

CITY OF CANAL FULTON

June 1, 2004

REGULAR COUNCIL MEETING

Mayor John Grogan called the June 1, 2004 City Council meeting to order at 7:30 PM in Council Chambers at City Hall.

PLEDGE OF ALLEGIANCE

CALLING OF THE ROLL

Present: Linda Zahirsky, Michael Mouse, Diane Downing, Victor Colaianni, Nellie Cihon, Robert Szanto, and Mayor John Grogan

OTHERS PRESENT

Marge Loretto, City Manager; Officer Swartz, Police Department; Dennis Mayberry, Street Department; Chief Hill, Firemen Matthew Litten and Larry Powers; Fire Department; Joan Porter, The Repository; Matt Risk, Independent; Michelle Harris, National Reverse Mortgage Association; Rochelle Rossi, Ken Roberts, Bret Stephan (all residents);

CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Cihon made a motion to approve the May 18, 2004 City Council meeting minutes. Mr. Colaianni seconded the motion.

Discussion: Correction on Page 6, the last paragraph reads, "Mrs. Zahirsky pointed out they were already talking about doing tennis courts – that \$1,700 is going to be our share" – should have been "\$17,000 is going to be our share."

ROLL CALL: Yes – ALL

CITIZENS' COMMENTS ON AGENDA MATTERS

No Comments

REPORTS OF ADMINISTRATIVE OFFICERS

Senior Citizens

Shirley Ringer (Director) would like to thank City Hall, Council, and Scot Svab for planting the flowers underneath their sign.

June 12, 2004: Last Swiss steak dinner for the summer at the Northwest Stark Senior

June 24, 2004: The Diabetes Foundation is coming at 2:00 PM to the Northwest Stark Senior Center and going to give everyone that needs one a free glucose monitor.

June 30, 2004: Sponsored trip to "Mama Mia" and have lunch at Windham, Cleveland

July 14, 2004: Sponsored trip to Greek Town for \$30 (\$20 back)

August 26, 2004: Sponsored trip to Seneca/Niagara Casino for \$33 (\$23 back)

Senior Center personnel see people with their dogs that do not clean up after them; signs are posted. Those people live in that area. The Center provides plastic bags to clean up after their dogs.

Community Service Coordinator - No report.

Fire Chief

The new firemen Larry Powers and Matthew Litten attended to met Council; welcomed by same.

Chief Hill received his radio license from the FCC.

Last Friday's storm resulted in a few problems (Lever Road trees/wires down). There was a fire in the library. They closed the library for the evening; it was open the next day. Sunday, there was a two-person kayaking accident; the man made it to shore; the woman ended up on a big limb behind the feed mill. She was rescued by a pulley, lifebelt, and Jackson's bucket truck.

Chief Hill ordered six additional life jackets, planning to buy more rescue equipment. Cuyahoga Falls is going to do river rescue training. We are sending five people from our Department and five people from the Township; they will train the rest.

The meeting with the Township Trustees and fire chiefs was successful. Chief Hill thanked Mrs. Zahirsky, Mr. Colaianni, and Mr. Szanto for being there with him and Mayor Grogan. He stated that

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Mrs. Zahirsky and he had been trying to get people in the firehouse seven days each week for almost two years now and wants the rest of Council to keep pushing that issue.

Chief Hill is looking to the future needs of the Fire Department; he asked Council to be proactive regarding either building a new firehouse or adding onto the front, back, or both sides of the existing one. He requested a feasibility study relating to costs, etc. Mr. Szanto asked what he would do with the extra space. Chief Hill stated the office trailer needs replaced, a new bay might be needed, and a training and radio room. Mr. Belford told him that he was going to dig up previous plans.

Mayor Grogan and Mr. Colaianni thanked Chief Hill and the Fire Department for their work on Memorial Day. Chief Hill responded that as a Vietnam veteran, he wouldn't miss it for the world.

Police Chief

Officer Swartz explained the mutual agreement between Massillon Police Department and the City. The Police are currently in an investigation, but they don't have the proper surveillance equipment to conduct it. Massillon has agreed to lend that to us, if there is a mutual agreement with us. Mayor Grogan said Mr. Kincaid created Res.11-04 for same (copies distributed). There is no cost involved. Mayor Grogan said, "In townships and villages, where they don't have policing, the Sheriff is obligated to have to provide equipment and patrol, but he's not obligated to have to be in the area – just to respond to calls." He said that surveillance equipment is normally night vision or some type of optical lenses with high-powered magnification on it and listening devices. It is expensive equipment, and sometimes it's better off if the City can borrow it, as opposed to buying it.

Engineer

Northwest High School Waterline Project: They received Ohio EPA approval on May 17; they've conducted their preconstruction meeting; construction should begin next week. Target completion date is approximately 90 days.

Milan Street Water and Sewer Line Project: They received Ohio EPA approval. Mr. Kincaid is finalizing issues on easements; they'll be advertising soon. They received a letter from Ohio Public Works – official notice of our \$423,000 zero-percent loan – also advising them that they may advertise for bids but not take any action on it until after July 1, 2004.

Hydraulic Model: Continuing; they have some recording pressure monitors at Denshire and Redwing areas (some of the more remote areas of the system); beginning to enter data into the computer as far as line sizes, lengths, and water usage at different points in the system.

Sub-Divisional Review: Completed Discovery Park Phase II review; construction begins this month. They want to look at the pump station/Redwing Senior Housing area – upgrading that; there's some deficiencies they are working on with the developer to bring it up to current standards.

Lindsay Concrete: They reviewed the plans; expect to see a re-submittal.

Colonial Hills #10: Conducted final inspection June 4. It's a pavement section that has been constructed with some soil issues; they rebuilt it five/six years ago. They've been monitoring it an extended period of time; it's been bonded continuously. They feel it will stay at this point.

Villas at Autumn Meadow #10: Final acceptance inspection has been completed; project has been recommended for acceptance (May 21).

Planning Commission: There were no engineering issues on that agenda.

Finance Director

Mr. Szanto made a motion to enter into the record that Council has been provided with the April 2004 Financial Reports from the Finance Director. Mrs. Cihon seconded the motion. **Roll Call: Yes – ALL**

Mayor

Mayor Grogan thanked Officer Kosco and Chief McNeely for an outstanding D.A.R.E. program. There were approximately 250-plus students that graduated from that class.

May 27 Lawrence Township Trustees met with the Safety Committee. Mayor Grogan thanked Marvin Hardgrove as being instrumental at getting and sustaining the meetings and thanked all that attended.

VFW Post 9795 did an outstanding job with the Memorial Day Parade and dedication. Police and Fire Department also did a great job, and the kids on bikes were wonderful.

Reminder: T.A.P. Committee will be meeting June 4, 2004 at 8:30 AM. They will elect an Executive Board, so they can begin the process of getting that committee to move forward.

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City Manager

Visitors' Center will be re-bid. The low bid (Northern Valley bid \$438,500) put his estimate on the wrong line; the high bid (Cavanaugh bid \$533,400) was more than 10% higher than the Engineer's estimate. (Schwab bid \$42,802 for electrical. - Sigfurth Inc. bid \$18,438 for plumbing.)

The City received the Engineering specs and the estimated cost of \$70,000 for the removal and upgrade of the Walnut/Market Streets' intersection. We'll proceed with the bid process in June.

Cherry Street Sidewalk Improvement Project: It has been determined that T.R. Snyder Construction, Inc. submitted the lowest and best bid. CTI Environmental, Inc. has notified Stark County Regional Planning Commission (administrators of this project) to advise Stark County Commissioners they may award this contract. We are uncertain when the Commissioners will award same. Mrs. Zahirsky requested that the guy working on the sidewalk project give her a call at work, as they need to know if it can qualify for Stark County CDBG. Mr. Szanto called Stark Regional Planning. They looked at the demographics of that area. It doesn't qualify as low to moderate income. He was told this is not the type of thing that CDBG would go for; however, there is still money in CDBG due to there hasn't been a lot of applications. By virtue of default, if it's a good enough application for a portion of the project and nobody else is looking for the money, it might be awarded on that basis only, but not on a need basis. Mr. Colaianni stated last year they had somewhere in the vicinity of \$600,000 that nobody put in for those types of projects. Mr. Szanto said they were just coming to do the bid opening on Cherry Street, and was told they were in the second year of the third-year cycle of funding, and they would be taking applications for the next cycle of funding through some time in 2005. Mrs. Loretto stated that when we got our two awards, it was part of a three-year cycle; we got both of them in the first year; that's why ours is as far along as it is. Mr. Szanto stated there is plenty of time before 2005 before they'll even look at another application; he'll firm this up in a memo to the committee members.

At the May 27 Chamber of Commerce meeting, the VFW gave financial awards to eight local nonprofit organizations of \$250 and one award of \$500 to one person. Canal Fulton's Fire Department, Police Department, and Parks & Recreation each received \$250. Many thanks to our VFW for all they do for the Community.

Parks - No report.

Law Director

Mrs. Cihon made a motion that we reject all bids received on the Park building for the Community Center in the park. Mr. Colaianni seconded the motion. **Roll Call: Yes – ALL**

Mr. Szanto made a motion that we approve the infrastructure at Villas at Autumn Meadows Phase 10, based on the Engineer's recommendation. Mrs. Cihon seconded the motion. **Roll Call: Yes – ALL**

Mr. Kincaid will have the regulations for the off-leash park (from Fred Fleming). He suggested that instead of Council by legislation micro-tuning all the park regulations that come up to put in an ordinance allowing Parks (like Civil Service) to set their own regulations, because as we grow as a City, it's just one of those things we don't need to go through all the red tape. It's in ordinance form currently.

Mr. Kincaid requested an Executive Session regarding threatened litigation, and he wanted the Mayor, Council, and the City Manager in the session at the end of this meeting.

Mr. Mouse brought up the fact that Saturday there was a truck parked in what he called "the buggy freeway." Mr. Kincaid said to call the Police Department. Mrs. Loretto stated the Police Chief told her that if you see it, call the Police, and they'll tow it.

THIRD READINGS (no third readings)

SECOND READINGS

Ordinance 13-04: An Ordinance Setting Water Tap-In Fees for Meters Over Two Inches.

Ordinance 14-04: An Ordinance Amending Canal Fulton Ordinance Section 903.04 Making It Explicit that the Removal of Trees Includes the Grinding or Removal of the Stump.

FIRST READINGS

Resolution 10-04: A Resolution Declaring the Necessity of Improving a Portion of Outlot 156 by Constructing a Sidewalk Along Locust Street NW.

Mr. Colaianni made a motion to suspend the rules on Resolution 10-04. Mrs. Zahirsky seconded the motion. **Roll Call: Yes – ALL**

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Mrs. Zahirsky made a motion to pass Resolution 10-04 under suspension. Mrs. Cihon seconded the motion. **Roll Call: Yes - ALL**

Ordinance 15-04: An Ordinance Disposing of Excess Personal Property.

Resolution 11-04: A Resolution Authorizing a Mutual Aid Agreement with the City of Massillon for Police Protection, and Declaring an Emergency.

Mrs. Cihon made a motion to suspend the rules on Resolution 11-04. Mrs. Zahirsky seconded the motion.

Discussion: Mr. Mouse wasn't comfortable suspending the rules without having more information.

Roll Call: Yes – 5 No – 1 (Mr. Mouse)

Mrs. Zahirsky made a motion to pass Resolution 11-04 under suspension. Mrs. Cihon seconded the motion.

Discussion: Officer Swartz stated that this was a current investigation. Mr. Mouse asked if there was no other way to obtain this equipment other than going through a mutual aid. Mr. Kincaid said, "The agreement is required by law and it really protects both cities from claims of liability if something would go wrong. This doesn't obligate us to go to their assistance. It's always the responding agency's prerogative to decline." Mr. Mouse asked if it's a one-time deal; Mr. Kincaid responded, "It's a framework for a one-time deal; if there would be something in the future, we would not have to do this again; it would be here."

Roll Call: Yes – 5 No – 1 (Mr. Mouse)

PURCHASE ORDERS & BILLS

P.O. 3956 in the amount of \$3,460 made out to Vasco Equipment Co., to pave the approach of Oak's Plaza and make repairs to signal wires.

Mrs. Cihon made a motion to accept P.O. 3956 to Vasco Equipment Co., in the amount of \$3,460. Mr. Colaianni seconded the motion.

Discussion: Mr. Dennis Mayberry stated the asphalt deteriorated in that area and the wires that are coiled in there that allowed the light to function were broken. The City doesn't own and is not responsible for all the asphalt in that intersection; we are responsible for a portion of it in the Locust Street right-away. The light power trigger wires for that light to function are ours – not just for the convenience of that shopping center, but for the convenience of all traveling Locust Street. Our end is in good shape, but where the signal wire ended was at the very beginning of their parking lot; that's where it failed. They got that price cheaper, as we are not paying a mobilization fee; they're coming there to do the parking lot. They are covering up our signal wire. The asphalt reached its expectancy. Mr. Fred Herzog and Mr. Mayberry are placing the wires in; they will be there to cover it up; there will be no saw cuts in the pavement to cause later failure.

Roll Call: Yes – ALL

P.O. 3960 in the amount of \$15,330 made out to Gary B. Fink & Assoc., C.P.A.'s for audit service for Fiscal Year 2003.

Mrs. Cihon made a motion to accept P.O. 3960 in the amount of \$15,330 to Gary B. Fink & Assoc., C.P.A.'s for audit service for Fiscal Year 2003. Mr. Colaianni seconded the motion.

Discussion: Mrs. Zahirsky had concerns regarding this purchase order: 1) Appearance of impropriety, due to the fact it is the same company our Finance Director came from when he started working for the City; 2) Concerns regarding that company's objectivity when looking over Mr. Rodino's current work; 3) Excessive price. Mr. Rodino stated that half of the work they are doing is on a cash basis, half is accrual basis. The GAAP is being compiled by the Auditor of State. The purchase order is for a one-year contract, but it's going to be for three years. The Auditor of State is aware that he came from that firm, and there are no independence issues with it. They received proposals from four other firms; prices ranged from a low of \$36 to a high of \$48 per hour. The one for \$36 is 200 hours to do the audit, which from discussion with the Auditor of State is not reasonable to do a first-year GAAP conversion and a GASB 34 Audit. He looked at the last two years for cash audit for the City, and they came in at around 240 to 250 hours just to do a cash basis audit, and here we're including all accruals, assets, liabilities, plus they are doing the conversion into the new GASB 34 Financial Statements. Mrs. Zahirsky asked if Mr. Rodino had the Law Director look at the contract before he signed it; Mr. Rodino's answer was, "No." Mr. Kincaid stated the contract isn't valid until he signed it and, from what he knows as of today, he would not sign it. Mr. Kincaid feels it is a bad practice to use them because of this problem. Mr. Colaianni asked if it could be bid out. Mr. Rodeno stated it isn't required to be bid out. Mrs. Loretto stated there was a State guideline to go by. Mr. Rodeno said they give him a spreadsheet that has certain criteria, you rate them, and the entire rating is completely objective on a scale of 1 to 5 on certain points based on the companies' proposals. Mr. Colaianni shares the same

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concerns regarding the appearance of impropriety, stating his company is currently doing audits; they dismissed a person that was within two years of the last contract doing their accounting work. Mrs. Loretto stated that she didn't take Mr. Rodino's word for this; she called the local State Auditor's office and the State Legal Department. They both told her they didn't have a problem with it. Mr. Rodino stated that this firm has another former employee that they currently do an audit for and have been doing it for the past three years who is now the controller at the college that they do an audit for, so it's not something that never happens. Mrs. Zahirsky stated they still want the lowest bid of the group that Mr. Rodino attained. Mr. Rodino responded that they were the ones who were the most reasonable hour-wise. He said that the other firms, the highest hour-wise was \$275 to do an entire GASB 34 audit. The firms he contacted were Trimble, Julian & Gruve, Worthington, Ohio; Knox and Knox, Orrville, Ohio; Puchini & Associates, Cleveland, Ohio. Mrs. Zahirsky asked that even if they quoted the wrong hours that it takes, if it takes them longer, don't they still have to do it? Mr. Rodino stated they'll have to come back to Council to approve an addendum to the contract. It is required by law; conceivably it may not take these guys 365 hours. Mr. Mouse isn't comfortable with it, stating, "We have Marge here, former State Auditor . . ." Mrs. Loretto said, "It surprised me when Mike first said it. I said to him, 'I've got a problem with that. It looked like, maybe it's not a problem, but it gives the appearance of a possible problem.' He said to me, 'I checked with the State, and they said it was OK.' Like I said, I didn't even take his word for it; not that I thought he was really not telling me the truth, but I mean I couldn't swallow it. I said, maybe he didn't say it right, so I got on the phone myself and talked to them." Mr. Mouse asked, "Why does the State require this?" Mr. Rodino stated that it is required by the Ohio Administrative Code and the Ohio Revised Code. Mrs. Loretto said that normally they come in, but because we are not doing our first audit, we're having them come in do our first conversion to GASB 34. The State is coming in and performing that service for us, which we went under contract this last year when Debbie was still here; she started around March, and she didn't think they want to audit themselves. They are telling us that we cannot have the State auditors come in and that's why we went to the proposals, so the State is going to accept this from an independent contractor in lieu of them coming in themselves. Mr. Mouse said, "Perhaps a better course in the future would be to run this by us; understand it, the amount is \$25,000 you're allowed to do something with it. But, I say this all the time at school – take the heat off yourself and put it on other people's shoulders." Mr. Kincaid said the organizations he belongs to don't even permit the Treasurer to be involved in the process of selecting the auditor, and he thought that in the future, we should just take Mike off the hook. He isn't comfortable in signing it until we look into it; if everybody is satisfied with it in its proper form, he'll sign it, but he hasn't signed it yet and wouldn't sign it until he gets his questions answered, so the contract is still pending. They have started the work on it already. Mr. Kincaid questioned the fact that if they have started on it, he wondered how good they are if they don't know that it isn't a valid contract without his signature. Mr. Mouse asked if we can tell them that the contract is not valid because it hasn't been signed by Mr. Kincaid and we need to review it, and Mr. Kincaid answered, "Yes." The purchase order was tabled, until at least Mr. Rodino's concerns are presented, but Mr. Kincaid still thinks it looks bad, and in the future we should assign that to the Finance Committee. Mr. Rodino will see if the Manager of the firm would come in at the next Council meeting; Mrs. Zahirsky wanted the Finance Committee to go over it with Mr. Rodino present.

Mr. Mouse made a motion that we table Purchase Order 3960; Mrs. Zahirsky seconded it. **Roll Call: Yes – ALL**

Mrs. Zahirsky made a motion to have a Finance Committee meeting Wednesday, June 9, 2004 at 7:00 PM. Mr. Szanto seconded the motion. **Roll Call: Yes - ALL**

Mrs. Cihon made a motion to accept the bills in the amount of \$175,013.96. Mr. Colaianni seconded the motion.

ROLL CALL: Yes - ALL

NEW BUSINESS

Mrs. Downing stated at the last Historical Preservation Committee (HPC) and Planning Commission meeting, Mr. Schwendiman wanted to know what should be done about the trees that have died or are too big in the Historical District downtown, since they assumed it was City property; there's a lot of them gone and a lot of them that are beginning to look bad. HPC suggested they be replaced with appropriate trees using well pits and tree grates. The questions brought to Council regarding same are: 1) who should do it; 2) who should pay for it; 3) what sources do we have to get it done; 4) what is the timeline to get it done. Mr. Kincaid asked if anyone had looked at Chapter 9.03 because he thought all those questions would be answered then. He thought the State might come in, inventory the trees, make suggestions from an approved list of trees and different circumstances, etc. Mr. Mouse stated the National Arbor Society can recommend trees.

OLD BUSINESS - None

OTHER BUSINESS - None

CITIZENS COMMENTS (Open Discussion, five-minute rule)

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Michelle Harris (500 Grant St., Akron, OH 330.794.1949) from National Reverse Mortgage Association gave an overview speech about the federally regulated reverse mortgages.

Ken Roberts (239 N. Canal St., Canal Fulton) following up on the downtown signage, hoping for language or legislation to review. Mr. Kincaid said they were discussing who would be in charge; he thinks we should handle it ourselves, so we can make sure it's handled "even handedly" (everyone has an equal opportunity/it doesn't involve other organizations). Mr. Colaianni stated that the concern was that there is limitation on . . . if anybody from the outside of the Historic District, which is limited, would want to be involved. From Main Street standpoint, there is an exclusionary thing where we can't work outside of our bylaws as far as what the district boundaries are; there's a potential bed and breakfast on Cherry that has expressed interest, and it does not fall within our guidelines. Even the guy across from the feed mill, if you look at the Main Street boundaries, he's outside of those and has expressed interest. Mr. Kincaid is going to draw up something to put in legislative form. Mr. Colaianni asked, "On the legislative side, because we have a meeting next week, which I know we can advertise for whatever - other business we deem necessary, is there something we can do on a first reading next Tuesday?" Mr. Kincaid answered that he was going to write something "bare bones," i.e., the City Manager can establish It's efficient either way you go; you can either give the City Manager discretion to decide how big and tall, what color, etc., or you can do it yourself. If we advertised the meeting as "any other business," we're going to have this meeting. Normally we advertise (stating for Clerk of Council's benefit) put in the ad we'll take up any other business; we can do first readings on it.

We will have a draft of a resolution next Tuesday; we can do a first reading on it. Council can suspend the rules in a Special Council Meeting. Mr. Roberts asked if Council was suggesting waiting until the ordinance or whatever is completed before they actually go out and try to solicit who wants to be on it. Mr. Colaianni stated, "Stranger things have happened, so before next Tuesday, I wouldn't solicit anybody. And I'm speaking for myself, we could conceivably pass it next Tuesday if we can suspend the rules but, you know, you can put a quarter in a slot machine and get fruit salad too, so I wouldn't bank on it."

REPORT OF COUNCIL PRESIDENT - No report.

REPORT OF STANDING COMMITTEES - No report.

Mrs. Zahirsky made a motion that Council goes into Executive Session and at that meeting Council would like the Law Director, the City Manager, the Mayor, and Council. At that meeting, we will be discussing pending litigation. Mrs. Cihon seconded the motion. **Roll Call: Yes – ALL**

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Mr. Colaianni made a motion to reconvene the regular meeting at 9:55 PM. Mrs. Cihon seconded the motion. **Roll Call: Yes – ALL**

No action took place in the Executive Session.

Mrs. Cihon made a motion to adjourn; meeting was adjourned.

Patricia A. Schauwecker, Clerk of Council

John Grogan, Mayor