

CITY OF CANAL FULTON

June 15, 2004

REGULAR COUNCIL MEETING

Mayor John Grogan called the June 15, 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; Fred Fleming, Park Board; Garnet Thomas, Zoning Board of Appeals; Joan Porter, The Repository; Rochelle Rossi, Ken Roberts, (residents).

CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Cihon made a motion to approve the June 1, 2004 City Council meeting minutes. Mr. Colaianni seconded the motion. **ROLL CALL: Yes – ALL**

Mrs. Zahirsky made a motion to approve the June 8, 2004 Special City Council meeting minutes. Mrs. Cihon seconded the motion. **ROLL CALL: Yes – 5 (Mrs. Downing abstained due to absence.)**

CITIZENS' COMMENTS ON AGENDA MATTERS

Fred Fleming, Chairman of Park Board, stated he would like passed tonight Ordinance 16-04 (Off-leash Dog Park). It was explained Presa Canarios dogs were bred to kill (makes a Pit Bull look like a Schitzu).

REPORTS OF ADMINISTRATIVE OFFICERS

Senior Citizens

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)

September 18, 2004: Swiss Steak Dinner

Community Service Coordinator - No Report

Fire Chief

Chief Hill had asked Mr. Dennis Mayberry to look at the culverts; the Fire Station culvert needs work/widened out on the approaches. Mr. Mayberry said they weren't too far from putting asphalt down.

The generator will arrive in a few weeks.

Chief Hill had an ordinance passed a few years ago where his lieutenants' (paid) positions are temporary, so he can move people in and out at will. He recommended to the Mayor they promote Mike Crable to Lieutenant, replacing Joe Laterza, and he spoke with Mr. Laterza (off w/herniated disk) who told him that was no problem. Mr. Laterza will still volunteer. Mayor Grogan, "Based on the recommendation of Chief Hill, I'd like to submit to Council's approval promoting Mike Crable to Lieutenant."

Mrs. Zahirsky made a motion to promote Mike Crable to the temporary Lieutenant position; seconded by Mrs. Cihon. **ROLL CALL: Yes – ALL**

Mayor Grogan asked Chief Hill to extend to Mr. Laterza Council's appreciation and wish him a speedy recovery and to please congratulate Mr. Crable on the City's behalf.

Police Chief

Chief McNeely stated there would be three additional officers working traffic control during the GOBA event on June 20, 2004, anticipating 3,000 bicycles passing through downtown.

The Civil Service Commission is meeting June 30, 2004 7:00 PM regarding police officer candidates.

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Engineer - No report

Finance Director

Mr. Rodino requested a tax budget (public) hearing for July 6, 2004 to go over the 2005 tax budget. Mr. Szanto asked the Finance Director to provide the Mayor, Council, and the Public copies of the tax budget prior to the meeting.

Mr. Szanto made a motion that Council conducts a public hearing to review the FY 2005 tax budget as required by law and ask that the Public Hearing be set for 8:00 PM on July 6, 2004. Mr. Colaianni seconded the motion. **ROLL CALL: Yes – 5 (Mrs. Cihon abstained.)**

Mr. Rodino distributed to Council members for review a memo from Karen Hiltbrand (Income Tax), regarding the potential financial impact on Canal Fulton due to Timken and Hoover laying off people.

Mr. Rodino mentioned two purchase orders that didn't make the agenda in time (copies of same were distributed), due to the fact they were given to June 14 (yesterday) by the Street Department.

Mr. Rodino commented on the write-up in last Sunday's newspaper regarding a state-wide audit of public records, saying Canal Fulton did quite well. We followed the letter of the law as far as documents requested; this is good news for the City. Mr. Kincaid said, "A document is a document as soon as it's created - even if it's a draft, it's a document. It's a public record when it's created. Our minutes, for instance, are a public record before you approve them." Mr. Kincaid stated that people do not have to give their names when they receive copies of public records, but it's a good idea to keep track of what was given out; the City can put the word "voluntary" on the signature line. Chief McNeely called *The Repository* and *Akron Beacon Journal* and was told that our clerk was pleasant, responded to their requests, and was told the only records she didn't have available to her was on the Chief's desk for approval. Those had confidential investigatory records attached to them at the time they were turned in and were the records prohibited from being released. Mr. Szanto stated there are some things the Public is not entitled to review (i.e., hospitalization forms that might have the employees family's names or medical information on them, etc.) and occasionally there are some things where the staff at City Hall should pass these documents by the Law Director and find out what is our obligation. We want to provide what we're supposed to provide, but there are certain things for the safety of our employees that aren't available as public record. Mr. Kincaid stated the City had a public request a year or two ago, and he retracted the record due to the fact that the home address, social security and records as to treatment for medical conditions that are not considered public record information. Pre-employment physicals are considered public record.

Mayor – No report.

City Manager

Milan Street Water and Sewer Line Project

Our request for financial assistance (loan agreement) has been approved for the Milan Street Water Line project in the amount of \$443,230. This project will be advertised June 19 and 26, 2004 and the bid opening will be July 9, 2004. The Engineer should have a recommendation for award at the July 20th meeting. They were given a copy of a proposal from CTI Environmental for construction observation, and project management.

Liquor Permit Application for M & K Roberts No. 5, LLC dba Let's Mango

The City has received an application for a new liquor permit for M & K Roberts No. 5, LLC dba Let's Mango. The Ohio Department of Liquor Control would like to know if the City is going to request a hearing on this subject.

Cherry Street Railroad Crossing

Mrs. Loretto had called last Thursday (June 10) and talked with the State Representative and set up a meeting for June 22, 2004 with the State Representative and R.J. Corman.

Parks

Mr. Fleming stated June 16, 2004 is the second night to register for the Summer Youth Recreation Program (6:00 – 7:30 PM) at City Hall.

The Dog Park has been built. It will not be opened until the ordinance passes. They are set to get the ordinance sign printed, working on other signs and getting the receptacles for the dog feces and trash.

Discovery Park Fence: 170 feet on the Beverly side between the sidewalk and the pond has been installed; it's done. They will have someone from Curtis and Associates look at the park again and see what they can do. On that one corner (west), they might have to build a wall and put the pathway from the triangular section back in, which could be expensive. The fence is 24-inches in from the sidewalk on the Beverly side (around the perimeter of the property).

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Law Director

The Summer Recreation Program is using the Northwest buses, and they've got to ask us indemnify them as to loss. Presumably the contract that the City did with the school district last year is being done between the "Y" and the school district; they've asked us to include them, so he asked Council to authorize the City Manager to sign this.

Mrs. Cihon made a motion that Council uses the indemnification clause to have our City Manager sign it; seconded by Mr. Colaianni. **ROLL CALL: Yes – ALL**

Mr. Kincaid requested a brief Executive Session to discuss pending litigation with only Council, the Mayor and the City Manager.

THIRD READINGS

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

Mrs. Loretto stated she would monitor the usage and advise Council. Mr. Szanto made a motion that Council passes Ordinance 13-04; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

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.

Mr. Szanto made a motion to pass Ordinance 14-04; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

Ordinance 15-04: An Ordinance Disposing of Excess Personal Property (to wit, a 1998 Ford Police Cruiser and a 1994 Ford F150 Pickup Truck)

Mr. Mouse stated he is going to vote No on this because he thought one of the vehicles could be used longer; the truck as 60,000 and the car has 88,000; he thinks if we take care of our vehicles better they would last longer. He was told the City does take care of its vehicles. Mrs. Zahirsky made a motion to pass Ordinance 15-04; seconded by Mrs. Cihon. **ROLL CALL: Yes – 5 No – 1 (Mr. Mouse)**

SECOND READINGS

Ordinance 17-04: An Ordinance Providing for Directional Signs to Businesses within the Historic District, and Declaring an Emergency.

Mrs. Cihon made a motion to suspend the rules on Ordinance 17-04; seconded by Mr. Colaianni. **ROLL CALL: Yes – ALL**

Mr. Colaianni made a motion to pass Ordinance 17-04 under suspension; seconded by Mrs. Downing. **ROLL CALL: Yes - ALL**

FIRST READINGS

Ordinance 16-04: An Ordinance Documenting the Mandatory Rules and Regulations to be Followed When Using the Off-Leash Park Located in the City of Canal Fulton.

Mr. Dennis Mayberry said that that dog park isn't in the City of Canal Fulton; it's on City Property out on Butterbridge Road, and our Police Department doesn't have any way to enforce the ordinance; Lawrence Township would be responding. Mayor Grogan said that since it's on City property, the Canal Fulton Police Department would be able to enforce it. The ordinance doesn't go into effect for 30 days. The fence (with gates) was finished June 10, 2004.

Mrs. Zahirsky made a motion to suspend the rules on Ordinance 16-04; seconded by Mrs. Downing. **ROLL CALL: Yes – ALL**

Mrs. Zahirsky made a motion to adopt Ordinance 16-04 under suspension; seconded by Mrs. Cihon. **ROLL CALL: Yes – ALL**

PURCHASE ORDERS & BILLS

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.

Mr. Szanto made a motion to accept 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; seconded by Mrs. Zahirsky.

Discussion: Mrs. Zahirsky stated the Finance Director explained of the five firms that the City looked at, he had nothing to do with the decision of which five firms the request for proposal would go to because it was made before he even started working for the City of Canal Fulton. Mrs. Loretto picked them out, making sure they were close to Canal Fulton, as there were a lot of them.

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Additionally, Mr. Rodino gave Council a letter from the Auditor in Canton who independently looked at all the proposals that came back from all five of the companies and made the recommendation that even though it was the higher of the quotes, it was the best quote he picked using 15 different criteria. Mr. Mouse talked to the State Auditor; he is going to send him the 15. Mr. Mouse made a point that if Mr. Rodino deals with this in the future, he thought it advisable for Mr. Rodino to submit it to Council and have Council make that decision, particularly when it involves a firm that he has worked for previously; it removes any appearance of conflict. Mr. Kincaid had no further objections based on Mrs. Loretto and the State Examiner's verbiage; he said the State Examiner's letter should be attached to the contract or somewhere where we can find it; Mrs. Loretto should write a memo stating that she chose the five firms. Mrs. Loretto stated that the form shows that she signed it before Mr. Rodino started working for Canal Fulton (document was signed/mailed by Mrs. Loretto on October 10, 2003; start date for Michael Rodino as Finance Director for the City of Canal Fulton was October 20, 2003).

Mr. Colaianni stated, "When we go back, though, just in my mind reviewing last meeting (I'm looking at the minutes), when you got these five and signed off on them knowing he was coming on board, did you question at that time using the firm he had worked for to do the audit?" Mrs. Loretto responded, "When I signed this, this was the end of it. It wasn't the start of it." Mr. Colaianni stated, "But there's a 10-day difference here." Mrs. Loretto, "I know. I really looked at these prior to this and the final was October 10, 2003, and at that point in time, then Michael was sure he was coming . . . First they asked me to submit five that I wanted, and I submitted those, and then they approved them. This was a formal thing after the fact, so I had started this process probably like a month before this time, and we did not know Mike was coming at that time." Mr. Mouse said, "The problem comes in, Marge, and I think Dale may agree with this . . . problem comes in that Michael was in the process at all. If Michael was involved in the process at all in this particular situation, he would have been better off by the whole thing." Mrs. Loretto answered, "I understand that, but when I originally picked these five people, I did not know Michael was going to be here." Mr. Mouse said, "That's not the point I'm making. The point I'm making, Marge, is once Michael became part of the picture, once he saw that name, he should have said, 'Marge, you go ahead and take care of this entirely or with Dale's advice.'"

ROLL CALL: Yes - ALL

P.O. 3966 in the amount of \$21,000 made out to Bill Floreani, Concrete Construction Co., for concreting of three more drying beds for sludge stockpiling (Note: This was a FY 2004 budgeted item.)

Mrs. Zahirsky made a motion to pass Purchase Order 3966 in the amount of \$21,000 to Bill Floreani, Concrete Construction Co.; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

P.O. 3975 in the amount of \$26,500 made out to D & R Supply, Inc., 18228 Fulton Rd., Marshallville, Ohio for hot mix for summer resurfacing.

Mr. Mouse asked why this purchase order was not in the packet. (Clerk had not received it to put in the packet before Friday June 11 distribution; it was given to Mrs. Loretto June 14.) Mrs. Loretto told Mr. Mayberry to get it processed today, so they could start the work.

Mrs. Cihon made a motion to pass Purchase Order 3975 in the amount of \$26,500 to D & R Supply, Inc.; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

P.O. 3976 in the amount of \$24,500 made out to CTI Environmental, Inc. for construction supervision for the Milan Street Water and Sewer Line Extension.

Again, Mr. Mouse asked the Finance Manager when this was received and was told June 14.

Mrs. Cihon made a motion to pass Purchase Order 3976 in the amount of \$24,500 to CTI Environmental, Inc.; seconded by Mrs. Zahirsky. **ROLL CALL: Yes - ALL**

Bills: \$107,910.50

Mr. Colaianni made a motion to accept the bills in the amount of \$107,910.50; seconded by Mrs. Cihon.

Discussion: Mr. Mouse inquired about the cost of the T-shirts for D.A.R.E. Mr. Mouse stated he thought "we were getting out of that . . . evidence shows that that D.A.R.E. is not what it is alleged to believe." Mayor Grogan stated a lot of discussion occurred with the middle school; it was their contention that it did help Fifth/Sixth Graders. Nationwide studies have shown that 70% to 90% of crimes are drug related. Being the father of three kids and knowing how important education and information is to children, it was his decision to try to get the D.A.R.E. program back up and running and get that information out to the students. Mayor Grogan feels D.A.R.E. is in children's best interest and believes it's a great program. The new D.A.R.E. program – referred to as "The

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Gold Standard” – also teaches terrorists alerts, several issues that relate to Columbine and other school tragedies. Mr. Mouse requested statistics from Chief McNeely.

Mr. Colaianni asked about what happened to the fire truck resulting in a \$3,100 charge. There were repairs to Engine 5; internal fittings, tank bottom repair, valve leakages, etc.

ROLL CALL: Yes – 5 No – 1 (Mr. Mouse because of the D.A.R.E. T-shirts)

NEW BUSINESS

Liquor Permit Application for M & K Roberts No. 5, LLC dba Let’s Mango

Mr. Szanto made a motion that the Council informs the Ohio Department of Commerce Division of Liquor Control that we do not request a hearing on the license for M & K Roberts; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

OLD BUSINESS

Mayor Grogan asked about the GS Data Explorer, if we have anyone designated as a liaison for the program to be submitted on June 16. Mrs. Loretto stated they designated Johnson Belford.

OTHER BUSINESS

Mayor Grogan asked if we’d heard back from Barrett’s regarding Amy Geier’s grade-level classification. Mrs. Loretto said she’d called them, and the girl told her she’d been out on assignment but would try to get to it within the week. She stated Mrs. Schauwecker is going to work on the Clerk of Council’s position classification because Sherry Reiter left without submitting it. The concern is that it is taking too long. Civil Service will get a copy of anything that comes in regarding Ms. Geier from Mrs. Loretto. Mr. Colaianni asked if it still had to go through Civil Service for the Police secretary once Barrett was done. Mrs. Loretto stated it would. Mr. Colaianni asked if Barrett would have it back by June 30 since the Civil Service Commission would be meeting. Mrs. Loretto said she didn’t think they could have it done that fast.

CITIZENS COMMENTS (Open Discussion, five-minute rule)

Garnet Thomas, Chairperson Board of Zoning Appeals (BZA), told Mr. Mouse that if he didn’t want the kids to have a shirt not to talk to her.

Mrs. Thomas updated Council regarding a vacant lot on the corner of Cherry, Streby and Milan; they just granted a Variance to have a house constructed on it. It came to them originally as a “substandard” from Mr. Johnson Belford, Zoning Inspector, which allowed “really lax setbacks.” She said Mr. Dennis Mayberry and other Board members interpreted it differently; “it is not a substandard lot – odd shaped, but not substandard, which puts the more rigid setbacks in place.” That meant that the builder resubmitted; the neighbors are receptive of the construction; it’s a triangular lot 151’ x 171’ x 208’ approximately (per Mr. Mayberry).

Regarding the sign at Goodwill, Mrs. Thomas said they could save their original sign but they have to come in on both side borders. Mrs. Thomas took the information regarding the sign to Mayor Grogan stating that all Boards serve at the pleasure of the Mayor, and they update him on everything they are doing. She said Mayor Grogan only commented that if it can be worked out, go ahead and do it. The Zoning Inspector had sent Mary Moriarty at Goodwill a letter stating they had 36 square feet for their sign. The BZA interpreted the Code and it is the BZA’s understanding that it gave them 150 square feet or 10% of the frontage. This was confirmed by the Law Director (Dale Kincaid). Mayor Grogan approved the concept if Goodwill was receptive. On April 26, 2004 Mary Moriarty of Goodwill stated they would probably go along with the proposed solution for the computer rendering design (copies distributed). Goodwill redesigned their sign per the computer design. Goodwill is now in compliance; actually they are about 15% under the 150 square feet.

Unfortunately, there were delays and statements made that the Mayor had cut a deal. Mrs. Thomas stated that was not true; that Mayor Grogan was not involved in this; he’d had one phone call from an official but turned it over to the Zoning Inspector and BZA, and she said they do not cut deals with anyone. They have three entities involved with that statement - the Mayor, BZA, and Goodwill Industries because that’s where it would have had to come from had there been a deal cut and none of that occurred. Anyone that comes before the BZA will be handled just as Goodwill was; they’ll be asked to come into Compliance or they will be given a Variance that is in agreement with the law as explained to the BZA by the City’s Law Director. Mrs. Loretto said she sat in with a meeting with Goodwill and said Goodwill said when they did it, they did it unaware that they were doing the sign wrong. Mayor Grogan stated it was a new member on the BZA (Jeff Doak) who came up with the concept to assist Goodwill and coming into compliance without costing them “an arm and a leg.”

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Ken Roberts, 239 N. Canal St. Mr. Roberts defended the Mayor as being adamant and furious that a comment about making deals was made; it was on record that no such action by the Mayor took place.

Mr. Roberts wanted to go on record about a comment regarding GOBA and the food. They are only assisting GOBA June 20, 2004; AVI is undertaking the risk for the food.

Mr. Fleming thanked Council for the off-leash dog park ordinance.

Rochelle Rossi, 415 High St., NE: The Mayor has consented to be a guest conductor of The Clinton Band this Friday night (June 18, 2004) at the Community Park at 7:30 PM; invited all.

REPORT OF COUNCIL PRESIDENT – no report

REPORT OF STANDING COMMITTEES

Mr. Szanto received/distributed memo from Stark Regional Development regarding the CDBG funding and availability for the Locust Street Sidewalk Project.

Mr. Colaianni, referencing this evening's Safety Committee meeting, Chief McNeely passed along a memo regarding the stop signs at Longview and Greenwood Avenues, and it was the recommendation of the Safety Committee to recommend to Council that the stops signs (because they do not comply with the law that was cited June 8, 1999 in Massillon Municipal Court Case by Judge Kettler) at the intersection of Longview and Greenwood be removed. On July 6, 2004 at 6:30 PM they set a Safety Committee to review additional problems.

The Finance Committee met June 9, 2004, and Mrs. Zahirsky stated they talked to Mr. Rodino (Finance Director) about the purchase order for Fink and Associates. One of the issues was putting a levy on the ballot for the Fire Department (whether income tax or property levy), but there was no recommendation made because the Finance Committee needs more information from the Fire Department (i.e., what they need for Fire Department remodeling; what their equipment needs are – trucks, etc. – and what is their timeframe) before they make a recommendation to put anything on the ballot. They ask that it be brought to the Safety Committee, as well. Chief Hill has made phone calls to assist him with attaining a feasible idea of how much they need money-wise; Mrs. Loretto dug out the previous blueprints, but they were of no use at this point.

Mrs. Zahirsky made a motion to go into Executive Session to discuss possible litigation and requested the Mayor, City Manager, Law Director and City Council. Mrs. Cihon seconded the motion. **ROLL CALL: Yes – ALL**

Mr. Colaianni made a motion to reconvene the regular Council meeting; Mrs. Cihon seconded the motion. **ROLL CALL: Yes – ALL**

Mrs. Cihon stated she would be out July 6, 7 and 8, 2004 (working for the Senior Center on a trip), so she will miss the next meeting.

Mr. Mouse made a motion to adjourn; meeting was adjourned.

Patricia A. Schauwecker, Clerk of Council

John Grogan, Mayor