

ORDINANCE NO. 108 -79

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF \$45,000 OF BONDS OF THE CITY OF NORTH CANTON IN ANTICIPATION OF THE COLLECTION OF SPECIAL ASSESSMENTS HERETOFORE LEVIED TO PAY THE PROPERTY OWNERS' PORTION OF THE COST OF CONSTRUCTING CURBS AND GUTTERS ON EMERSON AVENUE N.W. AND CERTAIN OTHER DESIGNATED STREETS BETWEEN CERTAIN TERMINI, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of North Canton has heretofore declared the necessity of constructing the improvements hereinafter described and in order to finance the property owners' portion of the cost of such improvements caused to be issued notes in the principal amount of \$27,500 and \$45,000, respectively, in anticipation of the levy and collection of special assessments and of the issuance of the bonds herein authorized, pursuant to Ordinance No. 70-77, passed May 23, 1977, and Ordinance No. 106-78, passed August 14, 1978, respectively; and

WHEREAS, Council has heretofore levied such special assessments and received payment of a portion of such assessments in cash and has determined to retire such notes with the proceeds of the bonds herein authorized; and

WHEREAS, Council has requested the Director of Finance to issue his certificate as to the estimated life and usefulness of the improvements to be financed with the proceeds of the bonds herein authorized and the Director of Finance has certified to this Council that such estimated life is at least five (5) years and that the maximum maturity of such bonds is five (5) years;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Canton, Stark County, State of Ohio:

Section 1. That it is deemed necessary to issue bonds of the City of North Canton in the principal sum of \$45,000 in anticipation of the collection of special assessments heretofore levied to pay the property owners' portion of the cost of constructing curbs and gutters on both sides of Emerson Avenue N.W., Fifth Street N.W., Royer Avenue N.W. and Viking Street N.W. between the termini and in the manner provided in Resolution No. 34-77, adopted February 28, 1977; on the northerly side of Fifth Street N.W. between the termini and in the manner provided in Resolution No. 37-78, adopted March 13, 1978; and on both sides of Cordelia Street S.W., Fifth Street N.W. and Hillcrest Avenue N.W. between the termini and in the manner provided in Resolution No. 78-78, adopted June 12, 1978; that such bonds shall be issued as one lot, and that notes have been issued in anticipation of the issuance of such bonds.

Section 2. Said bonds in the principal amount of \$45,000 shall be issued in the denomination of \$5,000 each, except bond Nos. A-1, A-2, A-5, A-8 and A-11 which shall be of the denomination of \$1,000 each, shall be numbered from A-1 to A-13, both inclusive, and shall be dated September 1, 1979. Said bonds shall bear interest at the rate of six per centum (6%) per annum, payable June 1, 1980, and semi-annually thereafter on the first days of June and December of each year until the principal sum is paid; provided, however, that if said bonds are sold bearing a different rate of interest than hereinbefore specified, then said bonds shall bear such rate

of interest as may be provided in the resolution or ordinance of Council approving the award thereof. Said bonds shall mature in their consecutive serial order as follows: \$12,000 on December 1, 1981 and \$11,000 on December 1 in each of the years from 1982 to 1984, both inclusive; which maturities are hereby determined to be in substantially equal annual installments.

Section 3. That said bonds shall express upon their faces the purpose for which they are issued; that they are issued in pursuance of this ordinance; shall be executed by the Mayor and Director of Finance, provided that one of such signatures may be a facsimile signature, and shall bear the corporate seal of the City. Interest coupons attached to said bonds shall bear the facsimile signature of the Director of Finance. They shall be designated "Street Improvement Bonds, Series 1979-A," and shall be payable in lawful money of the United States of America at the office of The Harter Bank & Trust Company, Canton, Ohio, without deduction for its services as the City's paying agent.

Section 4. That for the purpose of providing the necessary funds to pay the interest on the foregoing issue of bonds, promptly when and as the same falls due and also to provide a fund sufficient to discharge the said serial bonds at maturity, there shall be and is hereby levied on all the taxable property in said City of North Canton, in addition to other taxes, a direct tax annually during the period said bonds are to run in an amount sufficient to provide funds to pay interest upon said bonds as and when the same falls due and also to provide a fund for the discharge of the principal of said serial bonds at maturity, which tax shall not be less than the interest and sinking fund tax required by Section 11 of Article XII of the Constitution; provided, however, that in each year when the assessments anticipated by said bonds are available for the payment of such bonds and are appropriated for such purpose, the amount of such tax shall be reduced by the amount of the assessments so appropriated.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a separate and distinct fund, which, together with all interest collected on the same, shall be irrevocably pledged for the payment of the interest and principal of said bonds when and as the same fall due.

Section 5. That all installments of said assessments and all portions thereof, together with interest thereon, shall be applied to the payment of said bonds and interest as the same shall become due and to no other purpose whatsoever.

Section 6. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in and for the issuing of said bonds, in order to make them legal, valid and binding obligations of the City, have happened, been done and performed in regular and due form as required by law; that the full faith, credit and revenue of said City shall be and are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, will be exceeded in issuing said bonds.

Section 7. That said bonds shall be first offered at par and accrued interest to the officer in charge of the Bond Retirement Fund in

his official capacity, and if said officer refuses to take any or all of said bonds, then said bonds not so taken shall be advertised for public sale and sold in the manner provided by law. The proceeds from the sale of said bonds, except the premium and accrued interest thereon, shall be used for the purpose for which said bonds are issued and for no other purpose; the premium and accrued interest received from such sale shall be transferred to the Bond Retirement Fund to be applied in the payment of the principal and interest of said bonds in the manner provided by law.

The City hereby covenants that it will restrict the use of the proceeds of the bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for such bonds, so that the bonds will not constitute arbitrage bonds under Section 103(c) of the Internal Revenue Code and the applicable income tax regulations under that Section. The fiscal officer or any other officer, including the Clerk of Council, having responsibility for issuing the bonds is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee, or consultant of the City, to give an appropriate certificate of the City, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the City regarding the amount and use of all such proceeds and the facts and estimates on which they are based, all as of the date of delivery and payment for such bonds.

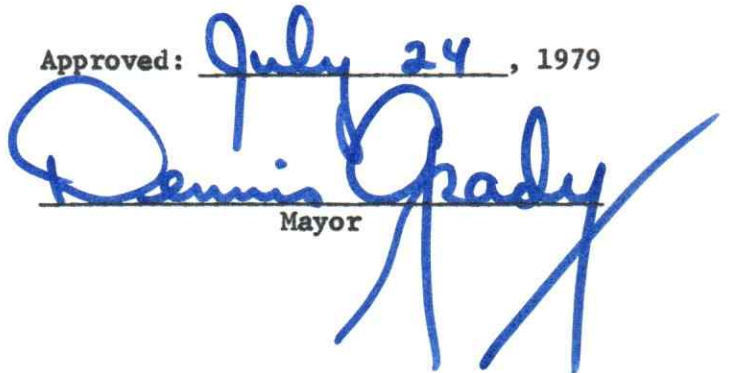
Section 8. That the Clerk of Council is hereby authorized and directed to certify a copy of this ordinance to the Auditor of Stark County, Ohio, according to law.

Section 9. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 10. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of said City and for the further reason that in order to protect the credit of the City, the bonds herein authorized must be issued as soon as possible in order to retire the outstanding notes issued in anticipation thereof; wherefore, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

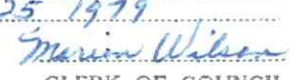
North Canton, Ohio  
Passed: July 23, 1979

Approved: July 24, 1979

  
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Mayor

Attest:

  
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Clerk of Council

Published in THE SUN by  
THE STARK COUNTY SUN, INC.  
DATES: July 25, 1979  
  
CLERK OF COUNCIL