

CITY OF CANAL FULTON

May 3, 2006

COUNCIL MEETING

Mayor Grogan called the May 3, 2006 City Council meeting to order at 7:00 PM at Chapel Hill Community.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Mayor Grogan, Tony Crookston, Victor Colaianni, Linda Zahirsky, Nellie Cihon, Diane Downing and James Deans.

Others Present: Mark Cozy, City Manager; Patti Troccoli, Clerk of Council; Dale Kincaid, City Law Director; Chief David Frisone, Police Department; Assistant Chief Mark Stewart, Fire Department; Scott Svab, Finance Director; Dennis Mayberry, Street Dept; John Hatfield, Historical Society; Terry Casey, Eastern Shawnee Representative; Steve DiPietro, Owner Republic Steel; Joan Porter and David Distelhorst, The Repository; Matthew Rink, The Independent; Daniel Hockensmith, 89.7 WKSU Canton; Chell Rossi, HPC; Dennis Downing, DiscoverCanalFulton.com; Linda Keillor, Keillor's Teddy Bear Shoppe; Sandra Murphy, Canal Fulton Library; Donnie Peters, City Council Massillon; Mary Beth Bailey, Clerk of Council, Massillon; Cindi Wilson, Steve Smith, Carol J. Smith, John Krantz, Mike Vranich, Kristen Cook, Butch & Rita Gearhart, Judy Johnson, Regina Roach, Ken & Donna Sibka, Phyllis Mahaney, Marjie Berens, Helen Farnham, Robert Young, Harry Kuhn, William Chiboroski, Steven M. Wynes, William & Donna Wiler, Thomas Messenger, Garnet Thomas, Mike Mouse, Pat King, Mary Beth Spencer, Nancy Haney, Herbert Huff, Janet Liebarger, Trudy Leach-Shockley, and Bob Szanto, Area Residents.

CORRECTING/ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Cihon made a motion that Council approves the April 18, 2006 City Council meeting minutes; seconded by Mr. Colaianni. **ROLL CALL: Yes – ALL**

Mr. Colaianni made a motion that Council approves the April 25, 2006 Special City Council meeting minutes; seconded by Mrs. Zahirsky. **ROLL CALL: Yes - ALL**

REPORTS OF STANDING COMMITTEES

Mrs. Zahirsky said the Public Service Committee met Friday, along with Mr. Dorman, Mr. Dan Mayberry and Mr. Cozy. They recommended the tabled Ordinance 03-06 be amended to say the tap-in fees should be \$1,450 instead of \$1,000 because the County charges same. Also, there are system development charges they hadn't planned on, so they requested Ord. 03-06 be un-tabled.

CITIZENS' COMMENTS – AGENDA MATTERS – None

PRESENTATION BY TERRY CASEY, EASTERN SHAWNEE REPRESENTATIVE, REGARDING EASTERN SHAWNEE DESTINATION RESORT

Mr. Casey presented further information regarding the proposed Eastern Shawnee Family Destination Resort to both Council and the public. Mayor Grogan said, "The posture of this administration at this phase of the talks is to keep the city educated on all points, to inform them of everything that is going on, and to get everyone up to speed with what it is they are proposing, the impact to the community, the "ups and the downs, the good and the bad."

REPORTS OF ADMINISTRATIVE OFFICERS

SENIOR CITIZENS (Nellie Cihon)

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| June 10 | Swiss Steak Dinner; extending dining hours from 4:00 to 6:30 PM; Open to the Public; \$8 for adults, \$4 for children under 10; Free for children under age 4 |
| June 21 | Trip to Nautica Queen; cruising Lake Erie; lunch buffet, shopping at the West Side Market on the way home; \$58 per person includes transportation, cruise, entertainment, lunch, tax, and driver gratuity. Please call Center for reservation. |
| July 11 | Trip to Greektown, Detroit; Open to Public; Cost \$45, includes transportation, driver gratuity, snack to and from Casino; \$20 coin voucher will be issued upon arrival. Please call Center for reservations. |

COMMUNITY SERVICE (Phil Kaster) – Report attached to Council packets

FIRE CHIEF (Assistant Chief Mark Stewart)

Meeting with the architect of the new fire station at 9:00 AM, May 5, 2006 at the West Side Fire Station; City Manager Mark Cozy will be present, along with Chief Frisone

POLICE CHIEF (Chief David Frisone)

Chief Frisone distributed April statistics. He picked up the 2006 Ford Explorer today in Columbus, peeled the sticker off the window of the vehicle; sticker price is \$30,555; the city paid \$17,772 for it.

CITY OF CANAL FULTON

May 3, 2006

Mayor Grogan said, "A lot of what the Fire and the Police do operate on a shoe-string budget. They go out and find these deals, and I think everybody should be aware of just how hard they work to do that." The Fire and Police Chief found great deals and the Mayor noted appreciation of their effort.

ENGINEER (Bill Dorman)

Discovery Park Phase 5: Mr. Dorman approved final plat today.

Canal Fulton Water & Sewer Master Plan: Being wrapped up; plan to submit next week.

Plan Ohio EPA Approval:

- Proposed waterline extension for The Villas at Autumn Meadow, Phase 20
- Proposed waterline extensions for Discovery Park Phase 5.

Lake Vista (Smail's Pond Project): Received notification from the Engineer that some of the wetlands and storm drainage issues are being resolved. Those projects may be moving forward again.

FINANCE DIRECTOR (Finance Director Scott Svab)

Mr. Svab thanked Chief Frisone for finding the Ford Explorer, saying it's actually under State bid.

Mr. Svab also addressed Mike Mouse's flyer that he passed out to residents, concerning the situation where Council recently passed a \$5 license plate increase upon his urging. It was voted on last meeting and passed with a 5 to 1 vote. He said while Mr. Mouse's flyer was actually true, again the people are being misinformed. He said Mr. Mouse was trying to say that the increase is because Stark County Commissioner might increase it, but "that's only part of the equation." Mr. Svab said State law allows us to have a total of \$20 license plate fee. We currently collect \$5; the County collects \$5. We imposed an additional \$5; but not just for that reason. Obviously it could be part of the reason that if we didn't do this we could lose out on future funding, he said. Mr. Svab went on to say the main reason is that our supplies and materials for our Street Department is about \$70,000 this year, and we have 22 miles in the city we take care of and everyone is aware of the chip and seal program; that's all we have. He said the price of fuel is increasing, along with chip and seal materials; there are 5,005 vehicles registered in our city. A \$5 increase will bring the city \$25,000 additional money, which will help offset some of the costs. He went on saying that our Street Department is not funded by levies, like the Township. Everything comes in from General Fund, Income Taxes, State Gasoline Taxes, and Motor Vehicle License Plate fees. Last year, according to Mr. Dennis Mayberry, the city spent over \$10,000 alone on salt, \$5,000 on storm sewer repairs, \$6,000 on curb and sidewalks, and \$40,000 on the chip and seal pavement program. Obviously, we don't have paving, so, "we really run on a shoe string budget." He said he thinks it's a fair way of doing it; it's not an Income Tax, obviously; it's not a Property Tax increase. It's a User Tax, and in his opinion if you're using the roads, it's the fairest method of taxation. He urged the people not to, if Mr. Mouse was going to try rescinding this, not to support it because we do need the money.

Mrs. Zahirsky made a motion that Council did receive the March financials and also made a notice that it was the January and February financials that Council received the time before – not the March financials; now Council has received the January, February and March financials; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

CITY MANAGER (Mark A. Cozy)

Mr. Cozy talked about the Kilbride Park property behind Cherry Street Creamery. He put forth the owner of the Creamery's proposal to the Historical Preservation Society and Parks & Recreation Board. They both want to see a plan and wanted to be assured that residents could use it – not just the Creamery patrons. Mr. Cozy and Mr. Dan Mayberry checked the area out – especially the foundation in the Easley Hotel (historic wall). They exposed the wall. After some inspection, they realized the wall was ready to fall down. They sent in a crew to cover it. It needs repaired and will take "some money to do it right to preserve the historical integrity of that wall." As far as the usage goes, they talked about a lease or a contract, but Mr. Cozy is of the opinion that if they let Mr. Kovak, the owner, mow it and keep it clean, perhaps the city can put a plaque up recognizing him as maintaining the property. Mr. Cozy questioned that they never officially named the property; it's "called" the Kilbride property. Mayor Grogan said the Park Board should address that issue, come up with a recommendation and present same to Council. Mr. Cozy said they'd like to take the existing fencing along the towpath trail and extend it around along the sidewalk on Market Street because of fear of somebody falling over the edge of it, and to make the property safe. No objections from Council were made to doing this.

Mr. Cozy distributed a proposal for an ad for a comprehensive plan for the city. He had asked the Township to participate in same; still waiting on word from them about it. He put together an ad to solicit a request for qualifications from area consultants to submit to the press. He will try to get with the Township one more time to see if they do want to participate and also help pay for same. The Mayor asked Mr. Cozy to make one more courtesy call to the Township and let them know they would like to move forward on a provision plan for this community and would like them to be part of it.

CITY OF CANAL FULTON

May 3, 2006

MAYOR JOHN GROGAN

The Mayor thanked everyone who had a part in the April 29th Canal Fulton Canalway Center dedication. Mr. Dorman did a great job with all the information and the presentation. The Mayor noted Congressman Ralph Regula and his wife Mary, Commissioner Richard Regula, Senator Kirk Schuring, and others' attendance. He asked everyone to visit the new Canalway Center.

PARKS & RECREATION BOARD (Fred Fleming) – No Report

LAW DIRECTOR (Attorney Dale Kincaid) – No Report

THIRD READINGS

Ordinance 03-06: An Ordinance to Increase the Water and Sewer Tap-in Fees to Provide for the Water and Sewer Plants. (Requested by Director of Public Services) Mrs. Zahirsky made a motion to bring Ordinance 03-06 off the table; seconded by Mrs. Cihon. **ROLL CALL: Yes – ALL** Mrs. Zahirsky made a motion to amend Ordinance 03-06 on the sewer fees; amend that amount to \$1,450; seconded by Mr. Deans. **ROLL CALL: Yes – ALL** Mrs. Cihon made a motion to pass Ordinance 03-06 as amended; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

Ordinance 09-06: An Ordinance Amending Chapter 143(C) of the Codified Ordinances Entitled "Fees". (Requested by Parks & Recreation Board) Mr. Colaianni made a motion to pass Ordinance 09-06; seconded by Mr. Crookston. **ROLL CALL: Yes - ALL**

SECOND READINGS

Resolution 13-06: A Resolution Quitclaiming a 0.006 Acre Parcel Now a Part of Locust Street to David Hofacre AKA David L. Hofacre. (Requested by Schalmo Properties via City Manager)

FIRST READINGS

Resolution 16-06: A Resolution Appointing Daniel Mayberry to Chair the Committee on Drinking Water Source Protection for the City of Canal Fulton. (Requested by City Manager)

Resolution 17-06: A Resolution Entering into a Contract with the Floyd Browne Group to Provide a Puffenberger Property Park Master Plan for \$10,350.00 Plus \$3,000.00 for Options, and Declaring an Emergency. (Requested by City Manager)

Resolution 18-06: A Resolution Entering into a Memorandum of Understanding with the Eastern Shawnee Tribe of Oklahoma, and Declaring an Emergency. (Requested by Mayor) Mayor Grogan asked that Council not suspend the rules on this resolution to give it another opportunity to be read at another meeting. Mrs. Zahirsky made a motion that Council eliminates the emergency clause on Resolution 18-06, as it was her understanding that if there is an emergency clause, it does not give the voters the right of Referendum and we would like voters to be able to have the right of Referendum on this matter. So, the portion that says, "and Declaring an Emergency and also Section 2, which is the section regarding the emergency clause be eliminated; seconded by Mr. Colaianni. **ROLL CALL: Yes – ALL** Mayor Grogan and Mrs. Zahirsky explained the motion. The emergency clause means it goes into effect immediately and also means that the citizens don't have a right of Referendum. Mr. Kincaid explained the three readings is a separate requirement and Council can still suspend that, but we are not going to do that.

Resolution 19-06: A Resolution Appointing Scott A. Pullins as Special Counsel for the Purpose of Negotiating and Otherwise Interacting with the Eastern Shawnee Tribe of Oklahoma, and Declaring an Emergency. (Requested by City Law Director) Mrs. Cihon made a motion to suspend rules on Resolution 19-06; seconded by Mr. Deans. **ROLL CALL: Yes – ALL** Mr. Crookston made a motion to pass Resolution 19-06 under suspension; seconded by Mrs. Cihon. **Discussion:** Mr. Colaianni stated for the record that this is as a recommendation of our Law Director that they retain counsel. **ROLL CALL: Yes - ALL**

Resolution 20-06: A Resolution Indicating What Services the City of Canal Fulton, Ohio, will provide to the Repland Property, Immediately upon Annexation, and Declaring an Emergency. (Requested by City Law Director) Mr. Colaianni made a motion to suspend the rules on Resolution 20-06; seconded by Mrs. Cihon. **ROLL CALL: Yes – ALL** Mrs. Zahirsky made a motion to pass Resolution 20-06 under suspension; seconded by Mr. Crookston. **ROLL CALL: Yes - ALL**

Resolution 21-06: A Resolution Setting Forth a Buffer in the City Zoning Ordinance for Annexed Property Adjacent to Non-City Property that presently has Township Zoning. (Requested by City Law Director) **Discussion:** Ms. Troccoli stated she was asked to advise Council and the Law Director that Resolution 21-06 was not sent from Planning and, per Clayton Hopper (Chair of Planning Commission), Planning was not aware of this resolution. Mr. Kincaid said this is not a zoning ordinance, but we are promising to put it in our zoning

CITY OF CANAL FULTON

May 3, 2006

ordinance when it passes, and that it was a good point. Mr. Cozy said he would like to amend the language in Section 1 where it says, "The City will provide a buffer in the newly annexed Repland property adjacent to non-City property" - amending Section 709.023, Section 1 because the property owner will be the one to provide the buffer according to our zoning. Mrs. Zahirsky made a motion to amend Resolution 21-06 to include the language after the last "property" in Section 1, to read "the zoning requirements under 709.023 of the Ohio Revised Code; seconded by Mr. Colaianni. **ROLL CALL: Yes – ALL** Mr. Crookston made a motion based on the Law Director's recommendation to suspend the rules on Resolution 21-06 as amended; seconded by Mrs. Zahirsky. **ROLL CALL: Yes – ALL** Mrs. Cihon made a motion to pass Resolution 21-06 as amended under suspension; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

PURCHASE ORDERS & BILLS

No Purchase Orders

BILLS: \$138,096.75 Mrs. Cihon made a motion that Council has received the bills in the amount of **\$138,096.75**; seconded by Mr. Deans. **ROLL CALL: Yes - ALL**

OLD/NEW/OTHER BUSINESS

Computer, Electronic Communications and Internet Use Policy: Mr. Colaianni made a motion Council adopts the Computer, Electronic Communications and Internet Use Policy for the City of Canal Fulton as submitted in our packets; seconded by Mrs. Zahirsky. **ROLL CALL: Yes – ALL**

REPORT OF PRESIDENT PRO TEMPORE (Linda Zahirsky) – No Report

REPORT OF SPECIAL COMMITTEES – No Report

CITIZENS COMMENTS Open Discussion (Five-Minute Rule)

Eastern Shawnee Family Destination Resort: Several residents from Canal Fulton and Lawrence Township spoke regarding their concerns regarding the Eastern Shawnee Family Destination Resort (both pro and con) It was noted by Mayor Grogan that they are going to take a look at this matter for the period of time that it takes for this Council to feel comfortable with making a decision and said they still have a lot to review. There will be more public meetings that will address the legislation for same. Mr. Kincaid noted that IF the legislation is passed, if a group of citizens are not happy with the legislation, they can present a Referendum issued through the Board of Elections, then everyone will stop until November. It has to be within 30 days of Council's passage of the legislation and at least 75 days before the election. Mayor Grogan said the Council did leave the door open by doing this, so that if the community decided to put together a Referendum, they would have the ability to do same. Mr. Pullins stated the Memorandum of Understanding binds both parties to undergo their best efforts to negotiate an agreement, and is essentially "an agreement to agree." It is not a "done deal."

(Note: A copy of the tape that includes all citizens' comments, which is a Public Record, will be available at cost via the Clerk of Council.)

Kilbride Property: Mr. Hatfield stated that the city promised the Kilbrides that the property should indicate it as Kilbride Park. Mr. Szanto added that he knows the Kilbrides did want to preserve the property as green space. Mayor Grogan stated based on the Mr. Hatfield's recommendation and the city's promise to the Kilbrides be related to the Parks & Recreation Board, so they have a basis of which to review same.

Special Council Meeting: Mayor Grogan suggested having a Special Council Meeting and changing the location of that meeting to provide more room for the public. Mr. Colaianni made a motion to hold a Special Meeting of City Council on Wednesday, May 10 at 7:00 PM located to Northwest Stark Senior Center for the purpose of discussing the Memorandum of Understanding and the Intergovernmental Agreement with the Eastern Shawnee Tribe, along with any other business that Council deems necessary, pending verification of availability of the Senior Center; seconded by Mr. Deans. **ROLL CALL: Yes - ALL**

ADJOURNMENT – Mrs. Cihon made a motion to adjourn. Mayor Grogan adjourned the May 3, 2006 City Council meeting.

Patricia A. Troccoli, Clerk of Council

Mayor John Grogan