

## CITY OF CANAL FULTON

December 5, 2006

### **COUNCIL MEETING**

Linda Zahirsky called the December 5, 2006 City Council meeting to order at 7:00 PM in Council Chambers at City Hall.

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

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

*Others Present:* Mark Cozy, City Manager; Mark Stewart, Assistant Fire Chief; David Frisone, Police Department; Dale Kincaid, Law Director; Scott Svab, Finance Director; Tammy Marthey, Clerk of Council; Chell Rossi, Joni Stopar, Bob Stopar, Fred E. Etheridge, Fred Fleming, Dennis Downing, Don Schwendiman, Mike Mouse, City Residents; Trudy Leach-Shockley, Lawrence Township Residents; Sherri Brake-Recio, Haunted History Walks of Canal Fulton; Tom Reynolds, Intern; Joan Porter, Repository; Chris Pugh, Independent.

### **CORRECTING/ADOPTING THE RECORD OF PROCEEDINGS**

Mr. Colaianni moved to approve the November 21, 2006 minutes, seconded by Mr. Deans. **ROLL: Yes, ALL.**

### **REPORTS OF STANDING COMMITTEES - None**

### **CITIZENS' COMMENTS – AGENDA MATTERS**

Dennis Downing, Discovery CanalFulton.com: Mr. Downing spoke on Ordinance 39-06 relating to amending section 961-08(a), which now prohibits using intoxicating beverages in the parks. He gave an overview of the Canal Fulton Historical & Art Festival that is going to be held on August 18 & 19<sup>th</sup>, 2007, which he would like to be able to include wine and cheese tasting. He stated the objective is to generate revenue to the historic district and local businesses, Canal Fulton Heritage Society and the City. It would also help better define Canal Fulton's historical heritage and its offerings as a historical tourist destination and build partnerships with local organizations and businesses.

Mr. Downing stated the wine tasting would be in a paid admission area with a controlled perimeter with one main entrance and exit. There will be signs posted to state law.

There was discussion on the matter regarding alcohol in the park and if there were any liability issues for the City. Mr. Downing stated when he spoke to the state, he informed them it was going to be on city property and they told him it would not be a problem that cities do this all the time and that there is a provision in the state permit for the city to sign off on. Mrs. Zahirsky asked Mr. Kincaid since there would be paid admission if the city would have a problem with liability. Mr. Kincaid stated if it is paid admission and there is an injury, the city would then lose their immunity. He felt this could be dealt with by the event host obtaining a single issued liability permit. Mr. Downing stated he has already consulted with an insurance firm on that issue.

## CITY OF CANAL FULTON

December 5, 2006

Fred Etheridge, 726 Tell Drive: Mr. Etheridge stated he is personally against the ordinance. They are talking about a city park. He gave numerous other communities that do not allow alcohol in their parks. He stated we have a park where bicyclist from all over northern Ohio travel through, that we have never seen before and will probably never see again, and to have alcohol there and to have to segregate the park, is absurd. He would like council to deny this ordinance.

Don Schwendiman 207 River Road: Mr. Schwendiman echoed Mr. Etheridge's thoughts. He asked the police chief about how many people would be able to leave the event after tasting the wines for several hours and be able to pass a breathalyzer? The Chief responded that it wouldn't be any different than any establishment or any other of the businesses that have liquor permit that legally sell alcohol. There is a possibility that any one of their patrons could leave and not pass a breathalyzer. Mr. Schwendiman felt the city is attempting to promote this and people are going to leave the park that couldn't pass a breathalyzer test. Mr. Colaianni stated they are not attempting to promot anything, they haven't voted on the ordinance yet.

### **REPORTS OF ADMINISTRATIVE OFFICERS**

***SENIOR CITIZENS (Nellie Cihon) – None***

***COMMUNITY SERVICE (Phil Kaster) – Written***

***FIRE CHIEF (Mark Stewart-Assistant Chief)*** Mr. Stewart reported that Chief Green was absent due to his work obligation to his full-time position. Mr. Stewart reported that the new squad will be delivered on Thursday.

***POLICE CHIEF (David Frisone)*** The Chief distributed the call stats for the month of November. Total calls were 384. There was an armed robbery at Circle K. They have identified a suspect and he has been apprehended by the Akron Police Department and has confessed. The Canal Fulton police officers put this case together in a day and a half. The department participated in a DUI checkpoint on Rte. 21. There were 1,000 vehicles checked. There was only one DUI that was apprehended.

***ENGINEER (Bill Dorman)*** In Mr. Dorman's absence, Mr. Cozy reported that he received an email from Mr. Dorman regarding an opinion of a water sprinkler in the devil strip. It was the opinion of the engineer that piping for private lawn watering systems should not be permitted in the public right of way. The City or other utilities have no way of locating these systems or shutting them off in the event of an emergency excavation, which could be any time of day or night or when the residents are not home, and their installation has the potential to damage other utilities and curbs, etc. within the right of way. These systems are not regulated by the PUCO and would not be located by any calls to the Ohio Utilities Protection Service (OUPS).

Mr. Cozy reported that the ongoing problem they have had on Denshire with the storm water system is being fixed. The contractor has uncovered five or six crushed storm sewer lines from when the gas company installed their lines. One of the worst ones was downstream. The pipe was crushed and clogged and had a gas line running through it and backfilled. The water would fill up the pipe and surcharge backwards and blow out the seams, causing the sinkholes on various

## CITY OF CANAL FULTON

December 5, 2006

properties. The gas company has been out and they are going to pay to have them fixed.

Mr. Etheridge stated there is an ordinance that was passed three or four years ago stating the gas company must lay their lines outside of the public right of way leaving the right of way for storm sewer, sanitary lines and water lines.

**FINANCE DIRECTOR (Scott Svab)** Mr. Svab reported that income tax is 3% above collections from last year. He stated year to date they have collected \$1,189,000.00. He reported that Nancy Lawson and he attended a conference that discussed water and sewer relating to municipalities on rate increases and what one can do for asset management.

Mr. Svab stated the city received grant monies in the amount of \$7,000 from EMS Fire.

Mrs. Zahirsky stated they will be passing a temporary appropriation that will take them through the first three months of the year. This will allow them to have a better idea of the carryover. This is not unusual and cities do this frequently when they don't know what the carryover will be.

**CITY MANAGER (Mark Cozy)** Mr. Cozy reported on an article that appeared in the local paper today about a letter he sent to Lawrence Township Trustees regarding billing for the fire department. He stated he has not received a response from them yet. Mr. Cozy stated all they are doing is charging everyone for transport for EMS. They have not been charging the township and all that was asked of the township was how they want the city to go about it because they are going to begin charging everyone. Mr. Cozy stated when he worked in Plain when another department transported for them, they requested the bill be sent directly to Plain. He stated he will wait to hear something official from the Trustees on what they want to do. He stated it is all soft billing.

Mrs. Zahirsky reported there was a scheduled work session this past Saturday but they did not have a quorum present. They met to discuss what direction they want to go with the joint recreation project. She believes it is the consensus of the group that they look at doing a CEDA for this project. They will be meeting with the trustees on January 11, 2007 at 7:00 PM at township hall.

Mr. Cozy stated this is for the construction of a joint recreation center. It was discussed about the forming of a joint recreation board to oversee the project. He stated in essence what a joint recreation board becomes its own political subdivision, with the ability to impose taxes. There is no provision for any kind of revenue sharing and with a CEDA there is an opportunity for revenue sharing with the City and Township, plus Township Trustee and City Council can retain more control over the project.

**MAYOR (John Grogan)** – Not present

**PARKS & RECREATION BOARD (Fred Fleming)** Mr. Fleming reported that Discovery Park will not be completed until spring due to the wet weather and they are unable to do the paving. There will not be any extra costs involved because of the delay.

Mr. Fleming stated he has learned that Council has decided to not renew the YMCA contract and would ask that they reconsider their decision for at least one

## CITY OF CANAL FULTON

December 5, 2006

more year. He stated by them cutting the program it is only a savings of \$4,900.00. He stated they need to do more advertising of the program.

**LAW DIRECTOR (Dale Kincaid) - None**

### **THIRD READINGS**

**Ordinance 37-06:** An Ordinance Enacting Section 143.02 of the Administrative Code of the City of Canal Fulton Regarding Charges for Ambulance Services. Mr. Colaianni moved to table Ordinance 37-06, seconded by Mr. Deans. **ROLL: Yes, ALL. Tabled until 12-19-06 Meeting**

### **SECOND READINGS**

**Ordinance 39-06:** An Ordinance to Amend Section 961.08(a) Which Now Prohibits Using Intoxicating Beverages in the Parks.  
**Will Stand as Second Reading**

**Ordinance 40-06:** An Ordinance Increasing the Water Distribution Rates.  
**Will Stand As Second Reading**

**Ordinance 41-06:** A Resolution Donating 3.269 Acres of the Nichter Park Property to the Canal Fulton Cemetery Association.  
**Will Stand As Second Reading**

### **FIRST READINGS**

**Ordinance 41-06:** An Ordinance Amending Ordinance 05-06 Passed March 21, 2006 by Providing for an Additional Week of Vacation for the Chief of Police in Lieu of the One Percent Increase in Salary Which was to Take Place on September 1, 2006, and Declaring an Emergency.  
**Stands as First Reading**

**Ordinance 42-06:** An Ordinance Establishing the Position of Canalway Programs Director and Establishing an Annual Wage.  
**Stands as First Reading**

**Ordinance 43-06:** An Ordinance Amending Ordinance 34-05, and Providing for the Transfer of Funds Within Various Accounts for the Purpose of Paying Various City Obligations, and Declaring an Emergency.  
**Stands as First Reading**

**Ordinance 44-06:** An Ordinance Increasing the Number of Operator A Under Street Department from One to Two.  
**Stands as First Reading**

**Ordinance 45-06:** An Ordinance To Make Temporary Appropriations for the Current Expenses and Other Expenditures of the City of Canal Fulton, County of Stark, Ohio, During the Period January 1, 2007 Through March 31, 2007, and Declaring an Emergency.  
**Stands as First Reading**

### **PURCHASE ORDERS & BILLS**

**P.O. 4767** to Huntington National Bank in the amount of \$781,786.46 for Repayment of Note for Park Property (Puffenberger) for the Interest and

## CITY OF CANAL FULTON

December 5, 2006

Principal. Mr. Deans moved to approve P.O. 4767, seconded by Mr. Colaianni.  
**ROLL: Yes, ALL.**

**P.O. 4766** to Pfund Superior Sales in the amount of \$119,563.00 for Custom 2006 Lifeline Type III Superliner Ford E-450 Capacity and Mobile Transport Cot. Mr. Colaianni moved to approve P.O. 4766, seconded by Mrs. Downing. **ROLL: Yes, ALL.**

### **OLD/NEW/OTHER BUSINESS**

Mr. Downing reported on the holiday event. He stated it was very successful. A woman who lives in McDonalds, Ohio was the grand prize winner of the snow blower. They got a geographic idea of who visited from the raffle tickets. They had a 30% increase in revenue was generated, which was gauged by the raffle tickets. Raffle tickets were given to persons making purchases. There was over \$20,000 worth of retail revenue.

Mr. Downing stated the event went very well and wanted to thank the city for their support. The Park Board financed Santa Claus, the clown and volunteered their time.

Mr. Deans stated merchants that are not in the immediate downtown area would like to participate next year.

Mr. Deans reported that the meeting that was scheduled at Lawrence Township Hall for Wednesday, December 6 regarding the Farmer's Market has been postponed until January 4, 2007 at 7:00 PM.

Mr. Colaianni stated when he read the newspaper that he was offended by the Township Trustees statement of wanting to sever ties with the City. He feels this administration has done more than its fair share to address needs that they had concerns about reducing costs. He is concerned because we have two fire departments that work well together, and he feels by what the trustees have done is somewhat offensive to the firefighters and EMS/EMT personnel who strive to make this community safe. If the trustees chose not to cooperate, that is entirely their decision, however, he feels they are jeopardizing the safety of this community and if they sever ties the township residents are going to see an increase in the levies because they cannot operate currently on what they bring in from the levy. He stated for a good portion of the last year and a half, the City was doing the 6:00 PM to midnight staffing on the alternate weeks that we were not staffing full-time. In essence we were subsidizing the township fire operations for a tax that the township residents are currently paying. He is still committed to trying to resolve this matter.

Mr. Deans stated they can not do what they said in the paper. There is no way that they can handle it, with the budget they have. If they have an emergency and the City sends someone, they are going to get billed.

### **PUBLIC HEARING**

**Ordinance 36-06:** An Ordinance Amending the Planning and Zoning Code Section 1114.03 Entitled Fees for the Purpose of Expanding Open Spaces. Mr. Colaianni moved for passage for Ordinance 36-06, seconded by Mr. Deans.  
**ROLL: Yes, ALL.**

## CITY OF CANAL FULTON

December 5, 2006

This Ordinance will increase the open space fees from \$400 to \$600 per dwelling unit.

Mr. Schwendiman felt the fees should be higher because the fees have not went up proportionally as what the cost of lots are.

Mr. Mouse stated they understand what has happened in the past and because of the obscenely cheap rate. He stated he once heard someone stand up in council chambers and limit the fact that, we in Canal Fulton didn't have any park space because developer's chose to take and pay the obscenely cheap rate rather than donate land to the City and felt this was what Mr. Schwendiman was saying and wanted to echo his comments. He felt you could go a little bit until you get to what is fair and isn't fair we are getting close to what is fair.

### **OLD/NEW BUSINESS** (Previously Interrupted Due to Public Hearing)

Chief Frisone stated he researched parking meters as requested at last meeting. He stated they are not real expensive, some refurbished meters can go as low as \$190. Installation would incur an additional expense. There are pros and cons. He will do a fact sheet once his research is complete.

Mr. Cozy stated he has invited Mr. Eric Williams, Pelini and Associates, to attend the next council meeting to discuss the CEDA issue in detail as to what the city can and cannot do in the scope of the CEDA with the township.

**REPORT OF PRESIDENT PRO TEMPORE (Linda Zahirsky)** Mrs. Zahirsky stated she has requested approval to attend a seminar on January 12 and 13<sup>th</sup> in Columbus regarding a Mayor's Court in Canal Fulton and to see if we want to establish such.

Mrs. Zahirsky thanked her fellow councilpersons for attending Saturday meetings in November and December. They were very productive meetings.

### **REPORT OF SPECIAL COMMITTEES** - None

### **CITIZENS COMMENTS-Open Discussion (Five-Minute Rule)**

Fred Etheridge, 726 Tell Drive: Mr. Etheridge reported that Mrs. Thomas is very ill and currently a patient at Mercy Medical.

Mike Mouse, 406 Riverview St.: Mr. Mouse stated he wanted to encourage council to support Mr. Schwendiman and the Canal Fulton Cemetery Association in the proposal to transfer the land.

Mr. Mouse asked that Ordinances/Resolution have who is sponsoring them put back on them.

Mr. Mouse asked where the 3% increase in income tax revenue was from as opposed to last year? Mr. Svab stated they looked at it lightly and it is felt it is personal people's gross income that is steering the increase. It was stated that they have lost some business revenue. Mr. Mouse stated he keeps saying that they need to look at some strategies that would reveal what the income tax is doing, without revealing the information. He is sure this can be done. He knows this information is private but there are people who are allowed to look at the

## CITY OF CANAL FULTON

December 5, 2006

information and if they can look at it and analyze the information and provide some planning.

Mr. Mouse commented on the letter sent by Mr. Colaianni to the Township Trustees asking them to explore ways to cooperate and yesterday a city employee goes to the township before the end of the day with a letter from the City Manager telling them about an agreement that Mrs. Zahirsky, himself, Mrs. Downing and a former mayor agreed to. The reason Lawrence Township agreed to the agreement was the fact that they vigorously said they will do this providing our residents do not get charged for ambulance service. He stated it was said loud and clear, not once but twice-several times, we will agree "IF" our residents don't get charged. Then the letter states in the second paragraph "The purpose of this letter is to inform you that as of the year 2007, our recipients of the City of Canal Fulton ambulance services, no matter where they reside, will be billed for these services. He stated it doesn't ask, it doesn't say let's sit down and discuss this that we might like to change it, is simply imposes something for one person's perspective. He stated he doesn't feel this is in the spirit of cooperation. He stated first we annexed their property and now we tell them there is an agreement that we agreed to that we are no longer going to honor and that we are arbitrarily, without discussion, change the rules of the game.

Mr. Colaianni stated we aren't annexing their property, we are annexing the property owners property. It does not belong to the township.

There was continued discussion between Mr. Colaianni and Mr. Mouse.

Trudy Leach-Shockley, 10366 Stoneacre St.: Mrs. Shockley asked about the letter that was given to Lawrence Township Trustees regarding charging residents for ambulance services and wanted clarification on the matter. She stated they are already being taxed for the ambulance service. Mrs. Zahirsky stated Lawrence Township is not paying the city for this service and this is the point. She stated they were asked that they bill the township to recover the cost of what they are paying for the services and in turn they are asking the township to bill the city resident when they come in and transport our residents. Mrs. Shockley asked why didn't they just call a meeting requesting that they sit down and discuss the issue instead of sending the letter? Mr. Colaianni stated that was a valid question.

Mr. Cozy stated it was felt the past year they have been subsidizing the township. This is in no way to slight the personnel. He is very impressed with the Lawrence Township Fire personnel and Canal Fulton Fire personnel. They have the best part-time staff in the county. The interesting point is when the staffing was reviewed, the agreement was all lopsided on their favor at the expense of our own taxpayers. He stated he is a businessman and he is going to look at this township and they are going to run like a business. They need to be financially accountable to Council and financially accountable to there own citizens, that is his top priority. They have disparity in staffing, they had a staffing agreement in which they would staff together from 6:00 AM to 6:00 PM. They approached the township asking if they would staff with us from 6:00 PM to midnight. They had a lot of runs occurring and they needed to provide a better service for the citizens and the township said no, they don't need it. The City began staffing those hours for the city and then our department was making runs in the township during those hours and not charging a fee, the City was subsidizing the whole thing, seven days a week from 6:00 PM to midnight. They have been doing this for a year and a half. Mr. Cozy stated he called Mike

**CITY OF CANAL FULTON**

**December 5, 2006**

Stevens on the phone and asked the township to start staffing along with us. The conversation didn't go anywhere so he sent a letter telling them if they are not going to staff it, then we are going to start charging for runs from 6:00 PM to midnight. He stated one meeting later, they were staffing that shift. He stated he looked through all the agreements in place and he didn't see any agreements stating we agreed to not charge. He then brought this up to council and talked to Mike Stevens on the phone about it and didn't get a response so the letter was sent.

Mr. Mouse asked Mr. Cozy if he had asked Mrs. Zahirsky and Mrs. Zahirsky said the scenario that was described a few months didn't exist. Mr. Cozy stated no. Mr. Kincaid stated the City can't spend money on anything but Canal Fulton projects, this is our tax payers money.

There was further discussion between Mr. Mouse and Council regarding the above issue.

**ADJOURNMENT**

Mrs. Zahirsky moved to adjourn the December 5, 2006 meeting.

\_\_\_\_\_  
Tammy Marthey, Clerk of Council

\_\_\_\_\_  
Linda Zahirsky, President Pro Tempore