

CITY OF CANAL FULTON

September 5, 2006

COUNCIL MEETING

Mayor Grogan called the September 5, 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, Linda Zahirsky, Nellie Cihon, Tony Crookston, Victor Colaianni, Jim Deans and Diane Downing.

Others Present: Mark Cozy, City Manger, Dale Kincaid, Law Director, Ray Green, Fire Chief, Doug Swartz, Police Officer, Scott Svab, Finance Director, Dennis Mayberry, Street Superintendent; Eric Williams, Pelini & Associates; Bill Davis, Garnet Thomas, Tom Messenger, Bryant Combs, Spring Adamo, Bob Stopar, Paul Bagocius, Mike Mouse, Residents; Tom Reynolds, Intern; Fred Etheridge, Schalmo Properties; Joan Porter, Repository; Karen Nelson, Eric Nelson, Catherine Dean, Phyllis Mahaney, Mike Mahaney, Citizens.

CORRECTING/ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Cihon made a motion that Council accepts the August 15, 2006 City Council meeting minutes; seconded by Mrs. Downing. **ROLL CALL: Yes, ALL.**

REPORTS OF STANDING COMMITTEES

Finance Committee: Mr. Colaianni stated the Finance Committee met August 29, 2006. Overall of meeting included: Finance Director distributed estimated copies of the revenue for 2007. Mr. Svab estimated the revenue on the conservative side.

The debt service for the Police Department will be paid off this year. It was suggested to use the approximate \$100,000 as a reserve for Fire Department cost overruns. The department heads will be meeting with the committees to present their capital and/or other items. These meetings are public if anyone wishes to attend.

Approval was given for Council to consider placing an initiative on the May 2007 ballot to increase the City income tax to 2% with 100% credit. One of the key points is they would need to specify how the .9% increase would be appropriated.

CITIZENS' COMMENTS – AGENDA MATTERS - None

REPORTS OF ADMINISTRATIVE OFFICERS

SENIOR CITIZENS (Nellie Cihon)

September 23: Swiss steak dinner. Cost is \$8.00 for adults and \$4.00 for children. Dinner will be served from 4:00 p.m. to 6:30 p.m. Reservations are a must.

October 9: The Center will be making apple dumplings. They are \$1.50 each and can be picked up on October 11th. When ordering, you can specify if you would like them sugar-free.

October 3: Gambling trip to Wheeling. The cost is \$33. Each person will receive \$5 back in coin and a \$5 food voucher. The bus leaves at 7:30 a.m. and return at 9:00 p.m.

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COMMUNITY SERVICE (Phil Kaster) – Written Report

Based on the report of several community workers getting poison ivy, Mrs. Zahirsky made a recommendation the City purchase Zanfel, poison ivy cleanser. She recommended the name brand. This is an over-the-counter cream. The imitation version does not work.

FIRE CHIEF (Chief Ray Green)

Chief Green stated he spoke with the architect and they are finalizing the mechanical and electrical drawings. They are anticipating having the bid packages ready mid September.

Chief Green had a work session with Lawrence Township Trustees. They agreed to staffing the fire station an additional six hours during the day to provide better coverage. During the month of September, both stations are being staffed two firefighters/EMT's or firefighters/paramedics. In October there will have a rotating basis like the day staffing. The station will be staffed to midnight. Both departments will have an on-call schedule to cover from midnight to 6:00 a.m. This will save the city approximately \$2,000 a month.

Chief Green has two gentlemen that submitted applications to the department and he would like to recommend them as probationary members. Bryant Combs, who lives on Longview. He attended Stark State College and obtained his firefighter II certification and basic EMT certification. Thomas Nair, recently moved back to the area from Florida. His certifications are currently for Florida, but they are working on getting it converted to Ohio certification. He has his EMT card and firefighter II certification.

Based upon the Chief's recommendation of Bryant Combs and Thomas Nair, contingent upon the physical and a drug screening, the Mayor presented to Council that they confirm both of these gentlemen to probationary firefighters. Mrs. Zahirsky made a recommendation that Bryant Combs and Thomas Nair as probationary firefighters, subject to drug test and physical, seconded by Mrs. Downing. **ROLL: Yes, ALL.**

Cletus Heck, Lieutenant, has been hired full-time by the City of Canton. He has expressed concerns of not being able to devote the time needed for the Lieutenant's position. Chief Green would like to promote Ray Durkee to this position. Mr. Durkee is a full-time captain with Stow Fire Department. He is a firefighter II, inspector and a paramedic. One of his primary duties as lieutenant will be fire prevention bureau. He will coordinate inspections and follow through on re-inspections.

Mayor Grogan requested Council to accept Chief Green's recommendation to promote Ray Durkee to Lieutenant, replacing Cletus Heck. Mrs. Cihon made a recommendation to promote Ray Durkee to the position of Lieutenant, seconded by Mr. Deans. **ROLL: Yes, ALL.**

POLICE CHIEF (Presented by Doug Swartz) Officer Swartz distributed the August stats. Officer Swartz stated the Ford Taurus came in. The sticker price was \$21,000 and the department paid \$12,000. The car was used today. They had a report of area juveniles selling drugs to passing motorists. It is going to be a viable tool for the department and community.

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Officer Swartz advised Council there is a mediation session scheduled for September 12, 2006 at 6:00 p.m. in Council Chambers between Mr. Davis, his neighbors, a Schalmo representative, and Chief Frisone. The Chief is requesting a Council member be present. Mr. Crookston will attend.

ENGINEER (Bill Dorman) – Not Present

FINANCE DIRECTOR (Finance Director Scott Svab)

Mr. Svab reported that all departments have their budgets submitted. Mr. Svab distributed in council mailboxes last week the projected revenue for 2007. Mrs. Hiltbrand is compiling income tax scenarios using 50% credit and 100% credit and different rates. This should be available by next committee meeting. Included in the packet are the bills. There aren't any purchase orders for this meeting. Mr. Svab stated he will have a 2007 mock budget to use when meeting with department heads.

CITY MANAGER (Mark A. Cozy)

Mr. Cozy stated the City is in the process of applying for two grants, Ohio & Erie Canal Association Grant for the Canalway Center. This is a 50/50 matching grant which would provide a media center. They would then be able to display the history of the canalway and Canal Fulton. This would also include a DVD projector.

The other grant is an Open Space Preservation Grant from the Ohio Fund. This will include a donation of land to the City. They are still negotiating the price. Hopefully there will be a Resolution before Council this evening. A copy will be given to Council when the grant is complete. There will no cost to the City if the grant is obtained.

Mr. Cozy stated he had discussions today with Mr. Casey and Mr. DiPietro, representing the Eastern Shawnee Tribe. They faxed to him some information from the survey, which was distributed and available to anyone who wished a copy. Both individuals stated the tribe has no intentions at this time to annex any property into the city. They have been reviewing state statute and believe they have more autonomy and more control over the land if they stay in the township. There has been past discussion on them trying to annex land into the city and this is no longer the case.

Mr. Cozy asked for a recommendation for Discovery Park for bank stabilization. This needs done before work can commence on the walking track. Mr. Mayberry has recommended Unlimited Water Features to perform this work. The cost is \$7,000. Mrs. Zahirsky moved to approve up to \$7,000 for Unlimited Water Features for bank stabilization at Discovery Park for the City's portion of the park, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Mayor Grogan stated if media or anyone in attendance wanted a copy of the fax memo from Mr. Casey, more copies would be made after the meeting.

MAYOR JOHN GROGAN

Heritage Society: He received a request on behalf of Mr. Hatfield to appoint Mr. Dennis Downing as a representative to the Canal Fulton Historic Preservation Commission effective immediately. Mayor Grogan would like to submit to council the recommendation to appoint Mr. Downing. Mr. Colaianni moved to appoint Mr. Downing to the Historic Preservation Commission, seconded by Mr. Deans.

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Mr. Colaianni asked if there were any issues with Mrs. Downing already serving on the commission. Mr. Kincaid stated there is no issue. **ROLL: Mrs. Downing, Abstain; Mr. Deans, Mr. Colaianni, Mrs. Zahirsky, Mrs. Cihon, Mr. Crookston, YES.**

Zoning Board of Appeals: Mayor Grogan stated with the retirement of Dennis Mayberry on September 29, 2006, there will be a vacant seat on the Zoning Board of Appeals. Mr. Thomas Messenger has shown an interest in this vacant seat. Mayor Grogan made a recommendation to confirm Thomas Messenger to that seat. Mayor Grogan expressed that with Mr. Messenger being a former Mayor and his willingness to return and volunteer his time is very nice on his part and a great benefit to his character. Mrs. Zahirsky moved to appoint Mr. Thomas Messenger as a member of the Zoning Board of Appeals, effective September 29, 2006, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

PARKS & RECREATION BOARD (Fred Fleming) – Not Present

LAW DIRECTOR (Attorney Dale Kincaid) – No Report

EXECUTIVE SESSION

Mayor Grogan asked that Council convene into Executive Session. Mrs. Zahirsky moved to go into Executive Session for the purpose of the purchase of real, personal or tangible or intangible property and a conference with the Law Director or other retained counsel concerning pending or imminent court action. She is requesting the Mayor, Council, City Manager, Law Director, and Mr. Eric Williams, Outside Counsel, to be present, with possible action being taken, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

RECONVENE FROM EXECUTIVE SESSION

Mrs. Zahirsky moved to reconvene from executive session at 8:07 PM, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

THIRD READINGS - None

SECOND READINGS

Ordinance 30-06: An Ordinance Adopting the Residential Building Code of Ohio.

Ordinance 33-06: An Ordinance Amending Ordinance 10-06 Increasing Compensation for the Part-Time Income Tax Clerk.

FIRST READINGS

Resolution 33-06: A Resolution Approving the Repland Annexation.

Resolution 34-06: A Resolution Authorizing the City Manger to Apply Through the Clean Ohio Conservation Fund for Grants for the Tuscarawas River Floodplain Corridor Acquisition, and Declaring an Emergency. Mrs. Zahirsky moved to suspend the rules on Resolution 34-06, seconded by many. **ROLL: Yes, ALL.** Mrs. Zahirsky moved for passage of Resolution 34-06 under suspension, seconded by Mrs. Cihon. **Roll: Yes, ALL.**

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PURCHASE ORDERS & BILLS

No purchase orders

BILLS: \$98,262.96 Mrs. Cihon made a motion to reflect that Council has received the bills in the amount of \$98,262.96, seconded by Mr. Colaianni.

ROLL: Yes, ALL.

Mrs. Zahirsky stated that people say government wastes money but she wanted to point out that they spent almost \$3,000 on supplies for mosquito spray (\$2,736.00) and she doesn't feel that this was a bit of a waste of money. This is the first time in a long time that she has been able to go outside.

OLD/NEW/OTHER BUSINESS

Northwest Local School Flyer: Mr. Bagocius stated on behalf of Mr. Dennis Lambes, he wanted to know if the flyer could be placed in the city newsletter and they are also requesting it be placed in the township newsletter. Mr. Bagocius stated the committee for Northwest Schools would be willing to pay whatever expenses are involved for the insert.

Mr. Colaianni asked for the Law Director to advise Council on this issue. Mr. Colaianni asked, solely on his own opinion, does this open them up to having someone else coming in any paying to place an ad, does this put them in a position to having to say yes to everyone? The Law Director stated yes. Mr. Kincaid stated the flyer must have something on it stating it does not represent the position of City Council. We cannot discriminate against procedure or cause.

Mrs. Zahirsky stated a Personnel Committee meeting and a Public Service Committee meeting need to be scheduled for the appropriations next year. Mrs. Zahirsky moved that the Personnel Committee will meet on September 12, 2006 at 7:00 pm., seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Mrs. Zahirsky moved that the Public Service Committee will meet on September 15, 2006 at 9:00 am, for purpose of 2007 appropriations, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Mr. Crookston moved that the Safety Committee will meet on Wednesday, September 13, 2006 at 6:00 pm, for purpose of 2007 appropriations, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

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

REPORT OF SPECIAL COMMITTEES - None

CITIZENS COMMENTS Open Discussion (Five-Minute Rule)

Mr. Davis-Basswood Street: Mr. Davis discussed events going on at his residence and wants the issue resolved. He had a FBI agent from Chicago come to his residence and discuss the issue with him. Officer Swartz stated that mediation has been scheduled for September 12, 2006 at 6:00 p.m. at City Hall in Council Chambers. Mr. Crookston will attend on behalf of Council.

Mr. Fred Etheridge, 726 Tell Drive: He stated in July he came before Council asking for a payments bond to be released. He stated within the last few days he was led to believe that the bond would be released. He spoke with Mr. Cozy today, who stated Council was reconsidering release of the bond. Mr. Cozy stated he was under the impression that this was going to be brought up to the Public Service Committee's review. Mayor Grogan stated his concerns were to why we were holding one builder to certain standards than others. Mr. Cozy stated he did get a call from the bonding company and he will call them back and let them know they will be releasing the bond. Mr. Etheridge stated they have been developing in

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town since 1958 and have always paid their bills. They have never failed to pay anyone in 48 years. Mr. Etheridge stated they have paid about a quarter of a million dollars over the years to engineering. Mr. Colaianni moved to release the payments bond for Discovery Park 4 to Schalmo Properties, effective September 5, 2006, seconded by Mrs. Downing.
ROLL: Yes, ALL.

Michael Mouse, 406 Riverview: Mr. Mouse asked Mr. Cozy to help him out with what newspaper the article was in regarding Pelini & Associates as discussed at last meeting as he was unable to locate it. Mr. Mouse stated he learned Mr. Cozy was given a four year contract. He had concerns if the City were to get a new Mayor and having the current city manager locked in for four years, one which the new mayor may not be comfortable. He found this to be strange. He stated if you read it carefully that it looked like a golden parachute. He stated it was never discussed and he found out accidentally that it occurred. He asked Mr. Cozy if he had a contract at Plain Township. Mr. Cozy stated no. Mr. Mouse asked Mr. Cozy if he knew of any other place that give city manager's a contract like his. Mr. Cozy stated he got the contract council approved from the International City/County Manager Association website. Mr. Mouse asked if he knew of anyone in Stark County that has a contract like his. Mr. Cozy stated he would check into it. He stated if the City would part company with Mr. Cozy it was going to be expensive for somebody. Mrs. Zahirsky stated this Council voted to approve the contract and if future council members want to dissolve the contract, then they will pay the cost of dissolving the contract. He stated a deliberation discussion was missed. Mrs. Zahirsky stated Mr. Cozy chose to forego another position which paid more when he elected to accept the City position. She stated she is happy to have Mr. Cozy as City Manager and glad they signed him for a four year contract. She appreciates what he is doing. Mrs. Zahirsky stated it takes four votes to get rid of him. Mr. Mouse stated it is a tenuous position for a new mayor. He stated if it was continued upon Mayor Grogan being re-elected, if his contract was tied to that, he could understand it entirely. Mrs. Zahirsky stated whoever runs for Mayor would need to say they are going to get rid of the city manager and they are going to have to admit that they are willing to pay to get rid of him.

Mr. Mouse stated in the paper there was an article that read "Akron-Canton incomes decline from 2000 and Stark County down 90% from 2000. Mr. Svab stated he is happy to report the City's income tax collections at the end of August is up 5% from last year. Mr. Svab stated Canal Fulton must be the new Hudson in this area. Mr. Mouse asked why is it up. He stated maybe everyone is getting raises and more business. Mr. Mouse stated he would like to see this. Mrs. Zahirsky stated they don't have the right to view people's wages. Mr. Mouse stated it could be done. Mr. Mouse said they don't have the right to expose their information, but you have the right to find out.

Mr. Colaianni stated when he reviewed Mr. Cozy's contract, that throughout Ohio there are city and village managers that have contracts. He stated he was leery about it at first. He would be happy to share the list.

Mr. Kincaid stated the contract Mark has is also subject to the Charter and there are provisions which limit manager's tenure.

Mr. Cozy stated Mr. Williams, Pelini & Associates was present and could address Mr. Mouse's concerns about their hiring.

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Mr. Williams stated he worked with Mr. Cozy while at Plain Township. He stated shortly after his tenure with Plain Township ended, he began discussions with Mr. Cozy about potential opportunities in Canal Fulton, some of which have been realized. Mr. Williams stated he had several conversations with Mr. Cozy before any one from Lawrence ever contracted their office. He stated he has personally had zero conversations with any one from Lawrence Township about representing them. He stated the words he heard "Canal Fulton's stealing of Pelini & Associates", they were never retained by Lawrence Township. There was never any deal to represent Lawrence. The only person he ever talked to about representing the City of Canal Fulton or Lawrence Township was Mark Cozy. Mr. Mouse asked where he heard the stealing of Pelini & Associates. It was stated in the paper, public meeting and by Mr. Mouse.

Paul Bagocius, Cherry Street: Mr. Bagocius thanked council for the opportunity of the ad. Mr. Bagocius stated he has concerns with the fax/memo from Terry Casey. He stated it is given out piece meal and unless Mr. Casey is willing to give it all out, he feels it is piece meal information that would best suit his purposes. He would caution the press on releasing any information. Mayor Grogan clarified that Mr. Bagocius was talking about the fax/memo that city hall received today at 3:49 pm. He stated they shared the questions with the marketing department at the University of Akron and they have written letters. One comment by Dr. Owens was "they would therefore be leery of placing in truce the fiscal reliability of the responses generated" Dr. Hausknecht wrote", I would be skeptical about the interpretation of responses to questions past 1.03".

Mr. Bagocius asked Mr. Cozy concerning his conversation with Mr. Casey and Mr. DiPetro. He wanted to know what his sense was about what they were telling him. Mr. Cozy stated he felt they were just getting information. He states they still expressed an interest with working with the community. They want to work with us, but they have also indicated that they didn't see the need to do that at this point. Mr. Bagocius would like to share with Council at the next meeting an idea on how they can get this issue on the ballot. Mayor Grogan asked Mr. Bagocius if he would like an invitation to the Eastern Shawnees. Mr. Bagocius felt not at this time because technically there are no dealings with the tribe. Mr. Bagocius will get back to the Mayor if he wishes the invitation to be extended.

Mrs. Cihon stated she had heard Mr. Bagocius was planning a town meeting in town. He stated this is to bring everyone up to date and sharing what the tribes are doing. The location or time has not been set yet. She also asked about him bringing up secret meetings between Council and the Mayor. She wanted to know if he had any proof of such meetings. She expressed her concerns about this issue. He stated the secret meeting he was referring to was the meeting on July 26th in which the Mayor and Mr. Cozy attended. They were the only people who knew about the meeting. Council did not know about the meeting until two weeks later. Mr. Colaianni stated his issue with Mr. Bagocius calling it a secret meeting was that no state, federal or local law was broken. Mayor Grogan interjected and asked Mr. Bagocius if at this time if he was stating there was criminal activity that occurred. Mr. Bagocius stated he never insinuated that. Mayor Grogan asked if he believed there was the possibility of a criminal act that occurred on that date. Mr. Bagocius stated he never insinuated that. Mayor Grogan stated if he felt there was he would reclude himself from the meeting and allow the Law Director and everyone else proceed. Mayor Grogan stated when Mr. Bagocius says secret meeting and allude to things like that, the impression is given that there is illegal activity. Mr. Bagocius stated he is using the dictionary definition and if people want to use another

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definition, he can't be responsible. Mr. Colaianni stated he has received telephone calls and they translated it to be illegal activity. He told Mr. Bagocious he needed to be careful because nothing illegal took place. Mr. Bagocious stated he cannot be responsible how people interpret the English language when he uses it correctly. Mr. Cozy stated the problem is that he was accusing them of having a secret meeting. Mr. Bagocious stated the point was there was a meeting that went on with the tribe after a council member said all such meetings will be made available. Mayor Grogan asked again if he felt a criminal act occurred. Mr. Bagocious stated he already responded. Mrs. Zahirsky stated regarding secret meetings. She stated there will be times when Mr. Cozy and Mayor Grogan meet with builders or people coming into town who may be interested in starting a business in this town or a number of other reasons why these two people may meet with people that come into town. They are not secret meetings. She stated she is offended by anyone saying they are having secret meetings, just because this Council doesn't know about it. She agrees that Mr. Bagocious is accusing them of an unlawful act by saying that they are having secret meetings, and that perhaps he should read the yellow book that comes out, the Sunshine Law, before he makes any more accusations against anyone on this Council that has violated the Sunshine Law. Mr. Bagocious stated he would advise that they re-read what he has written and show him where he said council had a secret meeting. She stated it doesn't just have to be council. Mr. Bagocious stated "the Sunshine Law doesn't apply to a mayor by himself, I know that". Mrs. Zahirsky stated it does apply to the Mayor. It applies to him on what he writes, the letters that he writes and everything that goes on in his office and is covered by the Sunshine Law.

Karen Nelson, 6301 Chiltern: She stated she would be happy if they could go forward in the near future with the impact study. They all need to be educated. Mr. Colaianni stated his concern now is that since they have stated publicly, the tribe does not have intention of annexation and he feels her first stop needs to be with the township. There are things that they cannot do because of home rule law that they need to be aware of and address. It is his position that he does not want to spend city resources or commit elected or city officials to any additional talk on this matter until it is addressed by the township. It is in their jurisdiction now. He feels an impact study is good, but it needs postponed at this time.

Eric Nelson, 6301 Chiltern: He stated he disagrees with what Mr. Colaianni said. He stated he has lived here since 1968 and if you check back on history, what affects the township, will affect the city. He said he wouldn't be disassociating himself on what the Indians want to do in the township. It will come back and hurt the town. They are in this together as a citizen. He stated he feels a sense of hostility toward township residents. He said after last meeting it was overheard by someone that they were just township residents. Mayor Grogan stated he didn't know who made the comment, but as attested by other meetings, all who wanted to speak had their opportunity. Mayor Grogan stated after the previous four meetings they had on the casino, he was left with a sour taste in his mouth by the way people approached it and belittled council and administration and made accusations of being below board and everything else. It was like you couldn't appease. No matter what they did, it just wasn't enough. It deteriorated to such a point that even after four meetings, you just couldn't appease certain people, therefore they then allowed the city residents to conduct their business with the city and then if time allowed they would allow the township residents, not to exclude them.

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Mr. Nelson stated to have citizen participation by putting out a questionnaire when putting together the comprehensive plan. Mayor Grogan stated they have extended numerous invitations to meet with the township and they will continue to strive to work together. The door will never be locked to anyone when trying to develop this community. Mr. Nelson stated when the Mayor has time he would like to sit down with him and give him history of why the township has a fire department and it is because the township at that time was subsidizing Canal Fulton.

ADJOURNMENT

Mayor Grogan adjourned the September 5, 2006 City Council Meeting.

Tammy Luther, Clerk of Council

Mayor John Grogan