

**CITY OF CANAL FULTON
CITY COUNCIL MEETING MINUTES
December 18, 2012**

CALL TO ORDER

Mayor Richard Harbaugh called the December 18, 2012 City Council Meeting to order at 7:00pm in Council Chambers, City Hall, Canal Fulton, Ohio.

PLEDGE OF ALLEGIANCE

ROLL CALL

Mayor Richard Harbaugh, Council Members Paul Bagocius, Nellie Cihon, Danny Losch, Sue Mayberry, Scott Svab and Linda Zahirsky

Others Present: City Manager Mark Cozy, Fire Chief Ray Durkee, Police Chief Doug Swartz, Finance Director James Goffe, Service Director Dan Mayberry, Law Director Scott Fellmeth and Council Clerk Teresa Dolan.

Also Present: Rochelle Rossi, Terry Cyphert, Earl Minks, Sean VanDenberg, Victor Colaianni, Barb Schaeffer, Bob Schaeffer and Joan Porter

REPORTS OF STANDING COMMITTEES

Paul Bagocius spoke on the Safety Committee. The Committee had a meeting prior to the December 18, 2012 Council meeting. Items discussed included Dispatching from the Red Center, which Mr. Bagocius said there was legislation on the Agenda to pass and that the Committee recommended that the Resolution pass to dispatch fire and ems calls from the Red Center. Also discussed was increasing personnel to four, which the committee was in favor of. There would be a recommendation brought up in New/Old Business on the Agenda. Mr. Bagocius said that the committee discussed a living together arrangement with Lawrence Township. The committee recommended that a committee be formed to meet with Lawrence Township to work out the details.

Also school safety issues were brought up. Chief Doug Swartz was in attendance and spoke on the current procedures that are in place with the schools in regards to safety and lock downs.

Sue Mayberry stated that she would be asking at a later point in the meeting to schedule a Public Service Committee Meeting.

CITIZENS' COMMENTS – AGENDA MATTERS (Five Minutes per Individual – No Yield)

Mr. Victor Colaianni, 720 Redwood, was in attendance and spoke to Council on funding for a School Resource Officer. He asked why there was not money budgeted for that in light of the recent news. He thanked Mr. Goffe for getting him requested information in a timely manner and asked Chief Swartz if there was funding requested for a resource officer in 2013. Chief Swartz thanked Council for the staff that has been recently put in place. The staff is not able to include a full time officer at the schools at this point and we are just now up to the staffing that we had in the past. Chief Swartz did assure those in attendance that every measure is being taken to ensure the safety at the schools. There are drills that are practiced on a regular basis as well as meetings with school personnel to adopt procedures on safety and disasters. Mr. Colaianni said he would still encourage us to consider it.

CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

December 4, 2012

A motion as made by Nellie Cihon to approve the December 4, 2012 meeting minutes, Second by Scott Svab.

Sue Mayberry commented on page 5 at the bottom, third line up. Mrs. Mayberry asked what Mr. Cozy's opinion on what the legislation as it sits. Just for clarification, and she checked on her recording, Mrs. Mayberry would like it to read "as it sits right now, not as

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amended, the way it is right now versus Mr. Bagocius' amended version". Mrs. Mayberry would like to add that portion.

And clarification on six paragraph up from the bottom. Mr. Cozy asked what the hit would be to the general fund if it was \$65,000. Mr. Bagocius said yes over five years. She was just curious as the content did not seem accurate there she thought it was missing something. Mr. Bagocius stated just the conversation as he recalled it was that \$65,000 figure coming out of the general fund was mentioned and he wanted to clarify that it wasn't coming out for one year, it would come out over a period of five years. Mrs. Mayberry said alright.

On page nine the last sentence in the third paragraph, Sue Mayberry said then an email will work. It was just a typo to fix.

Paul Bagocius stated that he wanted to clear on page five also the dollar amounts are correct on the second paragraph of Ordinance 28-12. The dollar amounts are correct for the increases; however the last sentence that is basically \$1.50 increase for one, \$1.20 increase for two, \$1.50 increase for three and \$1.00 increase for four. Mr. Bagocius said he had communicated with Teresa Dolan over the internet and he thought he had that in there and perhaps he didn't. Mrs. Dolan said she changed what she had from him and she would change it to. \$1.00 increase for one which was correct, the next one should be \$1.20 increase for two, \$1.50 increase for three and \$1.00 increase for four.

All members voted in favor, motion approved.

REPORTS OF ADMINISTRATIVE OFFICERS

Senior Citizens- No Report

Community Service Coordinator- Monthly report included in Council Packet.

Fire Chief- Monthly report included in Council Packet.

Fire Chief Ray Durkee said there would be some things presented by Mr. Bagocius under Old/New Business that were presented at the Safety Committee meeting. He also highlighted a building fire that they had which was a dryer fire at Echoing Ridge. The township fire department was first to respond and there was mutual aid with Lawrence Township. It was only a \$500.00 loss. There was also assistance provided by the Police Department in helping to evacuate people to an area of safety during the event. It was a good effort by all.

Danny Losch asked Chief Durkee to share information about the Red Center and if it is equivalent to Centcom. Chief Durkee said it was his understanding that it was and that the technology was better for operability with our Police and Fire departments with less confusion to application. The Cost will be about \$6,000 additional per year and there will be some offset to that. Chief Durkee stated he believed that this would be safer for the citizens and the Fire Department personnel.

Police Chief Schwartz also was in favor of the change to the Red Center and commended the Fire Department for the research in looking into it. Seconds are valuable when it comes to disasters. With both departments being on the same channel with the same dispatchers, no price tag can be put on that. He is fully in favor of it.

Police Chief- Monthly report included in Council Packet. Chief Swartz stated that with the assistance of Lawrence Township Police a search warrant was issued inside the City Limits. It is still under investigation and the Chief said he was expecting charges to be filed on the homeowner. He could not elaborate any more on it right now. Some community members were aware of the situation and the Chief wanted to make Council aware. There will be a press release on what it was about. The focus is on drugs. In reference to Mr. Colaianni, Chief Swartz thanked him for expressing his concern. Chief Swartz said that the Police Department has teacher in service training where officers talk to teachers. Lock down drills have been developed. Drills are practiced. There is a presence by the Police Department

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at those drills. One great thing that has been done has been the alignment with the Canton Regional Swat team. They will be here to assist, but they are training our department on tactics on response for the school. The training is conducted at the school. We have a great repore with the schools and all of our officers have access to every school building along with interior door access also. Council members commended the Chief and the Police Department on the progress in this matter. Mayor Harbaugh asked if the Red Center dispatchers still had the ability to ride along with our officers. Chief Swartz said yes. If a new dispatcher comes in they ride along so that they can get comfortable with the area and put faces with names.

Engineer/Streets/Public Utilities- Dan Mayberry reported on the City receiving notification from the Ohio Department of Natural Resources that we had been conditionally awarded \$9,790.00 for the renovation of the Mulhauser Parke Tennis courts. The total project cost is \$13,035.00 so the City will have to come up with \$3,235.00.

Linda Zahirsky asked about an ordinance that had to do with bonds for sidewalks. Mr. Mayberry said that this was a recommendation of the City Engineer that the City Council accept improvements to that subdivision and to date the sidewalks have not been conducted on the vacant lots in that subdivision and Mr. Schalmo has been asked to continue a bond on that work.

Finance Director- James Goffe spoke on the renewal of Health Insurance. As of right now the City is still waiting on quotes back from brokers. Additional appropriations will be needed.

Mr. Goffe also said that the budget legislation was on the agenda for a third reading this evening. Supplemental appropriations in addition to what is in the budget legislation are the Wooster Street storm water project, the Senior Center roof, and the tennis court resurfacing. The additional appropriation for Fire Department dispatching would also be needed. Council was asked if they would like Mr. Goffe to prepare legislation to bring to Council or the Finance Committee first. Council said they would like to bring it to Council.

Danny Losch also asked for a cost to deliver doorknob tickets and our billing. Mr. Goffe said the postage cost is the same as a postcard for the tickets and are dropped off by our utility crew workers when they are doing meter readings if they are unable to access the meter. Mr. Goffe said he would get back to Danny Losch on the full cost of the billing.

City Manager- Written Report was included in the Council Packet. Mark Cozy spoke on the Water and Sewer petition for the property owners on Locust Street. Mr. Sean VanDeburg was present as a property owner who initially wanted sewer at the Plaza. Mr. Cozy hoped to get the petitions back in a week or so. Estimated cost from the Engineer is \$41,000. Dan Mayberry stated that we would want to upsize the line from 8" to 12" pipe. Mr. Mayberry said the purpose of giving a cost on an 8" pipe is what would be required. The possibilities of further extending the lines would be best with a 12" pipe. Mr. Cozy said essentially the total cost to just provide the service is \$821,240. To upsize the pipe to 12" would be \$879,960. Mr. Dorman will be present at the next meeting to discuss the project further.

Mr. Cozy also stated that he had initiated the process to switch building departments.

Report of Mayor- No report.

Paul Bagocius asked about the City Manager's report about the GeoPhysical Seismic Survey and concerns about the bricks on Route 93 and the bricks being fragile. Mr. Cozy said that there will not be any damage to any road, and you should not feel it in your home. That is what he is being told. Mr. Cozy had not heard back from the company as of yet. Mr. Bagocius said to proceed slowly on it due to the century homes.

Mrs. Mayberry stated that there was an article in the Akron Beacon Journal regarding the same thing. People in nearby areas heard and it made a lot of noise. Reading the article it seems like it is noisy and people know that something is happening.

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Scott Svab asked Sean VanDeburg if he had an opportunity to talk to any of the adjacent property owners in favor of the project. Mr. VanDeberg said he had been working with Tim Gesseman and they are both talking to the neighbors. There is definitely the 51%. Mr. Svab said he would like to see that project go forward.

Parks & Recreation Board- No report.

Law Director- Scott Fellmeth stated that the change of building departments had been started and Mr. Cozy sent a letter to Stark County Commissioners today that we wished to enforce Article 4 of our contract signed March 2nd, 1971 to terminate a relationship with Stark County. Mr. Fellmeth said he was hoping to get a response. He will proceed with the direction of Council to do the legal work to change it.

Mr. Fellmeth said he had a letter from the Lawrence Township Trustees in regards to the sale of the old Lawrence Township Garage which is located on 640 S. Locust Street. The property is zoned residential right now and the Trustees have asked the opinion on the zoning. Mr. Fellmeth said in his opinion it is residential. If they sell the property it has to be for residential use not for commercial. The reasons being the building used to be a commercial building 35 to 40 years ago. It is a legislative, municipal building located in a residential area, therefore they are exempt. Government use is exempt, however when it ceases to be used for a governmental purpose it goes back to being zoned residential. If they want to sell it has to be for residential use not commercial. Mr. Bagocius asked if the property could continue its present use if purchased by a municipality. Mr. Fellmeth answered yes. If a municipality would purchase the property it would be grandfathered in and it would continue its use

Mr. Bagocius asked if there was any progress on the suit by Mrs. Danzy that was filed. Mr. Fellmeth said no not at this time. They have not asked for any further information and Mr. Fellmeth will keep Council informed.

THIRD READINGS

Ordinance 39-12: An Ordinance to Authorize Appropriations for the Current Expenses and Other Expenditures of the City of Canal Fulton, County of Stark, for the Fiscal Year Ending December 31, 2013.

A motion was made by Linda Zahirsky to approve Ordinance 39-12, second by Nellie Cihon.

Mrs. Mayberry did make a comment about making a motion on amending the ordinance in regards to the Locust Street intersection project for \$315,000. Because of the questions of the layout of the project she felt that we should put into the reserve fund until we have more information on the intersection project. Mr. Goffe said that would exceed the amount that we could legally put into the reserve fund. There are other types of reserve funds that we could create. Mrs. Mayberry is not comfortable with this budget with that amount of money designated to that intersection without having more information on the makeup of the intersection and what we were going to use to improve it. Mr. Bagocius seconded the motion. Mr. Goffe said what he was hearing in the motion in establishing a reserve to leave in the General Fund carry over. Mrs. Mayberry said the General Fund but not designate it to the intersection. Mr. Bagocius said what he had picked up from Mrs. Mayberry was could we establish a reserve fund. Mr. Goffe said yes we could, but we would still have to amend the budget. The fund would be a capital accumulation fund, which the project would have to be designated for that. That money would have to be used within ten years of that project. We would have to go through the legislative process to establish that fund. Mr. Svab said he would argue not to do this at this time because it would create a lot of undue hardship on the Finance Director as well as have to set another County Appropriation measure for estimated revenues. Mr. Svab saw Mrs. Mayberry's intention was that she wanted to hold off, but merely by passing the appropriation measure does not mean that we are locked in to spending that money for engineering. Mrs. Mayberry asked if that was the case. Mr. Svab said we still had to go through the process of the bids and we could kill the project at

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any time with a majority. Mrs. Mayberry said she was not comfortable and that is why she said that. Mr. Fellmeth said we could kill it at any time. The money has been appropriated but you have not decided to spend it yet. Mr. Cozy said Council would be involved in the selection process before they would even spend the money. Mrs. Mayberry said thank you and she understood, she just had a lot of questions about the intersection. Mr. Svab said he did too with the cost.

Mr. Goffe said he had to point out a typographical error that was just brought to his attention. On A-2 at the bottom the capital cost for the general capital improvement fund where it says Street Department it should say Fire Department and the Fire Department should say Street Department.

The motion made by Mrs. Mayberry was rescinded and Mr. Bagocius rescinded the second.

A motion was made to amend the error on Page 2 where it reads Capital Costs Street Department, it should say Capital Costs Fire Department and where it reads Capital Costs Fire Department it should read Capital Costs Street Department by Mrs. Mayberry, second by Linda Zahirsky. All Council Member voted yes, motion approved.

A motion was made by Linda Zahirsky to approve Ordinance 39-12 as amended, Second by Nellie Cihon. All Council Members voted yes, motion approved.

Resolution 30-12: A Resolution Establishing the Budget for the City of Canal Fulton, County of Stark, Ohio, for the Fiscal Year Ending December 31, 2013.

A motion was made by Nellie Cihon to pass Resolution 3-12, Second by Linda Zahirsky. All Council Members voted yes, Motion approved.

SECOND READINGS

Ordinance 40-12: An Ordinance amending the Codified Ordinances of the General Offenses Code of the City of Canal Fulton, Ohio to amend Chapter 509.09 deleting excessive noise from vehicles and creating noise-making and noise-amplifying devices and repealing any ordinances in conflict therewith.

Mr. Bagocius asked Scott Fellmeth currently do the Police have the authority to issue citations for things that our loud without any amplification, such as just yelling or shouting. Mr. Fellmeth said no. Danny Losch said he thought that fell under disorderly conduct. Mr. Bagocius stated he wanted the Law Director to rule on that. If we don't have anything on voices alone, we should modify this to possibly include that. Mr. Fellmeth said he would not push that. Mr. Fellmeth said that amplification devices are different. He would not want to put himself into a constitutional quandary where he is trying to judge the level of people's voices. Loud parties are really easy to shut down. The Police just show up and that shuts them down really quick.

Ordinance 41-12: An Ordinance amending the Codified Ordinances of the Zoning Code of the City of Canal Fulton, Ohio to amend Chapter 1181.02(d) and 1181.02(e) Permitted Signs and repealing any ordinances in conflict therewith.

FIRST READINGS

Ordinance 44-12: An Ordinance by the Council of the City of Canal Fulton, Ohio accepting Public Improvements for Discovery Park Phase 2.

Resolution 31-12: A Resolution by the Council of the City of Canal Fulton, Ohio to enter into an agreement with the Board of Trustees of Local Organized Governments in cooperation for dispatching services. To be passed by emergency.

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A motion as made by Linda Zahirsky to suspend the rules for passage of Resolution 31-12, second by Nellie Cihon. All Council Members voted yes, motion approved.

A motion was made to pass Resolution 31-12 under suspension of the rules by Linda Zahirsky, second by Nellie Cihon. All Council Members voted yes, motion approved.

P.O.s

P.O.7551: to Watchguard Video Inc. for the purchase of a car camera system for 2013 Dodge Charger Cruiser in the amount of \$5,055.00

Mr. Bagocius asked if the old car camera could be used for the new cruiser. Chief Schwartz said no due to its age.

A motion was made by Nellie Cihon to pass Purchase Order 7551, second by Scott Svab. All Council Members voted yes, motion approved.

BILLS: November - \$336,518.10

A motion was made by Scott Svab to approve the November Bills in the amount of \$336,518.10, second by Nellie Cihon. All Council Members voted yes, motion approved.

OLD/NEW/OTHER BUSINESS

Sue Mayberry thanked Mayor Harbaugh for being in attendance at all meetings. Scott Svab noted that he had been to all meetings too.

Mr. Bagocius stated that at the last Council meeting to grant foreign service credit to both the Clerk and the Finance Director. A question has been raised to whether vacation time in the question of the Clerk can be taken immediately or would have to wait a year because of our ordinance. He brought that to the attention of the Law Director and would like a ruling on that. Mr. Goffe said that when he read the codified section prior service would be added to the years you have. Scott Fellmeth said please send the ordinance to him. The intent of the legislation drafted was to make it immediate. Both the Clerk and the Finance Director would be stepped up to have additional vacation time. If there is a question in the ordinance in which you have, send it to him. Mr. Fellmeth stated that he thought it was the intent of Council to make it immediate. Mr. Losch, Mrs. Zahirsky and Mrs. Cihon said yes. Mrs. Zahirsky said yes, that the Clerk said she did not want the Clerk taking three weeks of vacation September 1st. Mrs. Mayberry stated that was not the point. That was not the issue. Mr. Fellmeth again asked that the ordinance to be sent to him, his understanding was to grant it immediately upon passage. Mr. Goffe stated that he saw it as 30 days after the December 4th meeting is January 3rd. Mrs. Mayberry said but yes, if you are still on probation how can you take anything until you are fully appointed.

Mr. Bagocius said Mrs. Mayberry had mentioned about getting a Public Service Committee meeting scheduled. Mr. Bagocius wanted to add to things to it. One to discuss the sewer, because a couple members of Council wanted to look into reducing the expenditures in the Sewer Department. Even though Mr. Losch is not a member of that committee, Mr. Bagocius said he hoped that he would attend that meeting when it is scheduled because Mr. Losch was one of the ones that were talking about it. Mr. Bagocius also wanted to discuss the sidewalk issue along Locust Street. Mr. Goffe asked if that committee should also be addressing the possibility of expansion of the water and sewer lines. Mrs. Zahirsky said the new committees will be set at the first meeting. You will not know until the second meeting who the committees are. Mr. Bagocius stated that the meeting could still be scheduled. Mrs. Cihon said the new committee chair could schedule it. Just to wait until after the first meeting. Council agreed.

A motion was made by Paul Bagocius to hire a fourth person from 6:00am until 6:00pm on a trial basis for three months to be evaluated by the Safety Committee at the end of the three month period for the Fire Department, second by Sue Mayberry. All Council Members voted yes, motion approved.

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The highlights that were explained by Chief Durkee were that there is no additional cost to the City. We get more simultaneous calls that we need to staff for. It's not actually hiring a fourth person it is just staffing a fourth person. It will enable us to staff during the peak times, we can transport life support calls with two people, and a second call will be able to be handled. We can also bring staffing up to support an ALS ambulance. If two people are on an ALS call there is one to man the station here to keep an eye on the City.

A motion was made by Paul Bagocius that Council authorize the formation of a City committee of Mark Cozy, Chief Ray Durkee, Mr. James Goffe, Mrs. Linda Zahirsky and Mayor Richard Harbaugh to meet with Lawrence Township to discuss a living together arrangement for fire departments, second by Danny Losch. All members voted yes, motion approved.

Mayor Harbaugh stated he thought it was a good thing to send a letter so that they would advertise if such a meeting would take place. Mrs. Mayberry said all township trustees should be present and aware. Chief Durkee stated that this would form a steering committee to bring discussion back to Council.

REPORT OF PRESIDENT PRO TEMPORE

Paint the Town – Danny Losch stated that the program went very well and sold about \$30,000 of product under the plan to Sherwin Williams. He would like to see the City and Township participate in the program again in 2013.

A motion was made by Danny Losch for the Law Director to prepare legislation for the Canal Lands Annexation 2, Second by Scott Svab.

Mr. Fellmeth said new legislation would have to be prepared for it. This is a motion for Mr. Fellmeth to prepare legislation. Mr. Fellmeth said the legislation was killed in the prior vote. It would need to be reintroduced and council would have to have three readings on it. Mr. Bagocius said he hoped before the legislation is prepared that it go through a committee so that we do a cost analysis on what are the costs, what are the benefits, so that when a vote was cast there was some hard data, opposed that it is just a good thing to do. Mr. Fellmeth said he believed that most of the information was available. Mr. Bagocius said that he believed a cost analysis was never done and he thought it would be prudent. Mr. Losch said by all means it could go through committee but he wanted the Law Director to go ahead and prepare legislation. Mr. Cozy said that a surveyor would have to be hired to mark the street that we would be maintaining. Mr. Cozy said there would be some cost. Mr. Losch said he did not want to see any more work go into the project that has already been done. Mr. Cozy said there was not a benefit analysis done and to do what Mr. Bagocius was asking was going to cost the City money to stake the roadway so that we could go out and see it and then do our analysis. Mr. Bagocius said that was not his intent. His intent was based on the information they currently have for the road or service director to go out and say based on what we see with what is in place you can expect a range of cost to the City. He was not looking for a penny analysis. Mr. Fellmeth said the appropriate thing to do was to establish where the annexation is going to take place, what would be in the City and do the analysis here. Mr. Bagocius asked Danny what the motion is. Danny said the motion was to prepare legislation for the Canal Lands Annexation 2 and it can go through subcommittee. Mr. Bagocius stated that he could prepare it; it would go to committee before it would go to Council. Mr. Svab stated that the whole legislation piece was done before, that we had pulled it because, Mrs. Mayberry interrupted and said it was incorrect. Mr. Losch said it was in hope that collaboration and economic development conversation with the Township at the time. It has not happened at this time. It has been so long that it has turned dead and stale. Mrs. Mayberry wanted to know what the rush is. Mr. Losch said if we already have it in place, let's move forward. The motion is on the table. Mayor Harbaugh wanted to know where Canal Fulton would profit from this. Mr. Losch said the City would create a whole new working relationship with Stark Parks, the park would be extended. We would also be joining with another community, Jackson Township and the possibility of working with a whole new enterprise. It opens up a lot of opportunity for Loch 4. The Loch would be in the City. Scott Fellmeth said it would create a border to allow us to connect with our Waste Water Treatment project and the Dog Park.

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The vote was as follows: Danny Losch – yes; Linda Zahirsky – yes; Scott Svab – yes; Sue Mayberry – no; Nellie Cihon – yes; and Paul Bagocius – no. Motion passes.

REPORT OF SPECIAL COMMITTEES – None.

CITIZENS COMMENTS – Open Discussion (Five Minute Rule)

Victor Colaianni, 720 Redwood stated that he felt that this Council was not farther along than they were four years ago. He feels that Council's performance does not match up and that they should make a resolution to benefit the City economically and have cooperation with the township. He said talk is cheap and action is required.

ADJOURNMENT

The meeting was adjourned at 8:38.