water was available at the property, Councilmember Brockman made the motion to accept the annexation petition from Grace Family Church and that all prior agreements about water be nullified. Councilmember Wilson seconded and all voted in favor.

SECOND PUBLIC HEARING ON ANNEXATION OF 40.1 ACRE TRACT SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON STATE HIGHWAY 19 NORTH – Mayor Hilliard opened the Public Hearing at 6:11 p.m. Councilmember Pruitt stated several people had expressed their concerns about the proposed development's effect on the wastewater plant over the next three to four years. He requested Charles Fenner present an impact study on the wastewater plant at the next meeting. The Public Hearing was closed at 6:12 p.m.

ADJOURN - There being no further items for discussion, the meeting adjourned at 6:12 p.m. on a motion by Councilmember Pruitt and second by Councilmember Wilson.

  
 \_\_\_\_\_  
 William F. Hilliard, Mayor

ATTEST:

  
 \_\_\_\_\_  
 Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 6:30 P.M., TUESDAY, OCTOBER 19, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Ron Sanford, Raymond Pruitt and Rusty Wilson. City Attorney Richard Davis also attended.

Discussion and action were as follows:

**CALL TO ORDER AND ANNOUNCE QUORUM** - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

**MAYOR'S WELCOME** given by William F. Hilliard.

**INVOCATION** given by Jim Stephens.

**PLEDGE OF ALLEGIANCE** led by Mayor Hilliard.

**GUEST ITEMS** - The Council heard opposition to the recently adopted \$15.00 water/sewer surcharge on RV hook-ups from Henry Lewis, Mike Hackney, John Logsdon, Lucia Deen, Joe Groves, Reagan Sumner, and Frank and Lisa Curry. Mayor Hilliard thanked them and promised to be very attentive to their concerns, temporarily suspended the charge, and asked the property owners to meet with Charles Fenner to address revenue alternatives and to return to the Council.

**DISCUSS AND CONSIDER APPROVAL OF MINUTES FROM SEPTEMBER 14, 21 AND 28, 2004 MEETINGS OF THE CANTON CITY COUNCIL** - The minutes of the September 14, 21 and 28, 2004 meetings were unanimously approved upon motion by Councilmember Sanford and second by Councilmember Brockman.

**DISCUSS AND CONSIDER APPROVAL OF SEPTEMBER 2004 FINANCIAL STATEMENTS** - The September 2004 Financial Statements were unanimously approved upon motion by Councilmember Brockman and second by Councilmember Maris.

**UPDATE FROM CANTON CHAMBER OF COMMERCE** - Rona Watson reported having over 100 votes cast in their election for 2005 officers and directors. She also reported on the Chamber's upcoming monthly network luncheon, the Christmas parade plans and theme of "An Ole Fashion Christmas", and their target date of December 1 to move their offices to the Plaza Museum building.

**DISCUSS AND CONSIDER ADOPTION OF RESOLUTION AUTHORIZING PLACEMENT OF "NO PARKING" SIGNS ON NORTH TRADE DAYS BLVD.** - Upon Jerry Priest's request and Charles Fenner's recommendation, the Council unanimously adopted the following resolution upon motion by Councilmember Sanford and second by Councilmember Maris:

**RESOLUTION NO. 2004 - 15**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS,  
AUTHORIZING "NO PARKING" SIGNS BE PLACED ALONG STATE HIGHWAY 19  
NORTH IN THE CITY OF CANTON, TEXAS**

**WHEREAS**, the City of Canton has received a request for "No Parking" signs in the vicinity of Jerry's Pizza and Jerry's Car Wash located at 2250 North Trade Days Blvd. (SH 19); and

**WHEREAS**, the Canton City Council deems it necessary for the added safety of vehicular traffic entering and leaving the property and has approved the request at its regular meeting on October 19, 2004; and

**WHEREAS**, in order to consider a request for the placement of said signs on a state highway, the Texas Department of Transportation requires the City adopt a resolution approving such placement;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS,**

**Section 1.** That the City Council requests approval from the Texas Department of Transportation to place "No Parking" signs on the shoulder of State Highway 19 North in the vicinity of 2250 North Trade Days Blvd. (SH 19).

**Section 2.** That the City Manager be, and is hereby authorized and directed to execute any and all documents required by the Texas Department of Transportation to effectuate this resolution.

**PASSED, ADOPTED AND APPROVED THIS THE 19<sup>th</sup> DAY OF OCTOBER 2004.**

Charles Fenner said he would check with the Texas Department of Transportation to see what other signs were removed during construction.

DISCUSS AND CONSIDER AMENDMENT TO AMBULANCE SERVICES SUPPORT AGREEMENT – Item tabled.

DISCUSS AND CONSIDER AMENDMENT TO INTERLOCAL SERVICE AGREEMENT WITH EAST TEXAS COUNCIL OF GOVERNMENTS FOR ENHANCED 9-1-1 PROGRAM – Julie Jackson explained the East Texas Council of Governments had additional funding and the amendment allowed a higher reimbursement amount for Police Department equipment purchased under that agreement. The following Interlocal Agreement was unanimously adopted upon motion by Councilmember Maris and second by Councilmember Sanford:

**EAST TEXAS COUNCIL OF GOVERNMENTS  
INTERLOCAL SERVICE AGREEMENT FOR ENHANCED 9-1-1 PROGRAM  
AMENDMENT**

The ETCOG Interlocal Service Agreement for Enhanced 9-1-1 Program is amended as follows:

Contract Obligations of Funding

5.1 East Texas Council of Governments agrees to reimburse Public Agency in the total amount as stated in the following. Each dollar amount is set out. If no dollar amount is set out for a particular category, no funding is provided for that category. Public Agency agrees to spend no more than the amount allocated to each category for the goods and services described in that category without written amendment to this agreement by both parties and expenses above that stated become the responsibility of Public Agency and are not-reimbursable.

FY 2004

(1)	Supplies	\$235.92
(2)	Training	\$564.08
(3)	Recorder Supplies	\$300.00
(4)	Recorder Maintenance	\$1,425.00

## CITY OF CANTON

## EAST TEXAS COUNCIL OF GOVERNEMENTS

DISCUSS AND CONSIDER APPOINTMENT TO THE EAST TEXAS COUNCIL OF GOVERNMENTS BOARD OF DIRECTORS – Councilmember Brockman moved to appoint Mayor Hilliard as the City's representative to the East Texas Council of Governments Board of Directors. Councilmember Sanford seconded, and all voted in favor.

FIRST PUBLIC HEARING ON ANNEXATION OF A 21 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761, OWNED BY CANTON ECONOMIC DEVELOPMENT CORPORATION – Mayor Hilliard opened the Public Hearing at 7:02 p.m. Charles Fenner reported CEDC planned to extend water and sewer to this Interstate 20 property, seek commercial zoning, and enter into a lease-purchase agreement with Splash Kingdom for a water park. He noted the property was located in the Myrtle Springs Water Corp. and they had been asked to release it. Hearing no public input, the Hearing was closed at 7:04 p.m.

FIRST PUBLIC HEARING ON ANNEXATION OF FOUR TRACTS OWNED BY HENRY LEWIS--A 14 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761; A 5.0 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761 AND THE Q.C. NUGENT SURVEY, A-618; A 9.342 ACRE TRACT AND A 41.1968 ACRE TRACT SITUATED IN THE Q.C. NUGENT SURVEY, A-618 – Mayor Hilliard opened the Public Hearing at 7:05 p.m. Mr. Fenner explained the property was situated between the CEDC property and the Country Club on Interstate 20. He said one tract was under negotiation with Trinity Mother Frances for a medical clinic, and it also was in the Myrtle Springs Water Corp. and they had been asked to release their water rights. Hearing no public comments, the Hearing closed at 7:06 p.m.

FIRST PUBLIC HEARING ON ANNEXATION OF 5.6 ACRE TRACT SITUATED IN THE J. DOUTHIT SURVEY, A-198, LOCATED ON VZCR 2201 OWNED BY GRACE FAMILY CHURCH – Mayor Hilliard opened the Hearing at 7:06 p.m. Mr. Fenner described the property south of the Etheridge Farms Subdivision on Mill Creek Road. He stated a six-inch water line was located in front of the property and the Church would need to extend the sewer line 160 feet to their property. Mayor Hilliard asked for clarification in writing on the relinquishment of the City's agreement to furnish water to the previous owners. Hearing no further input, the Hearing was closed at 7:07 p.m.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE ON ANNEXATION OF 40.1 ACRE TRACT SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON STATE HIGHWAY 19 NORTH – Item tabled.

PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON A REQUESTED ZONING CHANGE OF ALL THAT LOT, TRACT, OR PARCEL OF LAND LOCATED AT 104 EUBANK DRIVE, CANTON, TEXAS, OWNED BY J.W. DAILEY, M.D. FROM SINGLE FAMILY RESIDENTIAL DISTRICT (R-1) TO RESTRICTED PROFESSIONAL OFFICE (RPO) – The Mayor opened the Hearing at 7:07 p.m. Mr. Fenner reported the request had been considered by the Planning & Zoning Commission which recommended denial because it did not comply with

the City's Comprehensive Plan. He further reported eleven property owners were notified of the request and one responded in favor and four against. He explained since over 20% of the acreage owned by property owners within 200 feet of the property were in opposition, it would require a three-fourths vote of the Council to approve the request. Representative of the petitioner Jerry McCann declined comment. Adjoining neighbor, Juanita Hackney, described the impact the clinic across the street (earlier rezoned from R-1 to RPO) had on the neighborhood and the parking issues relative to that property despite the owner's promises made during the zoning hearing, and she asked the Council to not grant approval for the zoning change or to develop on that street. The Hearing was closed at 7:11 p.m. Councilmember Wilson moved to following the Planning & Zoning Commission's instructions to deny the request for a zoning change at 104 Eubank. Councilmember Brockman seconded, and all voted in favor.

**PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON AN AMENDMENT TO CITY OF CANTON ZONING ORDINANCE ALLOWING FOR THE RENTAL OF UP TO TWO ROOMS AS A PERMITTED USE IN RA, R-1, R-2, R-3, AND R-4 ZONING DISTRICTS** – The Hearing was opened at 7:12 p.m. Rick Malone explained the amendment was proposed to clean up the zoning ordinance and allow homeowners to rent up to two rooms as opposed to renting to two occupants as currently allowed. He further explained it would fill in the gap created by the definition of a Bed & Breakfast as the rental of three or more rooms. The Hearing was closed at 7:13 p.m. Upon motion by Councilmember Sanford and second by Councilmember Maris, the Council unanimously adopted Ordinance No. 2004-29 as follows:

**ORDINANCE NO. 2004 - 29**

**AN ORDINANCE OF THE CITY OF CANTON, TEXAS, AMENDING THE 1985 ZONING ORDINANCE FOR THE CITY OF CANTON, TEXAS, AS HERETOFORE AMENDED, BY ALLOWING THE RENTAL OF UP TO TWO ROOMS IN RESIDENTIAL DISTRICTS; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**SECTION 1. AMENDMENT**

That Article 5, Section 5-2 (1e); Article 6 Section 6-2 (1b); Article 7 Section 7-2 (1b); Article 7A Section 7A-2 (1b); Article 10 Section 10-2 (1e) be amended to read "Leasing or renting of not more than two rooms"

**SECTION 2. VIOLATION AND PENALTY**

Any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Canton, Texas, and upon conviction shall be punished by a fine not to exceed the sum of two hundred dollars (\$200.00) for each offense. Each and every day the offense continues shall be deemed to constitute a separate offense. In addition to and cumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this Ordinance.

**SECTION 3. REPEAL OF CONFLICTING ORDINANCE**

That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**SECTION 4. SEVERABILITY CLAUSE**

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not effect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance,

for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

**SECTION 5. EFFECTIVE DATE**

The City Manger of the City of Canton is hereby authorized and directed to cause a true and correct copy of the caption, penalties, and effective date of this ordinance to be published in a newspaper having general circulation in the City of Canton, Texas prior to its effective date. Following the publication, this ordinance shall be in full force and effect.

**PASSED, ADOPTED AND APPROVED** by a majority vote of the City Council of Canton, Texas, on this the 19<sup>th</sup> day of October, 2004, to attest which we hereunto set our hands and seal.

DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON ADOPTION OF AN AMENDMENT TO ORDINANCE 2004-01 REGULATING MINIMUM EXTERIOR STANDARDS FOR STRUCTURES INSIDE THE CITY LIMITS -- Rick Malone presented the proposed amendment to simplify the existing ordinance, to include residential, and to modify the requirements in commercial and general industrial zoning districts. He stated new construction in residential districts would have to be a minimum of 50% masonry, but noted it did not affect residential lots already platted. He said commercial and industrial properties would be required to have 75% masonry with 100% masonry on the front. He added the Council would have the authority to approve alternative methods, architectural design and materials. Upon Charles Fenner's recommendation, Ordinance 2004-30 was unanimously adopted upon motion by Councilmember Sanford and second by Councilmember Wilson:

**ORDINANCE NO. 2004 - 30**

**AN ORDINANCE OF THE CITY OF CANTON, TEXAS, AMENDING ORDINANCE NO. 2004-01 REGULATING MINIMUM EXTERIOR STANDARDS FOR ALL STRUCTURES INSIDE THE CITY LIMITS; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**SECTION 1. Repeal of Sections 1 through 4**

That Sections 1 through 4 shall be repealed and all properties inside the city limits shall comply with this ordinance with the following exceptions:

- a. State and federally registered historic structures are exempt from the building façade requirements.
- b. When a Specific Use Permit is required, the Planning and Zoning Board and the City Council may impose alternate masonry requirements for structures which shall be set forth in writing by the City Council prior to issuance of the Building Permit and shall be incorporated into the amending ordinance establishing the SUP.
- c. Temporary construction buildings, field offices and sales offices are exempt from the building façade requirements if removed when their usefulness has ended or in 18 months of placement whichever ever comes first. Pryor approval from the Planning and Zoning and the City Council must be made for jobs etc. That require more than 18 months for a temporary office.

**SECTION 2. Building Façade Requirements**

**2-1. Building Materials**

As applicable to meeting the minimum requirements for the building façade requirements within each zoning district; all building material must be applied using the recommended standards from the manufacturer. The following masonry materials are permitted:

- a. Brick - A kiln fired clay or slate material of severe-weather grade.
- b. Stone - Includes naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all-weather stone that is used in exterior building construction. Cast or

manufactured stone products may also be used provided that such products yield a stone-like appearance and they are highly durable and maintenance-free.

- c. **Burnished Block** – Grinded to reveal the aggregate matrix within the block.
- d. **Decorative Concrete Block (CMU)** – Textured finish such as split-face, indented, hammered fluted, ribbed or similar architectural finish. Lightweight concrete block is not acceptable. Haydock, Smooth or untextured finished concrete blocks are not permitted on any side(s) of the building facing a public or private street.
- e. **Tilt Wall Panels** – Textured finish. Smooth or untextured finished tilt-wall panels are not permitted on any side(s) of the building facing a public or private street.
- f. **Stucco** – Concrete-plastering with cement plaster.
- g. **Glass Block** – Any type used as an exterior building material.
- h. **Cement Based Planks or Paneling** - Fabricated cement panels. May be utilized as an architectural accent material not to exceed 50% of any exterior surface.
- i. **Exterior Insulation and Finish System (EIFS)** – May be utilized as an architectural accent material not to exceed 50% of any exterior surface. To be installed four (8') feet above ground level.

## 2.2 Minimum Building Façade Standards:

The standards and criteria contained within this subsection are minimum building façade standards and shall apply to all new building construction.

**a. Residential** – All Residential-zoning districts include the following: Agriculture District (RA), Single Family (R-1), Single Family (R-2), Single Family (R-3), Single Family (R-4), Multiple Family (Duplex) (Apartment) (MF-1).

- (1) The exterior building façade of all new structures in residential zoning districts shall have a minimum of 75% masonry.
- (2) The masonry shall be equally distributed around the building. No single wall face of any structure should contain less than 50% masonry construction.
- (3) Areas of a façade that are devoted to windows, doors, fascia, shall not be counted as “wall surface” when calculating the building façade requirement.
- (4) Accessory buildings over 300 SF shall conform to the exterior façade of the main building. Agriculture District (RA) uses shall be exempt from this requirement.
- (5) CMU, metal panels, and tilt wall panels are not permitted as a building façade material on any single-family or duplex residential structure.
- (6) Residential property that has been platted as of the adoption date of this ordinance, October 19, 2004, may use vinyl siding or a similar wood product in addition to the materials listed in Section 1.

**b. Commercial** - All commercial zoning districts to include the following: Local Business District (B-1), General Business District (B-2) and Restricted Professional Office District (RPO).

- (1) The exterior building wall of all new structures in the Commercial zoning districts shall have a minimum of 75% masonry materials, with a 100% masonry front required on any side(s) of the building facing a public or private street.
- (2) Areas of a façade that are devoted to windows, doors, fascia, shall not be counted as “wall surface” when calculating the building façade requirement.
- (3) All accessory buildings shall conform to the exterior façade of the main building.
- (4) Additions:
  - i. The exterior building façade of all new additions to existing structures in the Commercial Districts shall comply with the Building Façade Standards requirement herein, or
  - ii. The City Council may approve an alternate or other form of architectural design to the additions of structures that existed as of the adoption date of this ordinance, October 19, 2004.

**c. General Industrial District:** To include (GI-1) and Light Industrial (LI).

- (1) The exterior building wall of all new structures in the Industrial zoning districts shall have a minimum of 50% masonry materials, with a 100% masonry front required on any side(s) of the building facing a public or private street.
- (2) Areas of a façade that are devoted to windows, doors, fascia, shall not be counted as "wall surface" when calculating the building façade requirement.
- (3) All accessory buildings shall conform to the exterior façade of the main building.
- (4) Additions:
  - i. The exterior building façade of all new additions to existing structures in the Industrial Districts shall comply with the Building Façade Standards requirement herein, or
  - ii. The City Council may approve an alternate or other form of architectural design to the additions of structures that existed as of the adoption date of this ordinance, October 19, 2004.

### **SECTION 3. Refuse Storage Container Screening Requirements**

Refuse Storage Containers shall be enclosed on three sides with six-foot walls constructed of the same materials and finishes as the building front facade. All openings shall have a minimum width of eight feet and the gate's minimum height shall be six feet. Gate may also be constructed of wood or other materials customarily used in gate construction. Wire fences are prohibited for gates.

### **SECTION 4. Mechanical Screening Requirements**

#### **4.1 Ground-mounted equipment**

All ground-mounted equipment including, but not limited to, pad-mounted transformers, telephone switch boxes, gas meters, shall be reasonably screened from the view of public right-of-ways and the view from adjacent properties.

- a. All required screening shall meet clearances as required by the affected utility companies.
- b. Acceptable means of screening are trees or evergreen-type shrubbery, masonry walls as masonry is defined in this ordinance, earthen berms in conjunction with landscaping.
- c. Screening heights shall be in proportion to the equipment it is designed to screen. A maximum height of a screen shall be ten feet. If a mechanical unit is taller than the maximum permitted height of the screening, screening shall be set back from the screen five feet plus two foot for each foot it exceeds the height of the screen.
- d. Screening for mechanical units shall apply to new building construction only.

#### **4.2 Roof-mounted equipment**

All roof-mounted equipment including, but not limited to, fans, vents, and cooling towers shall be screened so as not to be visible to the immediate ground level and the ground level of adjacent properties. In addition, roof-mounted equipment shall be placed and finished in a manner which minimizes its visibility from overhead views from nearby buildings and elevated thoroughfare sections.

- a. Overall screening height shall be the height of the highest element of roof-mounted equipment.
- b. The outside of the screening device shall be painted or otherwise finished so as to be similar in color to the color of the roof surface or to the color of the building façade or trim, whichever color is more effective in minimizing the visibility of the equipment and screen from ground level.
- c. Roof color shall be compatible with building color.
- d. To the greatest extent possible, roof-mounted equipment shall be placed in a linear configuration except for normal plumbing vents or flutes.

### **SECTION 5. Screening Walls or Visual Barriers**

In the event that an MF-1, RPO, B-1, or B-2 district sides or backs upon an R-1, R-2, or R-3 zoned district, a solid screening wall or fence of not less than six nor more than eight feet in height shall be

erected along the entire property line separating these districts, except where visibility triangles or easements are required. The purpose of the screening wall or fence is to provide a visual barrier between the properties. The owner of such property shall be responsible for and shall build the required wall or fence along the entire property line dividing his property from the residential district. In cases where the Planning & Zoning Commission finds this requirement to be impractical for immediate construction, it may grant a temporary or permanent waiver of the required screening wall or fence until such time as the screening wall or fence may be deemed necessary by the City Council. In cases where the Planning & Zoning Commission finds this requirement to be better met by an irrigated evergreen living screen, the same may be substituted for the screening wall.

#### **SECTION 6. General Fence and Wall Regulations**

There shall be no front-yard fencing in any zoning district except as follows:

- a. For public and parochial schools, private and primary schools, and day care centers, fences and berms may be a combined maximum height of 60 inches above grade, provided that the fence material is wrought iron or chain link.
- b. For all uses with the General Industrial District (GI-1), a wall or fence not more than eight (8) feet in height may be erected in the front yard setback.
- c. In residentially zoned districts (R-1, R-2, R-3), where a corner lot has two front yards, the second front yard may be fenced in the same manner as any other side yard adjacent to a street. The fence shall not be erected further than the front corner of the house.
- d. Wire fences are prohibited in the front yard setbacks in all districts other than General Industrial (GI-1), except when the fence is used to enclose pastures, cropland, and other areas used for agricultural activities.

#### **SECTION 7. General Provisions**

This ordinance shall include all future annexations along the state corridors.

#### **SECTION 8. Violations and Penalties**

Any person, firm, or corporation found guilty of violating any of the provisions or terms of this ordinance shall be subject to a fine not to exceed the sum of two hundred dollars (\$200.00) for each offense, together with the costs of such prosecution. Each and every day the offense continues shall be deemed to constitute a separate offense. In addition to and cumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this Ordinance.

#### **SECTION 9. Effective Date**

The City Manger of the City of Canton is hereby authorized and directed to cause a true and correct copy of the caption, penalties, and effective date of this ordinance to be published in a newspaper having general circulation in the City of Canton, Texas prior to its effective date. Following the publication, this ordinance shall be in full force and effect.

#### **SECTION 10. Repeal of Conflicting Ordinances**

All ordinances or parts of ordinances conflicting with any of the provisions of this ordinance are hereby repealed.

#### **SECTION 11. Severability Clause**

That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PASSED, ADOPTED AND APPROVED** by a majority of the Canton City Council on this the 19<sup>th</sup> day of October, 2004.

DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON ADOPTION OF AN ORDINANCE REGULATING MINIMUM LANDSCAPING STANDARDS FOR NON-RESIDENTIAL PROPERTIES INSIDE THE

CITY LIMITS – Rick Malone explained the landscaping ordinance would be based on the total lot area, requiring 5% of total square footage. He added it would include a provision for existing trees with standards to protect growth and would grant credits toward requirements. It also provided for an approval process, would help with the problems the City currently has, and allows for better control of the appearance of commercial properties. Councilmember Pruitt asked for more time to review the proposed ordinance. The item was then tabled.

DISCUSS AND CONSIDER ETHERIDGE ROAD PROJECT – Lonny Cluck reported water problems on Etheridge Road. He said the ditches had been dipped and the culverts were cleared with the jet machine to help the situation. He suggested putting in larger culverts, building up the center of the road, and overlaying the street; and if that didn't solve the problem, putting in concrete curbing down one side of the street. When asked about the impact of Etheridge Farms Subdivision, Charles Fenner said the water moved faster. Rick Malone added Etheridge Farms was not yet through with their drainage structures because had told them to stop until the City determined what they intended to do with the road. Mr. Fenner said the cost of replacing the culverts and overlaying the road would be approximately \$235,000. Mr. Fenner stated the original bid for the complete road project was \$750,000, as opposed to the \$600,000 estimated cost. He said there was probably \$350,000 left in the bond funding street projects. Councilmember Wilson asked if there were a way to increase the budget to accommodate the project, or to keep it invested and add it to next year's budget. Councilmember Maris moved to approve increasing the culverts and overlaying the road, and Councilmember Brockman seconded. Citizen Tommy Roberts asked which side of the road would be curbed and said that during the last two rains water had come over the curb on Oak Drive and washed away his side yard and entered a couple of homes near him. He said the City should decide what to do with Etheridge Road before spending any money. When asked, Lonny Cluck stated the curb with the existing ditch and a crown in the road should help. Councilmember Wilson recommended they look at the capital budget to see if any funds could be diverted for the Etheridge Road project to be done right. Charles Fenner agreed to return with an accounting of the capital budget at the next meeting. Citizen Selma Dawson suggested that tiling would take care of most of the water.

DISCUSS AND CONSIDER ORGANIZATIONAL AND POSITION CHANGES – Councilmember Wilson said he was not necessarily opposed to the recent organizational changes, but he felt they could have been made slower. He recommended any new organizational changes and major hires be brought before the Council for direction. He then made a motion so stating. Councilmember Maris asked at what level he meant. Councilmember Wilson said at the level of Jim Stephens, Lonny Cluck, and Tim Gothard, and also the second step down from that. Councilmember Pruitt seconded the motion. Councilmember Sanford agreed but he didn't think the City Manager should come for permission, but to inform. Councilmember Brockman questioned if the City Manager would have the authority to hire. Councilmember Pruitt said he wanted to approve the position and to know about it. Councilmember Wilson stipulated he meant the position, not the person and it would not hurt to have the Council involved on the interviews. Charles Fenner stated he included the Mayor and Councilmember Sanford in Tim Gothard's interview. Mayor Hilliard asked if this was appropriate for Canton's form of government, that the Council had the privilege of input but they had made changes and had agreed to step back and let the City Manager manage operations. Mr. Fenner stated he didn't have a problem with the change, but he didn't want to be held accountable and his contract would need to be amended, which he suggested might be proper to discuss in executive session. Councilmember Pruitt said

he would just like to know about changes before they happen. Councilmember Wilson said the organizational changes needed to be brought before the Council. He restated the motion as any organizational changes within the city be brought to the Council for approval before the position is hired. Upon questioning, Charles Fenner confirmed the organizational chart was largely complete. Councilmember Maris asked for clarification on whether people at the top level needed to be approved. Councilmember Wilson stated the only thing he was asking for was to approve organizational changes. City Attorney Richard Davis stated he thought the present form of government gave that power to the city manager. Councilmember Sanford reiterated he would like to be informed, but did not want to have everything come back to the Council. Mayor Hilliard reiterated his previous statement and added the Council should decide whether they wanted to micromanage or hire people to manage. Councilmember Pruitt seconded the motion that all organizational changes be brought to the Council—not to tell who to hire. Councilmember Sanford clarified the motion was to approve changes, not the person. Councilmember Maris asked for a legal opinion. Richard Davis said he would need to research it further. Councilmember Wilson withdrew his motion to allow Mr. Davis time to research the issue.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – EMPLOYMENT GRIEVANCES – The Grievance Hearings for David Hammonds, Steve Thompson and Ron York were held in open session at their representing counsel's request.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – EMPLOYMENT GRIEVANCE HEARING REQUESTED BY DAVID HAMMONDS – William Dunleavy introduced himself as representing counsel for David Hammonds, Steve Thompson and Ron York. Councilmember Pruitt recused himself from the proceedings at 7:50 p.m. citing a conflict since Mr. Dunleavy had previously represented him in legal matters. Mr. Dunleavy did not agree there was a conflict since the matter was years earlier and unrelated. Richard Davis stated the decision was Mr. Pruitt's to make if he felt it would affect his judgement. At Mr. Dunleavy's request, the individual issues were to be considered separately and the issue of disparate impact would be considered collectively. Mr. Dunleavy began his statement in the Hearing for David Hammonds at 7:57 p.m. He stated that all three parties had issues with the reorganization, which he claimed was illegal due to the effect it had on older employees. He said Mr. Hammonds, age 58, was replaced by Tim Gothard who was 39; and Mr. York, age 62, was replaced by Mr. Fortner who was 40; and Mr. Thompson, age 51, was replaced by Sgt. Hall who was 36, and Brad Allison who was 30 or 31 was made Sergeant. He said these replacements had a disparate impact and his clients were not the only ones who suffered adversely. He said that impact, along with the comments made by Mr. Fenner about bringing in younger officers as supervisors and younger ideas, sounded appropriate to him to support age discrimination. He asked the Council to reverse the changes. He then stated his clients had no objection to releasing the grievance letters to the press. Mr. Dunleavy stated there were a number of comments about David Hammonds in the newspaper attributed to Mr. Fenner that were slanderous and offensive. He asked they be stopped and the Council to so direct Mr. Fenner. He added the city manager had no qualified immunity. He cited Mr. Fenner's quote in the newspaper about not knowing where the chief was and about not knowing he was on vacation. He then turned to Steve Thompson's grievance and stated problems with payment of his comp time, his demotion and his suffering due to the pay cut. He said he seeks to be paid 115 hours comp time

at his former rate and to redeem it as other officers have done. He stated there was no pronouncement of the changed policy (on payment of comp time) and he understood that several officers had cashed theirs in. He said Mr. Thompson would suffer if not allowed to redeem the comp time at the previous rate and if not allowed to cash it in. He said his understanding was that the current policy has the option of resigning to be paid. He asked that he be paid at the former rate. Regarding Ron York, Mr. Dunleavy stated the vacation issue had been resolved, but in addition to age discrimination, he had an issue about his retirement. He asserted Mr. York, through the reorganization, was forced out of his job and subsequently turned in his resignation letter because he stood to lose a lot of retirement benefits as they are based on the last three years' income. Mr. Dunleavy also claimed Mr. York submitted paperwork on August 31, 2004, but it was not received by TML until September 4, so the first check would not be received until November 30 instead of October 31. He stated Mr. York would have received approximately \$525 if the paperwork had been processed properly.

Mr. Fenner was given the floor at 8:08 p.m. Mr. Fenner presented the police department's organizational chart and noted that Tim Gothard was currently Director of Public Safety and Mike Echols, age 59, was the Operations Chief. He explained it was a difficult process determining the factors fundamental to the performance of a job, and the operations in the departments was critical in making the City organization function. He said he had encouraged all employees to be part of a team and had encouraged directors and managers to do whatever it takes to make their part of every department function as an arm of the city as a whole. He stated he had specifically encouraged Mr. Hammonds to review his department from the bottom up and charged him with decreasing the budget, eliminating waste and controlled expenses. He added that he personally had performed an analysis of nine cities for comparison and had encouraged Mr. Hammonds to change all form of operations and get back to the basics, analyze all forms of job performance and job duties, restructure the department and make it more community oriented and focused on safety, health & welfare, to develop an integrity that relied on sound judgement and ethics, to establish a team-oriented concept, and to have all jobs require whatever it takes, not a position for each performance. He explained Canton was a small city and it didn't need a specific person for a specific position but all needed to do whatever it takes. He said Mr. Hammonds' response to him was that it was like that when he got there. Mr. Fenner further stated he had encouraged Mr. Hammonds to change the schedules and reduce the budget to \$800,000--the average determined through the survey of nine other cities (\$785,000 with 15 employees in cities with 4500 population). He said Mr. Hammonds told him and director of administration Jim Stephens (who was 67 years old) that it was not possible. He stated that on several occasions Mr. Hammonds tried to enlist the support of the Council. He indicated he had also asked Mr. Hammonds to eliminate the waste, to reduce the one-on-one use of vehicles, to have vehicles returned and parked that were being used for personal use, and to establish accountability and responsibility for all actions of his employees. He cited instances in the Animal Control department where procedures were not followed, where the shelter failed inspections with 90% of the infractions related to rodent and sanitary issues, and where Mr. Hammonds did not follow through with Mr. Fenner's request to have the animal control officer's vehicle parked after hours and not used for personal use. Mr. Fenner reported that on several occasions Mr. Hammonds said he would step down but wanted to remain an employee with the department, not specifying a position. Mr. Fenner continued by saying after the reorganization, Mr. Hammonds did not follow policy regarding vacation, Mr. Hammonds was called to determine if he was returning to work and was told Mr. Hammonds would show up for work but didn't, and Mr.

Hammonds had also been written up for personal use of department letterhead to take care of a personal interest. Mr. Fenner said that his reassignment was based on all these things, and nothing was based on age. He added that a manager should not have to be told every point of what had to be done, and that through the reorganization process, the City wanted to streamline and get back to basics, and that money was needed for capital improvements so they looked at the organization as a whole. He stated that change was needed and this was affirmed by several officers during an interview process who stated the department was top-heavy. He said he asked Mr. Hammonds for operational changes, for Mr. York to be placed on a different shift, and for changes be made to get better time from the people in those positions. Mr. Fenner stated that he wanted to get more people on the streets and have a more community-oriented policy, as now seen with the operations chief who works traffic and responds to calls. He stated he was told on several occasions that Mr. York wouldn't work wrecks or patrol, that he would wait until other officers were clear to answer the next call. Mr. Fenner said the organization was now functioning well and efficiently with fifteen employees with an operations chief, two sergeants, one corporal, and senior patrol officers, and patrol officers. He added that he had received comments that citizens were seeing more people on the streets and that the department did not need people in specialized positions. He reiterated that age had nothing to do with the changes and that he felt Mr. Hammonds was given an opportunity to make these changes. He said Mr. Hammonds disagreed with him on changing the shifts of operations saying the employees would not go for it, yet the City was amassing a large amount of comp time on the books. Mr. Fenner stated he directed Mr. Thompson to start working on rescheduling people and getting the comp time off because he felt there was no reason for that much comp time with 21 people on staff. He added that he also told him that there was no policy for paying out comp time and that needed to stop.

Turning to Mr. York's specific complaints, Mr. Fenner stated that in restructuring the department, they in no way targeted the person, only the position, and what they thought would be a more efficient process. He said during his interview, Mr. York asked if his position would be guaranteed and that he was told there would be no lieutenant's position. Mr. Fenner said Mr. York gave notice of his retirement the next day. Mr. Fenner read a staff memo regarding the retirement paperwork and explained the conflicting dates between Mr. York's retirement letter and last day of work on his time sheets, problems with his application, the extenuating circumstances of the staffs' busy schedule. Mr. Fenner said the delay was not intentional and the City was sorry for any resulting problems.

In Mr. Thompson's case, Mr. Fenner stated there had not been a policy in place regarding comp time and he had encouraged Mr. Hammonds to start scheduling this time off several months past. He noted the employer has the legal right to schedule the comp time off, and while the employer may pay the comp time, it is not obligated to do so. He added the employee does have to be paid in either money or time off. He explained he had written a letter to Mr. Thompson telling him his request for payment of comp time had been denied but upon termination with the City he would be reimbursed at the rate it had accrued and records would be kept of his accrual at the previous rate. He reiterated that he directed the department several months ago to start scheduling all that time off, and that he was not being discriminatory, that it was just the process he wanted to go through. Regarding rank, Mr. Fenner explained Mr. Thompson had been demoted from sergeant to senior patrol officer in the reorganization and that a consideration in determining people for positions, was that Mr. Thompson had been placed on probation twice since. He said the two

selected for sergeant were chosen based on their past work ethic and their dedication to the city.  
8:19 p.m.

Upon questioning, Mr. Fenner confirmed employee evaluations were in employees' personnel files, the last being conducted in November 2003. Councilmember Wilson asked if Mr. Thompson had received negative or position evaluations to which Mr. Fenner said it varied, that he had several good evaluations but also had several letters of reprimand. When questioned, Mr. Fenner reported there were five sergeants prior to reorganization and two currently—one day sergeant and one night sergeant. Councilmember Maris asked if there were a policy on when employees had to take their comp time or if it could ride indefinitely. Mr. Fenner said there was no policy in place. Councilmember Brockman asked about Mr. York's retirement and Councilmember Maris said he seemed to have made a lot of effort and that the retirement process was difficult and needed guidance. He added he had no problem granting his request for the month's retirement he missed. Charles Fenner and Councilmember Brockman agreed. Councilmember Maris stated the City should have a comp time policy and Mr. Thompson should have an opportunity to cash in at the old rate. He suggested the City take a look at paying out on that. Councilmember Brockman noted employees should have to take comp time during the year it's earned. Councilmember Wilson asked if there were any rationale in the salary reductions during the reorganization. Mr. Fenner answered the salaries were based on surveys of other cities and a schedule was set up by level. He said the separation between patrol officer and senior patrol officer was \$2,000 and between senior patrol and sergeant was \$5,000. He added the City's starting patrol pay was set at \$22,000. And the senior patrol officer's position ranged up to approximately \$36,000. Councilmember Wilson asked why Mr. Thompson wasn't at least capped at the maximum of that level. He also asked how many years he had been with the City. Mr. Fenner said they were trying to be uniform on the positions and base the pay on both longevity and merit with the focus on merit. He said they had gone back to the basics and compared the average pay at each level. Mr. Dunleavy said Mr. Thompson had 15 years service with the City in December. Councilmember Wilson asked if he had seniority in the department. Mr. Fenner responded that Mr. Echols had been with the City 17.5 years. After discussing the pay ranges, Councilmember Wilson stated it appeared no consideration was given to seniority and he was in favor of reinstating Mr. Thompson's pay rate as long as it fell within the range for that position. Mayor Hilliard directed the Council to Mr. Thompson's request for his comp time to be paid at the rate at which it accrued. Mr. Dunleavy noted that was not the only request and that he was also requesting to cash in his comp time, that the reorganization changes affecting him be rescinded, and that his rank and pay be reinstated. Richard Davis advised the Council could grant the request or order partial relief. Councilmember Maris stated he would like to stay within the new framework for the department and he felt the department after reorganization was more efficient and served the citizens better. He asked if the Council could consider pay grades in the new rankings and bring Mr. Thompson up closer to where he was. Charles Fenner confirmed his former pay rate fell within the established salary range. Councilmember Maris then moved to reinstate Mr. Thompson's pay level in the Senior Patrol Officer ranking and that his comp time would be resolved at that level. Charles Fenner asked for clarification if he meant to pay him out for his comp time. Councilmember Maris responded not to pay it off. Councilmember Wilson seconded, and all voted in favor. When asked, Mr. Dunleavy stated the grievance was resolved if Mr. Thompson's comp time was equal to his reinstated pay rate. Regarding Mr. Hammonds, Councilmember Wilson asked if the position of chief of police had been eliminated and if Mr. Hammonds had been given an opportunity to interview for the new position. Charles Fenner

responded yes to both. Councilmember Sanford moved to affirm the administration's decisions regarding reorganization. Councilmember Wilson seconded, and all voted in favor. Regarding Mr. York's grievance, Mr. Dunleavy said he would defer to the City's calculation of the retirement amount. Councilmember Maris stated Mr. York had made a good faith effort and it could be corrected at a nominal expense. Councilmember Brockman moved to correct the retirement error. Councilmember Maris seconded, and all voted in favor. Mr. Dunleavy requested the reorganization changes be rescinded as they applied to Mr. York and that he return to the position as Lieutenant at his previous salary. Councilmember Sanford moved to affirm the actions of the administration on this matter. Councilmember Brockman seconded, and all voted in favor.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS  
(Section 551.074) – EMPLOYMENT GRIEVANCE HEARING REQUESTED BY STEVE THOMPSON

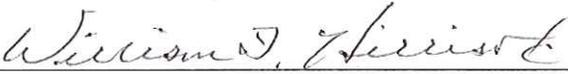
EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS  
(Section 551.074) – EMPLOYMENT GRIEVANCE HEARING REQUESTED BY RON YORK

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE, SALE OR LEASE OF REAL PROPERTY (Section 551.072) - The City Council recessed at 8:49 p.m. before convening in closed session at 8:50 p.m. to discuss the potential purchase of real property.

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION - The Council reconvened in open session at 9:07 p.m. with no action taken.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS - None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 9:08 p.m. upon motion by Councilmember Pruitt and second by Councilmember Wilson.

  
\_\_\_\_\_  
William F. Hilliard, Mayor

ATTEST:

  
\_\_\_\_\_  
Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
6:00 P.M., TUESDAY, OCTOBER 26, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above named date and time in the City Hall Council Chambers. Councilmembers present were Ross Maris, Ron Sanford, Raymond Pruitt and Rusty Wilson. Mayor William F. Hilliard, Councilmember Robert Brockman, City Manager Charles Fenner and City Attorney Richard Davis were absent.

Discussion and action were as follows:

**CALL MEETING TO ORDER - Mayor Pro Tem Pruitt called the meeting to order at 6:00 p.m. and announced a quorum was present.**

SECOND PUBLIC HEARING ON ANNEXATION OF A 21 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761, OWNED BY CANTON ECONOMIC DEVELOPMENT CORPORATION – Mayor Pro Tem Pruitt opened the Public Hearing at 6:00 p.m. and closed immediately thereafter having heard no comments.

SECOND PUBLIC HEARING ON ANNEXATION OF FOUR TRACTS OWNED BY HENRY LEWIS--A 14 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761; A 5.0 ACRE TRACT SITUATED IN THE WILLIAM SHERMAN SURVEY, A-761 AND THE Q.C. NUGENT SURVEY, A-618; A 9.342 ACRE TRACT AND A 41.1968 ACRE TRACT SITUATED IN THE Q.C. NUGENT SURVEY, A-618 – The Public Hearing was opened at 6:01 p.m. and closed immediately thereafter having heard no comments.

SECOND PUBLIC HEARING ON ANNEXATION OF 5.6 ACRE TRACT SITUATED IN THE J. DOUTHIT SURVEY, A-198, LOCATED ON VZCR 2201 OWNED BY GRACE FAMILY CHURCH – The Public Hearing was opened at 6:03 p.m. and closed immediately thereafter having heard no comments.

DISCUSS AND CONSIDER AUTHORIZATION AND ADOPTION OF SUPPORTING RESOLUTION FOR STREET CLOSURES FOR THE DECEMBER 11<sup>TH</sup> CHRISTMAS PARADE SPONSORED BY THE CANTON CHAMBER OF COMMERCE – Lonny Cluck reported they were asking to close State Highway 19 for a period of time. The council postponed authorization until a letter from the Texas Department of Transportation could be secured releasing the City from liability for the closure.

DISCUSS AND CONSIDER ADOPTION OF ORDINANCE AMENDING WATER/SEWER SURCHARGE ON RECREATIONAL VEHICLE SITES (RV HOOK-UPS) – Item tabled.

DISCUSS AND CONSIDER APPROVAL OF GARBAGE SERVICE RATES – Lonny Cluck presented Olympic's proposed increase which included a 25% increase in commercial rates over a three-year period with a 15% increase the first year, 5% the second year and 5% again the third year. He proposed increasing residential rates one time to \$9.50 versus an incremental increase each year. Following a lengthy discussion, Councilmember Wilson made the motion to increase residential rates to \$9.00 rather than the \$9.50 proposed. Councilmember Sanford seconded, and all voted in favor. All other rates, including \$11.50 for residential cart service, were adopted as proposed upon motion by Councilmember Wilson and second by Councilmember Sanford. The adopted rates were as follows:

**II. COMMERCIAL CONTAINERIZED**

Effective November 1, 2004

**I. RESIDENTIAL:** Bag Collection Service – Once per week pick up \$9.00

Nine bag maximum, curbside

Cart Service – Once per week pick up \$11.50

SIZE	1X/WK	<u>2X/WK</u>	3X/WK	EXTRA UNSCH	EXTRA SCHEDULED
2 YARD	\$ 38.24	\$ 59.78	\$ 81.31	\$ 14.38	\$ 12.08 \$ (10.50)
3 YARD	\$ 44.06	\$ 82.47	\$ 123.79	\$ 15.53	\$ 13.23
4 YARD	\$ 56.28	\$ 98.18	\$ 133.09	\$ 18.98	\$ 16.68
6 YARD	\$ 77.81	\$ 120.29	\$ 151.13	\$ 25.30	\$ 23.00
8 YARD	\$ 95.27	\$ 147.64	\$ 178.48	\$ 32.20	\$ 26.45

**III. COMMERCIAL HANDLOAD SERVICE: (Monthly Charges)**

#OF30 GAL BAGS	1X/WK	2X/WK
5 OR LESS	\$ 13.23	\$ 16.13
6 TO 10	\$ 15.84	\$ 18.75
11 TO 15	\$ 19.92	\$ 21.65
16 TO 20	\$ 22.24	\$ 26.60

**IV. COMMERCIAL CART SERVICE: (Once per week p/u)**

\$18.75

**V. INDUSTRIAL CONTAINER SERVICE:**

SIZE	RENT	HAUL
20 CU YD OPEN TOP	\$ 70.99	\$ 297.85
30 CU YD OPEN TOP	\$ 70.99	\$ 350.30
40 CU YD OPEN TOP	\$ 76.81	\$ 406.17

**VI. SLUDGE:**

SIZE	RENT	HAUL
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20 CU YD	\$	\$ 225.00
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(Effective November 1, 2005)

I. RESIDENTIAL: Bag Collection Service - Once per week pick up \$9.00  
 nine bag maximum, curbside

Cart Service - Once per week pick up \$11.50

## II. COMMERCIAL CONTAINERIZED:

SIZE	1X/WK	2X/WK	3X/WK	EXTRA UNSCH	EXTRA SCHEDULED
2 YARD	\$ 39.86	\$ 62.33	\$ 84.80	\$ 15.00	\$ 12.60
3 YARD	\$ 45.93	\$ 86.01	\$ 129.12	\$ 16.20	\$ 13.80
4 YARD	\$ 58.68	\$ 102.40	\$ 138.83	\$ 19.80	\$ 17.40
6 YARD	\$ 81.15	\$ 125.48	\$ 157.66	\$ 26.40	\$ 24.00
8 YARD	\$ 99.36	\$ 154.01	\$ 186.20	\$ 33.60	\$ 27.60

## III. COMMERCIAL HANDLOAD SERVICE: (Monthly Charges)

#OF30 GAL BAGS	1x/WK	2X/WK
5 OR LESS	\$ 13.76	\$ 16.79
6 TO 10	\$ 16.48	\$ 19.52
11 TO 15	\$ 20.74	\$ 22.55
16 TO 20	\$ 23.16	\$ 27.71

IV. COMMERCIAL CART SERVICE: (Once per week p/u) \$19.52

## V. INDUSTRIAL CONTAINER SERVICE:

SIZE	RENT	HAUL
20 CU YD OPEN TOP	\$ 74.08	\$ 310.80
30 CU YD OPEN TOP	\$ 74.08	\$ 365.53
40 CU YD OPEN TOP	\$ 80.15	\$ 423.83

VI. SLUDGE:

SIZE	RENT	HAUL
20 CU YD	\$	\$ 275.00

Effective November 1, 2006

IRESIDENTIAL: Bag Collection Service - Once per week pick up \$9.00  
 nine bags maximum, curbside

Cart Service - Once per week pick up \$11.50

II. COMMERCIAL CONTAINERIZED:

SIZE	1X/WK	2X/WK	3X/WK	EXTRA UNSCH	EXTRA SCHEDULED
2 YARD	\$ 41.48	\$ 64.89	\$ 88.29	\$ 15.63	\$ 13.13
3 YARD	\$ 47.80	\$ 89.55	\$ 134.46	\$ 16.88	\$ 14.38
4 YARD	\$ 61.09	\$ 106.63	\$ 144.58	\$ 20.50	\$ 18.13
6 YARD	\$ 84.49	\$ 130.66	\$ 164.19	\$ 27.50	\$ 25.00
8 YARD	\$ 103.46	\$ 160.39	\$ 193.91	\$ 35.00	\$ 28.75

III. COMMERCIAL HANDLOAD SERVICE: (Monthly Charges)

#OF 30 GAL BAGS	1x/WK	2X/WK
5 OR LESS	\$ 14.29	\$ 17.45
6 TO 10	\$ 17.13	\$ 20.29
11 TO 15	\$ 21.56	\$ 23.45
16 TO 20	\$ 24.09	\$ 28.83

IV. COMMERCIAL CART SERVICE: (Once per week p/u) \$20.29

V. INDUSTRIAL CONTAINER SERVICE:

SIZE	RENT	HAUL
20 CU YD OPEN TOP	\$ 77.16	\$ 325.00
30 CU YD OPEN TOP	\$ 77.16	\$ 380.76
40 CU YD OPEN TOP	\$ 83.49	\$ 441.49

**VI. SLUDGE:**

SIZE	RENT	HAUL
20CUYD	\$	\$ 325.00

DISCUSS AND CONSIDER AMENDING ORDINANCE NO. 2004-16 ESTABLISHING TRANSFER STATION FEES – The following ordinance was unanimously adopted upon motion by Councilmember Wilson and second by Councilmember Maris:

**ORDINANCE NO. 2004 - 31**

**AN ORDINANCE ESTABLISHING RATES CHARGED FOR THE COLLECTION OF SOLID WASTE AT THE CANTON TRANSFER STATION; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, there is a necessity for the City of Canton, Texas to charge for the collection of solid waste at the transfer station in order to pay for the proper disposal of solid waste, and the maintenance and operations of the facility;

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Canton, Texas:

**SECTION 1.**

That rates shall be charged for the collection of solid waste at the Canton Transfer Station as follows:

<u>Service</u>	<u>County Residents</u>	<u>Non-County Residents</u>
Compacted household trash may be prorated - \$5.00 min.	\$17.50 per cubic yard	\$27.50 per cubic yard
Loose household trash may be prorated - \$3.00 min.	\$15.00 per cubic yard	\$25.00 per cubic yard
Items placed in open-top containers such as construction debris, excluding shingles	\$17.50 per cubic yard	\$27.50 per cubic yard
Shingles	\$25.00 per cubic yard	\$35.00 per cubic yard
Furniture, mattresses, television sets and other large items: up to 1 cubic yard	\$17.50 each	\$27.50
1.5 cubic yards	\$25.00 each	\$35.00 each
2.0 cubic yards	\$30.00each	\$40.00 each
Major appliances such as refrigerators stoves or ranges, hot water heaters, washers, dryers, etc.	\$10.00 each	\$20.00 each
No tires, batteries or drums with lids will be accepted.		

**SECTION 2.**

That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**SECTION 3.**

DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON ADOPTION OF AN ORDINANCE REGULATING MINIMUM LANDSCAPING STANDARDS FOR NON-RESIDENTIAL PROPERTIES INSIDE THE CITY LIMITS – Rick Malone reported an amendment to the proposed ordinance on page four under landscaping requirements 2a adding “3 inches to be measured from 10 inches from the top of the root ball.” He also confirmed the ordinance applied to new construction or construction involving an addition of 20% or more. Ordinance 2004-33 regulating minimum landscaping standards for non-residential properties was adopted upon motion by Councilmember Pruitt and second by Councilmember Maris.

DISCUSS AND CONSIDER RE-ADOPTION OF NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS STANDARD SPECIFICATION FOR PUBLIC WORKS CONSTRUCTION WITH PROPOSED CHANGES – Charles Fenner presented the proposed changes to give developers some options to the NTCTOG Standard Specifications for Public Works Construction. Councilmember Brockman made a motion re-adopting the North Central Texas Council of Governments Standards for Specifications for Public Works Construction with amendments to standard specification 5.7 drawing 2090, 2100 and 2110, and standard specification 5.7, 5.8 standard drawing 2050A as follows:

**1. Heavy 50,000 lbs. and up Streets and Roads**

- A) Lime-stabilize 35 lbs. per sq.yrd. Up to 8” in depth compacted to 95% std.proctor density (ASTM D698)
- B) 10” compacted 1 ½-1 ¾ crushed limestone.
- C) 2” compacted hot mixed asphaltic concrete type B compacted to 95% density.
- D) 2” compacted hot mixed asphaltic concrete type D compacted to 95% density.

**2. Medium to Light 50,000 lbs. or less Streets and Roads**

- A) Lime-stabilize 26 lbs. per sq.yrd. Up to 6” in depth compacted to 95% std.proctor density (ASTM D698)
- B) 8” compacted 1 ½-1 ¾ crushed limestone.
- C) 1 ½” compacted hot mixed asphaltic concrete type B compacted to 95% density.
- D) 1 ½” compacted hot mixed asphaltic concrete type D compacted to 95% density.

**3. Asphalt Parking Lot Heavy 50,000 lbs. and up**

- A) 8” compacted 1 ½-1 ¾ crushed limestone.
- B) 3 ½” compacted hot mixed asphaltic concrete type D compacted to 95% density.
- C) Lime Stabilize if Plasticity Index of Soil is over 20.
- D) Compacted Sub-grade Per. spec.4.3

**4. Asphalt Parking Lot Medium to Light 50,000 lbs. or Less**

- A) 6” compacted 1 ½-1 ¾ crushed limestone.
- B) 2” compacted hot mixed asphaltic concrete type D compacted to 95% density.
- C) Lime Stabilize if Plasticity Index of Soil is over 20.
- D) Compacted Sub-grade Per. spec.4.3

**5. Concrete Parking Heavy 50,000 lbs. and up**

- A) 7” Class “C” Concrete
- B) #3 bars on 24’ center
- C) Lime Stabilize if Plasticity Index of Soil is over 20.
- D) Compacted Sub-grade Per. spec.4.3

Councilmember Pruitt seconded, and all voted in favor.

DISCUSS AND CONSIDER AWARDDING BID FOR REHABILITATION OF GROUND STORAGE TANK – The Council reviewed the bid tabulation for the ground storage tank and Councilmember Sanford made a motion to award it to Williams Painting & Sandblasting Co. with the low bid of \$195,411.20. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER AWARDDING BID FOR FIRST MONDAY RESTROOM – The Council reviewed the bid tabulation for a new First Monday restroom and Councilmember Sanford moved to award it to LeMarque with the low bid of \$133,000. Councilmember Wilson seconded, and all voted in favor.

DISCUSS AND CONSIDER CAPITAL OUTLAY PROJECTS - Charles Fenner referenced a proposed project list for First Monday in the Council packets. He said the city was putting in place a street maintenance program and was also trying to build buildings and a restroom on the First Monday Park, as well as making small improvements at the water and sewer plants. He reported budgeted capital expenditures totaled \$890,000, the old bond balance was approximately \$177,000 and the new bond balance was \$193,000, from which Lazy U would be paid. He asked the Council if they'd like to re-allocate funds to the Etheridge Road project or build buildings on First Monday. He pointed out there was \$200,000 for Capital Improvements in the First Monday budget and the city would probably need to borrow money.

DISCUSS AND CONSIDER ETHERIDGE ROAD PROJECT – Mr. Fenner presented a \$235,000 bid for the Etheridge Road project which included tiles, ditch work, culverts, reworking the sewer and water lines, and re-asphalting the existing road. He noted the original bid for the complete project was \$700,000. Mr. Fenner reported the funds were not available in the bond program. Councilmember Brockman asked what projects could be deleted from the capital improvements budget. Mr. Fenner replied that only the \$80,000 from the streets program for seal coating was available, but the city would then not be able to do any other street work. He added the City had serious issues with the water and sewer and was not sure there was enough in the budget to do what was needed; and if not, that money could be used on the Etheridge Road project. Councilmember Pruitt said he was not in favor of anything but fixing the ditches until construction on the Etheridge Farms Subdivision was nearly complete. Councilmember Maris added that something had to be done on the west end because the street was gone. Mayor Hilliard asked if the City had the expertise to do the work with the advice of the City engineer. Mr. Cluck confirmed the City had the expertise for all but the concrete work. He said Mr. McLanahan from Texas Department of Highways told him the city didn't need their approval if it didn't try to do anything with the water. Engineer Gary Burton confirmed the City could work with the culvert without requiring their permission. The Mayor then instructed the staff to perform the work in-house with the engineer's help, which included increasing the culverts and contracting the concrete work on four driveways along Etheridge Road.

DISCUSS AND CONSIDER REMODELING BLUE BATHROOM ON FIRST MONDAY PARK – The Council decided to hold a special meeting to discuss First Monday items. Lonny Cluck was asked to prepare a plan and determine the feasibility of remodeling the blue bathroom. Councilmember Pruitt asked Mr. Cluck to make sure he put up signs on top of the restrooms.

DISCUSS AND CONSIDER BUILDING STRUCTURES FOR FIRST MONDAY VENDORS  
– Item tabled to a special meeting.

DISCUSS AND CONSIDER RETAINING WALL ON FIRST MONDAY PARK – Item tabled to a special meeting.

GRIEVANCE HEARING REQUESTED BY CHARLES BROWN – At 7:16 p.m., Mayor Hilliard read the instructions for the hearing. At 7:21, William Dunleavy, attorney representing Charles Brown and Denise Proctor, stated the recent reorganization of the police department had a discriminatory affect on older employees, namely Charles Brown and Denise Proctor. He referred to David Hammonds, age 58, who had been replaced by Chief Gothard, who he understood to be 39, or by Chief Echols. He added Mr. Hammonds was also originally to have been replaced by Mr. Fortner who was in his 40's. He then stated Sergeant Brown, age 57, was replaced by Sergeants Hall or Allison who were in their thirties; and Denise Proctor, age 52, had been replaced by "Cricket" who was in her thirties. He also referred to Mr. Fenner's alleged comments that he wanted to have younger officers to have younger ideas. He then stated the reorganization had a disparate impact on older employees who were replaced by younger employees. He also objected to the decision and asserted Mr. Fenner exceeded his authority in reorganizing the department. He said Mrs. Proctor had been questioned a number of times to the point of feeling pressured to resign. He added that she was told there was no intent to replace her, yet someone was there to replace her the afternoon she resigned. He asked the Council to rescind the reorganization and reinstate Charles Brown and Denise Proctor to their positions and pay rates prior to the reorganization, and to make the pay retroactive. He noted that Charles Brown's pay had already been reinstated along with a number of officers.

At 7:27, Charles Fenner explained the department had gone through reorganization in an effort to streamline operations because they felt it was top heavy, and all employees' pay had since been reinstated and made retroactive to the effective change date. He stated Ms. Proctor quit, that she was not fired or discharged. He explained her administrative clerk's position had been combined with dispatching; and at that time, they were given notice of a dispatcher who had given a letter of resignation. Mr. Gothard subsequently requested Ms. Proctor be placed in that position. Regarding Mr. Brown, he said the department no longer had a strictly investigative position, but a corporal who, along with the operations chief, took on investigative duties. Operations Chief Mike Echols was then called upon to read a letter of recollection of Ms. Proctor's discharge events. This statement included assertions that Ms. Proctor claimed many times she wanted to return to dispatching, but on her terms with specified hours and at the administrative clerk's pay level. It also pointed out major deficiencies in Ms. Proctor's work and in her work habits, and in her attitude following advisement of an impending reorganization. The statement described the sequence of events regarding Ms. Proctor's resignation beginning with rumors of Ms. Proctor's plans to quit; then her confirmation of such when asked by management; then management's requests for an official written notice so they could make plans for a replacement. Mr. Echols, age 59, stated he had been with the city seventeen years and his age had never been brought up. Since taking the position, he said he found numerous instances where Ms. Proctor failed to do work, failed to file reports with the justice department, misfiled records, and where information was missing from the computer. The City concluded its statement at 7:39 p.m.

Councilmember Sanford made a motion affirming the administration's action on both employee Charles Brown and former employee Denise Proctor. Councilmember Brockman seconded, Councilmember Wilson abstained and all others voted in favor. Mayor Hilliard asked Mr. Dunleavy if he was in concurrence that the vote was taken properly and he replied he was in concurrence that the vote had been taken. Mayor Hilliard stated the decision was then final and the hearing was concluded at 7:42 p.m.

GRIEVANCE HEARING REQUESTED BY DENISE PROCTOR – Included in item above.

Mayor Hilliard introduced visiting scout members Lewis Sharp, John Baugh, and Dalton Stringer. The meeting then recessed from 7:44 to 7:48 p.m.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS  
(Section 551.074) –GRIEVANCE HEARING REQUESTED BY MICHEL ABIO –

On behalf of Michel Abio, Attorney Lance Wyatt requested the hearing be conducted in open session. At 7:49, Mayor Hilliard read instructions for the hearing. Lance Wyatt, representing Michel Abio, began his statement at 7:53 p.m. He said Ms. Abio was terminated on September 24, 2004, and in correspondence from Director Tim Gothard dated September 22, 2004, it was stated that two councilmen were approached by employees of the Canton Independent School District who said Ms. Abio had told them to call the Mayor and Council regarding her position. He said he also objected to the manner in which the investigation was conducted and that Ms. Abio was denied due process. He continued that Ms. Abio was never provided a copy of the signed complaints filed against her to review prior to her being terminated as required by Texas Government Code 614.022 & 614.023 and that the City of Canton Personnel Handbook and Policy manual was not complied with. He referenced Disciplinary Probation on page 21, and stated that Mr. Gothard mentioned in his letter that Ms. Abio was on disciplinary probation for 6 months, but proper procedure was not followed because she was not given a written statement of what the problem was, what improvements were to be made, and in what time frame. He added that the supervisor did not consider the type and severity of the problem, Ms. Abio's work history, or any mitigating circumstances surrounding this major change in her life. He said it was evident from the newspapers that Ms. Abio had an impact on the children's lives. He also said even though the policy did not allow employees to reach out to councilmembers, it had been done in the past. He also mentioned that she was under the impression the city was pulling out of the schools and that the school would have to fund any future SRO position. He said the reason Mr. Gothard selected insubordination was because he wanted to find a reason to terminate Ms. Abio. He requested the termination be voided, that Ms. Abio's pay and benefits be restored, and that any reference to this incident and records be removed from her personnel file. He stated that it had also been brought to his attention that city management had interfered with efforts by the Sheriff's office and CISD to reinstate the SRO position. He asked why the children and faculty were being placed in a position to suffer as a result of this situation. Mr. Wyatt's comments concluded at 8:09 p.m.

On behalf of City Management, Charles Fenner responded at 8:10 p.m. He deferred to Director of Public Safety Tim Gothard who reported being approached by two councilmembers on September 16 and 17, 2004, who said they had been contacted by Canton Independent School District (CISD) employees who were advised by Ms. Abio to talk to the Mayor and City

Councilmembers to request she be kept as the school resource officer. He stated that action violated the rules of conduct under Canton Police Department policy manual section 14.29 referrals to city councilmen, and section 14.43 that states employees shall not publicly criticize instructions or orders they have received. He cited the City Personnel Policy Manual which identifies Causes for Termination item (K): the employee has violated any official or departmental rule, regulation, or special order. He said he met with Ms. Abio, as witnessed by Sergeant Echols and Jim Stephens, and brought out the allegations, informed her of her termination citing the violations above and the fact that she was already on a six-month probation for a Rules of Conduct violation dated 7/27/04. He confirmed that she reviewed and signed the letter of charges of violation, that he reviewed the grievance procedures with her, and gave a copy of the grievance procedures to her at that time. Director Gothard also reviewed a memo from Sergeant Echols dated September 29, 2004, which reported Michel Abio's complaints about the police department changes in a public setting and about her telling him she was working to get citizens and school administrators to contact city hall to keep her in the school resource position.

Lance Wyatt asked and received confirmation of the date of the memo and requested it be found irrelevant since it was dated after the termination. Attorney Richard Davis advised that it was not a court of law and not up to the counsel to consider relevancy, but they could determine what information to take under consideration.

Charles Fenner then reported that he went through the appeal process with Ms. Abio and Lance Wyatt, and reviewed the termination decision. He said what weighed more heavily on his decision was that she was already on probation. He reported that the previous Police Chief, David Hammonds, had placed her on probation for violations following an internal investigation. He noted that it was standard procedure for other cities to place employees on suspension rather than probation in these instances, and that the violation was actually in front of the grand jury at the time. He then reviewed a letter from David Hammonds reporting Lieutenant Ron York's internal investigation findings regarding a false report called in to Canton Police Department dispatch on 7/14/04. Mr. Fenner said that he felt any offense while someone was on probation was reason for termination and that Ms. Abio not only violated the Code of Ethics and the city's policy, but the penal code as well. He then read a letter from Henry Askew to Chief Hammonds regarding the 7/14/04 incident. Mr. Askew was the dispatcher on duty at the time the false report was made. Mr. Fenner concluded his remarks at 8:27 p.m.

Mayor Hilliard then instructed the Council of their duty. When asked, Mr. Fenner confirmed Michel Abio was terminated for violations and not as a result of a complaint filed against her. He also confirmed Ms. Abio was given the letter citing the reasons for termination and that she signed it at that time of termination. Councilmember Wilson asked if it was common to terminate an employee for breaking a policy in the handbook. Mr. Fenner stated her violations occurred under two administrators and that the new administration would continue forward in the same manner.

Councilmember Brockman then made a motion to uphold the administration's decision. Councilmember Maris seconded, and all voted in favor.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING PERSONNEL MATTERS (Section 551.074) – The Council recessed at 8:34 p.m. and convened in closed session at 8:37 p.m. to discuss personnel matters and the potential purchase, sale or lease of real property.

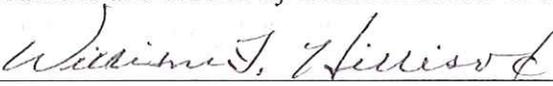
EXECUTIVE SESSION FOR CONSULTATION WITH ATTORNEY (Section 551.071)

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE, SALE OR LEASE OF REAL PROPERTY (Section 551.072)

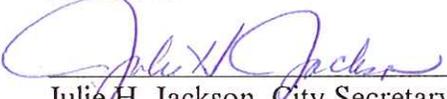
RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION - The Council reconvened in open session at 10:00 p.m. with no action taken.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS – Charles Fenner expressed the need for a special meeting of the Council. He also informed the Council he planned to let employees off work after the employees' Thanksgiving Feast on Wednesday.

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 10:01 p.m. upon motion by Councilmember Sanford and second by Councilmember Brockman.

  
 \_\_\_\_\_  
 William F. Hilliard, Mayor

ATTEST:

  
 \_\_\_\_\_  
 Julie H. Jackson, City Secretary

**CALLED MEETING OF CANTON CITY COUNCIL**  
 CITY OF CANTON, TEXAS  
 8:00 A.M., SATURDAY, DECEMBER 18, 2004  
 CITY HALL, 290 E. TYLER STREET  
 CANTON, TEXAS

The Canton City Council met at the above named date and time in the City Hall Council Chambers. Councilmembers present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, and Ron Sanford. Raymond Pruitt and Rusty Wilson arrived at 8:14 and 9:05 a.m., respectively.

Discussion and action were as follows:

**CALL MEETING TO ORDER - Mayor William F. Hilliard called the meeting to order at 8:09 a.m. and announced a quorum was present.**

DISCUSSION AND WORKSHOP PERTAINING TO FIRST MONDAY - Charles Fenner presented a three-phase proposed project list drafted from discussion at the last workshop. He asked the Council to review the plan and give him direction. Phase I included two new

restrooms and two new buildings, one on Row 3 for Mr. Pitts and another on Row 1 for Cajun Cookin; Phase II included low cost covered sheds, widening 43A, and two bridges; and Phase III included construction of a road on the edge of the creek to tie the Trade Centers directly to the Civic Center, remodeling the blue bathroom, storage, and a walkway between Trade Centers III and IV.

Councilmember Brockman stated he felt the bathroom was the top priority. Lonny Cluck reported the contracts were signed and they were hoping to start within a week. (Councilmember Pruitt arrived at 8:14 a.m.) The Council discussed a second new restroom and the renovation of the blue bathroom, and getting professional guidance on the design, traffic flow in and out, and the quantity of toilets needed to meet the needs. Mr. Fenner noted that remodeling would be the same concept as rebuilding in a flood plain. Lonny Cluck stated they were tying into a sewer line on Highway 19 that would help a little with the backups caused by rain. Councilmember Maris recommended extending Trade Center IV closer to the blue bathroom and making it into a reststop with porches, benches, landscaping and trees. Mayor Hilliard was adamant about getting the plumbing out of the slab.

Discussion then turned to funding. Mr. Fenner said if the City borrowed additional funds, it would need to move the \$200,000 in capital expenditures to debt service. Mayor Hilliard suggested getting other owners to cost-share in the remodeling project. The Council prioritized the restroom projects by making the new bathroom the first priority, followed by renovation of the blue bathroom in phases in conjunction with the second new bathroom. Ron Sanford, Ross Maris and Lonny Cluck were appointed to propose a plan on the blue bathroom and a plan and site for a second new restroom.

The Council then discussed the Trade Centers. Charles Fenner reported Trade Center IV generated approximately \$12,000 per month because it wasn't staying full. Councilmember Maris suggested extending it to the blue bathroom would generate more revenue and help draw traffic to the building.

Regarding a request to build a structure for Mr. Pitts, Councilmember Sanford suggested letting him build his own on Row 3 with him incurring all costs, requiring it to be owner-occupied with any subleasing to be approved by the Council. Councilmember Maris added the stipulation that the design would have to conform to the City's standards. Mayor Hilliard said the City needed to build it to get the building and lot rent. He also pointed out that Henry Lewis was only going to build lock-and-leave buildings. Councilmember Pruitt agreed the city should build it if he wanted to build on Row 11.

Councilmember Maris recommended a new approach to lot revenue: charging more for prime lots. Councilmember Pruitt promoted the idea of getting into the backdrop business but with a better design and quality than current backdrops. Lonny Cluck projected revenue of \$7,000 per month in backdrop rentals, and noted the cost would include backdrop production and labor which may also be able to help during the month.

Councilmember Brockman stated the surcharge on sewer was too high and the City needed to go back and talk to the owners. Councilmember Pruitt said the City should be able to get sales tax on RV spaces.

Councilmember Pruitt reported that Ken Thompson wanted to build on his lots on Rows 11 and 21 that were not in the building area. Councilmember Maris replied that Trade Center III should have come down where the walkway was. Mayor Hilliard stated the city needed to own and build anything in that major area. Councilmember Maris suggested defining a concept and building buildings one at a time on row 11, with each generating revenue to fund additional building. Mayor Hilliard stated he understood Paul Michael's buildings could be purchased and asked if the City was interested. Councilmember Pruitt noted he had turned down \$2 million. (Councilmember Wilson arrived at 9:05 a.m.)

Charles Fenner asked the council for direction on Cajun Cookin's request for a building. It was first agreed that he would be offered the same deal as Mr. Pitts: he would be allowed to build his own on Row 3. Lonny Cluck suggested the park area would be the best place for him. Charles Fenner said his idea was to spend \$75,000 on a 2,000 square foot building and charge \$1800 to \$2000/month. Councilmember Maris warned about deferential treatment to a food vendor from Lewis' property. Charles Fenner suggested building and bidding it out. Councilmember Wilson disagreed and felt vendors would maintain it better if they had an investment in it. Councilmember Maris suggested presenting it both ways to Cajun Cookin.

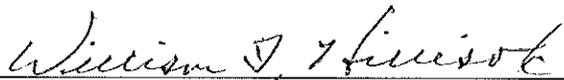
Councilmember Maris asked the others to be thinking about taking one lot along the entire south side of 43A to widen it and increase traffic. He also asked that the engineers check the old metal bridges for soundness. It was suggested a ruling be requested from the Economic Development Corporation on what kind of help they could give on the roads like 43A. Councilmember Pruitt also asked the staff to check into buying three transports to run people around. The Council discussed scooters and were informed it would need about 100 scooters at \$2250 each, plus a building to house them.

Councilmember Sanford requested prices on the walkways. The Council discussed Groves parking lot for building or parking, making Row 3 one-way, moving the office back and possibly moving the First Monday office there full-time along with a gift shop. The office project was moved to Phase 3.

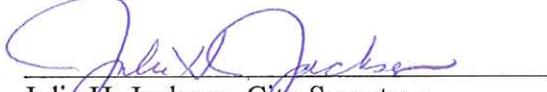
The Council requested accounting reports to reflect the profitability of each Trade Center and each enterprise. Councilmembers discussed requiring sales tax IDs and reporting it from Canton rather than through their regular stores. Mr. Fenner was asked to check out the legality of adopting an ordinance requiring all vendors in the city limits to have a Canton sales tax number. Councilmember Pruitt proposed that 50-amp RV users should be charged extra.

Charles Fenner's recap of projects to work on included: three restrooms, backdrop rentals, Row 11 buildings that cost less than \$25,000, the Pitts building (he builds on Row 3 or we build on Row 11), Cajun Cookin proposal, a tram shuttle, scooters rentals, and isolation of accounts.

ADJOURN – The meeting was adjourned at 9:50 a.m. on motion by Councilmember Brockman and second by Councilmember Sanford.

  
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 William F. Hilliard, Mayor

ATTEST:

  
Julie H. Jackson, City Secretary

**REGULAR MEETING OF CANTON CITY COUNCIL**  
CITY OF CANTON, TEXAS  
6:30 P.M., TUESDAY, DECEMBER 21, 2004  
CITY HALL, 290 E. TYLER STREET  
CANTON, TEXAS

The Canton City Council met at the above-named date and time in the City Hall Council Chambers. Members present were Mayor William F. Hilliard, Ross Maris, Robert Brockman, Ron Sanford, and Raymond Pruitt. Rusty Wilson arrived at 6:46 p.m. City Attorney Richard Davis also attended.

Discussion and action were as follows:

CALL TO ORDER AND ANNOUNCE QUORUM - Mayor Hilliard called the meeting to order at 6:30 p.m. and declared a quorum present.

MAYOR'S WELCOME given by William F. Hilliard.

INVOCATION given by Jim Stephens.

PLEDGE OF ALLEGIANCE led by Mayor Hilliard.

GUEST ITEMS – Phillip Atkisson requested permission to park 18-wheelers in the First Monday parking lot on Flea Market Road. Lonny Cluck had no initial objection except to request they not come in loaded and not during First Monday weekend. Mayor Hilliard directed Mr. Atkisson to work out the details with Messrs. Fenner and Cluck.

DISCUSS AND CONSIDER APPROVAL OF MINUTES FROM NOVEMBER 22, 2004 MEETING OF THE CANTON CITY COUNCIL – Item tabled.

DISCUSS AND CONSIDER APPROVAL OF NOVEMBER 2004 FINANCIAL STATEMENTS – The November 2004 Financial Statements were unanimously approved upon motion by Councilmember Brockman and second by Councilmember Sanford.

UPDATE FROM CANTON CHAMBER OF COMMERCE – Rona Watson thanked the police and fire departments for their help with the Christmas parade. She said they were considering reversing the route next year to end at the Civic Center. Ms. Watson also reported on the upcoming move to the Plaza Museum in January, on the March 12<sup>th</sup> annual banquet and auction, and the chamber's ability to take payments by credit card.

Mayor Hilliard returned to Guest Items above and allowed Margaret Hoot to address the Council. She expressed concern about the limitation of two doctors at a facility in the proposed Gateway

District Ordinance. She suggested that dentists be classified differently than doctors since they treated a lot fewer patients per day. When advised her dentist office would be a grandfathered use until it was changed in some manner, she explained they were planning to expand. She also expressed confusion about the landscaping requirements. Mr. Fenner said the staff would help her.

DISCUSS AND CONSIDER EXTENDING SEWER LINE WEST OF COUNTRY CLUB NORTH OF INTERSTATE 20 – Councilmember Pruitt made a motion to deny the extension of the sewer line. Councilmember Sanford seconded, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FOR VARIANCE TO ORDINANCE 2004-30 REGULATING MINIMUM EXTERIOR STANDARDS FOR THE FARM STORE AT 281 WEST HIGHWAY 243 – Rick Malone presented plans for the Farm Bureau to enlarge the tire store and office space, and add a rear bay with a higher eave. He explained they were planning to brick the front and east side of the office, but were asking for relief of the 75% side masonry requirement on the north and south side addition. Upon staff recommendation, Councilmember Sanford moved to authorize the staff to work with the property owner to reach a solution. Councilmember Brockman seconded, and all voted in favor.

DISCUSS AND CONSIDER REQUEST FROM EAST TEXAS SHRINE CLUB FOR “BUCKET BRIGADE” STREET SOLICITATION AT DOWNTOWN INTERSECTIONS ON SEPTEMBER 30-OCTOBER 2, 2005 – Councilmember Brockman made a motion authorizing the East Texas Shrine Club to solicit donations at the downtown intersections on September 30-October 2, 2005. Councilmember Pruitt seconded, and all voted in favor.

Rusty Wilson joined the meeting at 6:46 p.m.

PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION’S RECOMMENDATION ON ADOPTION OF AN AMENDMENT TO THE 1985 CITY OF CANTON ZONING ORDINANCE ESTABLISHING A GATEWAY DISTRICT INCLUDING ALL PROPERTIES ADJOINING HIGHWAY 19 BETWEEN TYLER STREET AND EUBANK – Mayor Hilliard opened the public hearing at 6:47 p.m. Charles Fenner reported the Council had approved the comprehensive plan in May, which set forth the area for mixed-use development. He said an ordinance had been prepared that maintained low-intense uses, along with the feel and design of what was already there; a compromise between those that wanted the area to be business and those that wanted to remain in their homes. He added that there were some people with existing businesses who were concerned about taxes. He further reported having sent out 115 property notices, with 18 responses in favor, 7 opposed, and one undecided. He added the Planning & Zoning Commission voted unanimously to approve the amendment establishing the district.

The Council discussed the limitation to two doctors, the possibility of classifying dentists separately from doctors, and the restriction of drive-throughs and outdoor storage. Councilmember Maris then made a motion to adopt Ordinance 2004-34 with the removal of the limitations on medical clinics. Councilmember Sanford seconded. It was confirmed only the medical clinic limitations would be deleted, not the whole section. All voted in favor.

PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON ADOPTION OF AN AMENDMENT TO THE 1985 CITY OF CANTON ZONING ORDINANCE AMENDING PARKING REQUIREMENTS AND REGULATIONS – Mayor Hilliard opened the public hearing at 7:00 p.m. Rick Malone explained that most of the requirements in the amendment were already contained in the zoning ordinance. He reported that he added some new categories for special events or entertainment venues, e.g. outdoor stadiums and water parks that weren't already represented. He also added a minimum number of parking spaces to requirements for restaurants and similar categories to allow for staff parking. He noted that residential parking requirements were added, including regulations for the construction of concrete and asphalt driveways only, the restriction of parking on anything other than a standard driveway (except for boats & RVs on the side or rear of the house). The Public Hearing was closed at 7:03 p.m. Councilmember Maris made a motion to adopt the amendment. Councilmember Wilson asked how it affected First Monday parking on residential properties along Highway 19. Mayor Hilliard then tabled the item for closer consideration. The motion failed for lack of a second.

PUBLIC HEARING AND DISCUSS AND CONSIDER PLANNING & ZONING COMMISSION'S RECOMMENDATION ON REQUEST FROM CANTON ECONOMIC DEVELOPMENT CORPORATION FOR ZONING CHANGE OF ALL THAT 26.24 ACRE LOT, TRACT, OR PARCEL OF LAND SITUATED IN THE Q.C. NUGENT SURVEY, A-618, LOCATED ON VZCR 2106, CANTON, TEXAS, FROM RURAL AGRICULTURAL (RA) TO GENERAL INDUSTRIAL DISTRICT (GI-1) – Mayor Hilliard opened the public hearing at 7:07 p.m. and closed immediately thereafter hearing no comments. Upon Mr. Fenner's recommendation, Councilmember Brockman made a motion to rezone a 26.24 acre-lot located on VZCR 2106 owned by CEDC from RA to GI-1. Councilmember Pruitt seconded, and all voted in favor.

DISCUSS AND CONSIDER BOARDS AND COMMISSION APPOINTMENT PROCESS – Charles Fenner proposed a new appointment process for boards and commissions including applications and council interviews. The Council decided not to adopt it, but to continue with current nomination/appointment procedures. They also noted that some potential applicants were offended by the applications recently required of candidates.

DISCUSS AND CONSIDER FIRST MONDAY TRADE CENTER BACKDROP RENTALS – Upon Charles Fenner's request, the next three agenda items were discussed together. He reported a Committee of Councilmembers Sanford and Maris and Director Lonny Cluck were considering projects at the First Monday Park. He noted the City budgeted for one bathroom and it had another \$200,000 in the capital budget. He recommended not borrowing additional money, concentrating on current projects and continuing to plan for next year's budget. He reported that engineers informed him it would take a while to determine costs on refurbishing the blue bathroom and on a walkway on Row 43A.

The Council discussed the following week's start date for the new restroom by the log cabin; refurbishing the blue bathroom; building a 2000 square foot building at about \$20/ft. and leasing it for \$1200-\$1300/mth or \$1700 in the Row 11 area to generate immediate income; building a pedestrian walkway; investing in and renting backdrops to Trade Center vendors and exclusive rental of scooters to generate revenue. Councilmember Wilson recommended the City not build

on speculation and to have a lease contract before they started. The Committee recommended the blue restroom renovation as the first priority. Councilmember Maris recommended undertaking the revenue generating projects along with some of the others. A decision was postponed until figures were available on the blue bathroom. Richard Davis was asked to determine if the City could legally take over exclusive rental of the required backdrops in the Trade Centers and into the possibility of handicap scooter rentals.

DISCUSS AND CONSIDER FIRST MONDAY SCOOTER RENTALS – Discussed with item above.

CONSIDER FIRST MONDAY CAPITAL OUTLAY PROJECTS – Discussed with items above.

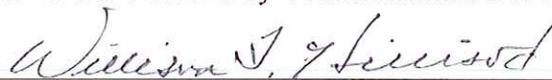
DISCUSS AND CONSIDER ORGANIZATIONAL STRUCTURE AND PAY CHART – Charles Fenner presented the organizational and pay charts for council review. The item was tabled to the next meeting to give Councilmembers time to consider the information.

EXECUTIVE SESSION FOR DELIBERATIONS REGARDING POTENTIAL PURCHASE, SALE OR LEASE OF REAL PROPERTY (Section 551.072) – The meeting recessed at 7:35 p.m. and convened in executive session at 7:37 p.m. to discuss the potential purchase, sale, or lease of real property.

RECONVENE TO OPEN SESSION AND CONSIDER ACTION, IF ANY, ON ITEMS DISCUSSED IN EXECUTIVE SESSION - The Council reconvened in open session at 7:54 p.m. with no action taken.

DISCUSSION PERTAINING TO BUSINESS FOR PLACEMENT ON FUTURE AGENDAS – None

ADJOURN – There being no further business to come before the Council, the meeting adjourned at 7:55 p.m. upon motion by Councilmember Sanford and second by Councilmember Brockman.

  
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 William F. Hilliard, Mayor

ATTEST:

  
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 Julie H. Jackson, City Secretary

