

CITY OF CANAL FULTON COUNCIL

July 18

06

Mayor Grogan called the July 18, 2006 City Council meeting to order at 7:00 PM in Council Chambers at City Hall.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Mayor John Grogan, Nellie Cihon, Tony Crookston, Victor Colaianni, Jim Deans, and Diane Downing. **Motion to Excuse:** Mrs. Downing made a motion to excuse Mrs. Zahirsky, as she is at a conference for work, seconded by Mr. Colaianni. **ROLL CALL: Yes, ALL.**

Others in Attendance: Paul Bogocius, Fred Etheridge, Catherine Dean, Clayton Hopper, John Workman, Chell Rossi, Phyllis Mahaney, Mike Vranich, Irene Weigand, Toni Stopar, Bob Stopar, Tom Reynolds, Joanne Collins, Joan Porter, Leslie Ferry.

CORRECTION/ADOPTING THE RECORD OF PROCEEDINGS

Mr. Crookston made a motion that Council accepts the July 11, 2006 City Council meeting minutes; seconded by Mr. Colaianni. **ROLL CALL: YES:** Mr. Crookston, Mr. Colaianni, Mr. Deans, and Mrs. Downing. **ABSTAIN:** Mrs. Cihon.

REPORTS OF STANDING COMMITTEES - None

CITIZENS' COMMENTS – AGENDA MATTERS

Paul Bogocius, 451 E. Cherry Street: Mr. Bogocius had a question regarding what was being deleted from Ordinance 23-06. Mayor Grogan stated a representative from the Planning Commission should be present, but has not arrived yet.

He also asked what the purpose and job description of the particular consultant's company would have relating to Resolution 26-06. Mr. Cozy stated the use a management consultant or labor consultant is to handle bargaining unit issues. Mr. Bogocius wanted to know if it had anything to do with the pending casino issue. Mayor Grogan stated there is no casino issue before this council.

Further, he asked about the first reading on Ordinance 28-06 and wanted to share his thoughts. He wanted to know who proposed the changes relating to the \$40, and it was stated Mrs. Zahirsky. He wanted clarification on the matter. Mr. Colaianni stated it would allow for a council person to miss a meeting without penalty. Mr. Cozy stated the issue has not been enforced in the past and it was Mrs. Zahirsky's intent to force the issue by putting it up for discussion. Mr. Colaianni stated he had some amendments that he would like to have added to the Ordinance.

Fred Etheridge, 746 Tell Drive: Mr. Etheridge asked about Ordinance 16-06. He stated he knows this is being done because certain developers have not paid fees to the City Engineer in a timely manner and would like to note for the record that this did not include Schalmo. They always pay on time and have a very good record. He stated that Schalmo has been required to post payment bonds to the City Engineer and no one else has ever been required to do that. The particular bond is in the amount of \$30,000. He stated in view of this legislation he would like to have this bond released immediately. He stated the bond is up for renewal and doesn't want to pay the bond premium again.

Mayor Grogan asked why they put a payment bond on Schalmo? Mr. Etheridge stated because someone did not follow the rules. The Law Director stated Council and Planning Commission meet before the renewal date and they will get some answers.

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Katherine Dean, 8675 Margo Avenue NW: Ordinance 16-06, 17-06, 18-06, 19-06, 20-06, 21-06, 22-06, 23-06, 24-06 and 25-06. She stated some of the locations listed on the Ordinances, the posting locations need to be corrected. It stated Apple's Supermarket and needs to be updated to Giant Eagle.

REPORTS OF ADMINISTRATIVE OFFICERS

SENIOR CITIZENS (Nellie Cihon) Nellie stated Mrs. Ringler noticed red paint on the parking lot from the parade. She wanted to know who is responsible for cleaning such. Mayor Grogan asked Mr. Cozy to handle the request.

COMMUNITY SERVICE (Phil Kaster) – Mr. Kaster provided a written report to the Mayor of the projects completed for 2006. To date, there has been 265 community service man hours. The report will be left out for anyone that wants a copy.

FIRE CHIEF (Chief Ray Green) – Chief Green stated last meeting he discussed issues relating to the staffing program with the township. He has scheduled a work session with the trustees on July 31, 2006 after their regular meeting. The Chief received correspondence from the Division of EMS, Department of Public Safety relating to the state requirements of the Ohio Administrative Code. To comply with the Homeland Security Acts and the National Incident Management System, the Division will be mailing out official letters to all firefighters and EMS providers that will have to be taken to the Bureau of Motor Vehicles and an identification card will be created listing the member's certifications and any specialized training the individual has. There will be a \$5.00 fee. He stated certifications expire at different times. Individuals that have numerous certifications could entail a substantial annual cost. He would like the cost to be picked up by the City if their primary employment is not as an EMS or firefighter with another agency.

Mrs. Downing made a motion that the City will pay the \$5.00 for each certification for the identification card provided by the Bureau of Motor Vehicles, for individuals that are not covered by other municipalities or agencies, seconded by Mrs. Cihon. **ROLL CALL: Yes, ALL.**

Chief Green stated there was a serious accident on Marshallville Road. A helicopter was requested from Metro Life Flight. They are now based out of Aultman Hospital and their quarters are close to their flight deck. From the time the unit was called to the time on the ground, it was twelve minutes. The flight brings a doctor and critical care nurse. It is a service that will be utilized more.

POLICE CHIEF (Chief David Frisone) Chief Frisone stated there were not any arrests from Olde Canal Days. They had twenty-five parking complaints that were called into the RED Center and about twice that amount was brought to their attention at the site. There were nineteen parking citation issued and three police directed tows. There were two lost children that were reunited and two reported fights among juveniles, which were minor. No charges were filed.

ENGINEER (Bill Dorman) – Not Present

FINANCE DIRECTOR (Scott Svab) – Mr. Svab stated there is a separate packet which includes Ordinance 27-06, two purchase orders and a check list for this Council meeting.

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CITY MANAGER (Mark Cozy) – No report.

MAYOR (Mayor Grogan) – Mayor Grogan thanked the Olde Canal Days Committee. They did a fantastic job, as well as the Street Department, Police Department, Fire Department.

He read a letter from Mara Kenney referencing the tennis court dedication in behalf of her brother, Shawn Kenney.

“Thank you for inviting our family to the dedication of the new tennis courts in memory of our brother, Shawn Kenney. He would have been very proud of his younger sister; I would have never heard the end of it. Although my daughter’s dance recital was that day, I could not attend. My husband and my brother were in attendance and told me it was a genuine heartfelt dedication. Due to an address error, Frank from Parks Department, called me to get my correct address to send the invitation announcement. I appreciate his follow up. My daughter has a scrap of her uncle’s accomplishments and she is thrilled to add this to his memory. Since the invitation arrived a couple of days before the dedication, I felt there was not enough time to tell you Shawn’s birthday was May 17, 1951. In closing, we are honored to have Shawn remembered by the City of Canal. Our thanks go to the individuals who voted to recommend that this tennis court be dedicated in his memory”.

Mayor Grogan forwarded a letter from Charles Haus requesting to have his band play at the parks to Mark Cozy to relay to the Park Board.

PARKS & RECREATION BOARD (Fred Fleming) - (Mr. Fleming was not present) Mr. Deans stated he has been talking with Mr. Fleming regarding concerts in the parks and are looking into having them in the gazebo at Muhlhauser and where they could have entertainment during the summer.

LAW DIRECTOR (Attorney Dale Kincaid) – No Report

SECOND READINGS

Resolution 26-06: A Resolution Entering into a Contract with Clemens, Nelson Associates, Inc. for Management Consultants Services.

FIRST READINGS

Ordinance 28-06: An Ordinance Adjusting the Time of Regular Meeting of Council and Repealing the Provision Wherein Council’s Salaries Reduced for Failure to Attend.

Discovery Park-Phase II-Sidewalk Bond Reduction: Mayor Grogan stated Mr. Cozy was requesting a voice motion from Council on this matter. Mr. Cozy stated he would like the bond reduced to \$4410.00. **ROLL: Yes, All.**

Resolution 27-06: Whereas the City has determined that improvements are necessary at Discovery Park; and Whereas, the City has advertised for bids as required by law; and Whereas, the lowest and best bidder is Hysong Paving in the amount of \$93,716.00. Now, therefore, be it resolved by the Council of the City of Canal Fulton, Ohio that the

City Manager is authorized to enter into the contract for the improvements at Discovery Park with Hysong Paving in the Amount of \$93,716.00. The Resolution is hereby determined to be an emergency measure. Immediate passage of which is necessary for

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the preservation of public peace, health, safety and welfare of the City of Canal Fulton. Such an emergency arising in order to complete the work during the building season. Wherefore, this Resolution shall take effect and in be in full force immediately upon passage. Mrs. Cihon moved to suspend rules on Resolution 27-06; seconded by Mr. Colaianni. ROLL: Yes, ALL. Mr. Colaianni made a motion to pass Resolution 27-06 under suspension, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

PURCHASE ORDERS & BILLS

P.O. 4697: Mr. Colaianni made a motion to pass P.O. 4697 made out to Whitaker Myers Insurance in the amount of \$29,696.00, seconded by Mr. Deans. **ROLL: Yes, ALL.**

Chief Green stated he received an email from Mr. Cozy referencing the driving record of some of the members of the Fire Department. It was effective in February but they were not notified until a week ago. He questioned about if there was an accident if there would be coverage.

Mayor Grogan asked for Mr. Svab to get a letter of explanation regarding the notification delay from Whitaker Myer that can be entered into records. Mr. Svab stated some companies require a yearly statement saying how many point violations or anything they may have. This may be something the City might want to look into.

Law Director Kincaid stated Resolution 27-06 did not make the agenda because it just came up today and needs to have a first reading and passed as an emergency.

P.O. 4699 Mrs. Cihon made a motion to pass P.O. 4699 made out to Patricia Trocelli \$5,263.10, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

BILLS \$119,920.91 Mrs. Cihon made a motion the Council has received the bills in the amount of \$119,920.91; seconded by Mr. Deans. **ROLL: Yes, ALL.**

OLD/NEW/OTHER BUSINESS Mr. Colaianni stated he distributed to Council a copy of a draft proposal of a fee schedule for fire and EMS related fees. Currently Chapter 143 of our Codified Ordinances does not include a fee schedule. Mr. Colaianni has talked with the City's representative from Ohio Billing and she thought it would be prude that we have something in the Codified Ordinances. He would like Council to review and offer feedback. The Law Director asked Mr. Colaianni to ask Ohio Billing what they do when they don't get paid on a series of letters, what action is being taken? He doesn't think it is being referred to him.

Mr. Deans offered thanks to all the individuals that helped with Olde Canal Days Festival. He said if anyone knew of anyone or business that would like to help fund next years event to have them call him.

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

REPORT OF SPECIAL COMMITTEES – None

PUBLIC HEARING

Mayor Grogan stated member of Planning Commission are now present at 7:50 PM. and they will proceed into the public hearing relating to the following Ordinances:

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Ordinance 16-06: An Ordinance Amending Section 1133.06 of the Supplemental Requirements of the Planning and Zoning Code Relating to the Payment by a Developer of Engineering Expenses.

Ordinance 17-06: An Ordinance Enacting Section 1113.02(f) Setting Forth the Review of Each Preliminary Plat Plan by Various Department Heads.

Ordinance 18-06: An Ordinance Adding a Paragraph to Paragraph 5 on Page 60 of Section 1145.04 Pertaining to General Provisions for Conditional Zoning Certificate.

Ordinance 19-06: An Ordinance Adding Planned Unit Residential Developments as Conditionally Permitted uses in Zone R-2 Chapter 1161 of the Zoning Code.

Ordinance 20-06: An Ordinance Adding Planned Unit Residential Developments as a Conditional Use in R-3 Zones.

Ordinance 21-06: An Ordinance Amending Section 1165.01 to Provide that Density in R-4 Zones Shall be Limited to Eight Units per Acre.

Ordinance 22-06: An Ordinance Amending Section 1163.01 to Provide that Density in R-3 Zones Shall be Limited to 6 Units per Acre.

Ordinance 23-06: An Ordinance Deleting From the Planning and Zoning Code Section 1145.04, Paragraph 115, Subparagraph 6, on page 60.

Ordinance 24-06: An Ordinance Deleting Section 1185.02(c) Relating to the Restoration of Non-confirming Uses Destroyed by Calamity.

Ordinance 16-06: An Ordinance Amending Section 1133.06 of the Supplemental Requirements of the Planning and Zoning Code Relating to the Payment by a Developer of Engineering Expenses.

Ordinance 25-06: An Ordinance Amending the Ordinance Providing for Private Streets in Planned Unit Residential Developments.

Ordinance 26-06: An Ordinance Changing the Zone of an 18.126 Acre Parcel now Zoned B-1 to R-1.

DISCUSSION: Mr. Bogocius asked a question relating to Ordinance 23-06, deletion of paragraph 115, subparagraph 6. Mr. Workman stated what they were deleting that they shall consist of at least 20% and no greater than 35% single family and the rest must be connected or condo buildings. They were approached by several developers that those aren't selling and they would like to go with single family structures, which is better for the community. It will be up to the Planning Commission to decide what percentage of what goes into a development so they are not locked in.

Mr. Etheridge - Ordinance 16-06: Requirement for the City Engineer to bill the City and then the City bills the developer. He stated Schalmo was required to put up a payments bond to guarantee payment of his fees and it is due to be renewed. He stated they have been paying the money all along and he doesn't think anyone else was ever required to put up a payments bond. At the time, he did not know why he was being singled out but later he found out why and in view of this ordinance, he would like to have it released because it is due to be renewed again and he doesn't want to pay the fees. Mr. Workman stated this Ordinance would change this from happening in the future. Mr.

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Workman stated the release of this is not a Planning Commission issue. They would need to contact the City Engineer.

Mayor Grogan stated the City will contact the City Engineer regarding the issue and have him waive the fee before the renewal date.

Being no further discussion, the public hearing adjourned at 8:02 PM and reconvened to regular meeting.

THIRD READINGS:

Ordinance 16-06: An Ordinance Amending Section 1133.06 of the Supplemental Requirements of the Planning and Zoning Code Relating to the Payment by a Developer of Engineering Expenses. Mr. Crookston made a motion to pass Ordinance 16-06, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Ordinance 17-06: An Ordinance Enacting Section 1113.02(f) Setting Forth the Review of Each Preliminary Plat Plan by Various Department Heads. Mrs. Cihon made a motion to pass Ordinance 17-06, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

Ordinance 18-06: An Ordinance Adding a Paragraph to Paragraph 5 on Page 60 of Section 1145.04 Pertaining to General Provisions for Conditional Zoning Certificate. Mrs. Cihon made a motion to pass Ordinance 18-06, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

Ordinance 19-06: An Ordinance Adding Planned Unit Residential Developments as Conditionally Permitted uses in Zone R-2 Chapter 1161 of the Zoning Code. Mrs. Cihon made a motion to pass Ordinance 19-06, seconded by Mr. Deans. **ROLL: Yes, ALL.**

Ordinance 20-06: An Ordinance Adding Planned Unit Residential Developments as a Conditional Use in R-3 Zones. Mrs. Cihon made a motion to pass Ordinance 20-06, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

Ordinance 21-06: An Ordinance Amending Section 1165.01 to Provide that Density in R-4 Zones Shall be Limited to Eight Units per Acre. Mrs. Cihon made a motion to pass Ordinance 21-06, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

Ordinance 22-06: An Ordinance Amending Section 1163.01 to Provide that Density in R-3 Zones Shall be Limited to 6 Units per Acre. Mr. Cihon made a motion to pass Ordinance 22-06, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

Ordinance 23-06: An Ordinance Deleting From the Planning and Zoning Code Section 1145.04, Paragraph 115, Subparagraph 6, on page 60. Mr. Colaianni made a motion to amend Ordinance 23-06 to read: Paragraph 115, subparagraph 6 on page 59 and 60 and also amending section 1 to read, section 1145.04 on pages 59 and 60 shall be deleted from the code, seconded by Mrs. Cihon. **ROLL: Yes, ALL.** Mr. Crookston made a motion to pass Ordinance 23-06, as amended, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

Ordinance 24-06: An Ordinance Deleting Section 1185.02(c) Relating to the Restoration of Non-confirming Uses Destroyed by Calamity. Mrs. Cihon made a motion to pass Ordinance 24-06, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

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Ordinance 25-06: An Ordinance Amending the Ordinance Providing for Private Streets in Planned Unit Residential Developments. Mr. Crookston made a motion to pass Ordinance 25-06, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Ordinance 26-06: An Ordinance Changing the Zone of an 18.126 Acre Parcel now Zoned B-1 to R-1. Mrs. Cihon made a motion to pass Ordinance 26-06, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

CITIZENS COMMENTS Open Discussion (Five-Minute Rule)

Joan Stoble 1861 Locust Street: She inquired to why Patricia Trocelli no longer works for the City and we are paying over \$5,000. Mayor Grogan stated they can not go into the specifics of it and that she did resign. Any further comments would go to the Law Director. If she wants to know anything about Patty, she would either need to contact her or her legal advisor. The Law Director stated there is a settlement agreement which is public record that she may have.

She inquired about the status of the curbs by St. Philip and James. Mr. Dennis Mayberry stated they looked at it but he has not talked with anyone from the church. Mr. Cozy stated for Mr. Mayberry to look at the entire curb on that side of the street.

She wanted to know who is going to be taxed from the improvements at Discovery Park? Mr. Colaianne stated part of the money came from a grant and the other part of the money is budgeted from the general fund. He stated the land was donated and there was a commitment made five years ago to do this improvement. It will be ADA compliant. Mr. Schalmo donated the land.

Joanne Collins, 1615 Pauli Street: She has a question about open drainage ditches—do they have to be a certain depth or do you have to have a drainage pipe under your driveway. Some ditches have green stagnant water that has come out of a driveway and cannot get down to the next driveway. Mr. Mayberry stated he knows there have been some new drives put in that area without receiving the proper permit. Mr. Dennis Mayberry will look into the matter.

Paul Bogocius, 451 E. Cherry St: He stated he is going to introduce the “C” word because it was introduced in the paper over the weekend. Mayor Grogan stated “before he does, that was introduced in a different jurisdiction, another municipality. There are no cases or issues right now pending this body. If he wants to address it, please refer to it, where it is at, in the property and development, where it is at, because right now it is not an issue with Canal Fulton.” Mr. Bogocius stated, “however, Canal Fulton officials spoke to it. You spoke to it, and the President spoke to it”. Mayor Grogan stated “What we spoke to the press was that, however the press wanted to relay it, “was there is no issue with Canal Fulton. This is a private developer purchasing from a private citizen in a different area. Mr. Bogocius stated the paper spoke to a letter that was written by the Mayor, is that letter going to be made public. The Mayor stated the press has a copy of the letter. Mr. Bogocius asked “what the plans were “if” the company, person or persons approach the City?” The Mayor asked if he was asking this Council to project into the future something that has not hasn’t existed. Mr. Bogocius asked if anyone on Council, including the Law Director to the attorney that is now here, that they just hired, has anyone been in contact with the tribe or their representative beyond his letter.

Mr. Colaianne stated he has known Mr. DiPetro for twenty years. He is not in agreement with the way they approached the City and some of the inconsistencies in how they relayed things to this body, as well as the public, right now, as the Mayor stated, if the

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land is in the township, the City has nothing to do with it. He stated if they are approached and they do entertain something, just as the Mayor did prior, it will be above board and it will be out in the public for them to respond to it immediately.

Mr. Bogocius stated he wanted to make sure the conversation and information is real free flowing because he feels there was a perception of things moving so fast, so quick, it was almost a train ready to pull out of a station.

Mayor Grogan stated they had four readings, and if they wanted to do it quick they could have done it in one. They could have done it at the second reading. Normally, there are only three readings, but this issue had four. They had people from 10-20 miles away speak regarding this matter. Everyone from day one had the opportunity to speak, to the point where there was borderline criminal activity. They allowed everyone to have their turn to speak on more than one occasion. There was no fast train. If this private entity decides to come back to this community with their request, they will immediately open discussions once again. That is the way they have always operated and they will continue to operate that way.

Mr. Bogocius asked again if anyone has been approached since May 22, 2006, excluding the Mayor's letter. All answered no.

EXECUTIVE SESSION

Mr. Cozy stated he is requesting executive session for consideration of employment of a public employee or official. He would like to have Mr. Kincaid, all department heads, Mayor and Council. Possible legislative action. Mr. Colaianni made a motion to go into Executive Session for the purpose of consideration of employment of a public employee or official, with all elected officials and department heads currently present, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

REGULAR SESSION RECONVENED

At 9:04 PM, Mr. Deans made a motion to reconvene the regular session, seconded by Mr. Crookston. **ROLL: Yes, ALL.** Mayor Grogan stated they have placed Mr. Ferrebee as interim mechanic position until Civil Service has had the opportunity to review and put a test together. Mr. Colaianni made a motion to appoint Mr. David Ferrebee as interim mechanic as established by previous ordinance based upon the City Manager and Mayor recommendation, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

The Mayor stated to let the record reflect that they have received 99 applications for the position of Clerk of Council. The applications will be made available to all Council members to review. He would ask that they review them on the premises. Once they have been reviewed, the Mayor, Mr. Cozy and Mrs. Zahirsky will go over the final recommendations and try to narrow down the list.

ADJOURNMENT

Mrs. Cihon made a motion to adjourn. Mayor Grogan adjourned the July 11, 2006 City Council Meeting.

Mayor John Grogan