

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 101-48

Held 12-17

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CITY OF CANAL FULTON CITY COUNCIL MEETING MINUTES

December 17, 2013

CALL TO ORDER

Mayor Harbaugh called the meeting to order at 7:00pm

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Others Present: Police Chief Doug Swartz, Assistant Fire Chief Ray Green, City Manager Mark Cozy, Finance Director William Rouse, Service Director Dan Mayberry, and Council Clerk Teresa Dolan.

Others Present: Chell Rossi, Earl Minks, Joan Porter, Bud Graham, John Barkan, Ronald Michalec, Charlie Bowman and James Deans, Sean Craney

REPORTS OF STANDING COMMITTEES

No Reports.

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

CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

December 3, 2013

A motion was made to approve the December 3, 2013 meeting minutes by Linda Zahirsky, second by Nellie Cihon. Paul Bagocius and Danny Losch abstained from the vote. All other Council Members voted yes. Motion approved.

REPORTS OF ADMINISTRATIVE OFFICERS

Senior Citizens – No Report

Community Service Coordinator - Report

Fire Chief - Assistant Fire Chief Ray Green was in attendance. Assistant Chief Green stated that the department assisted North Lawrence on a structure fire. One of our fire fighters was sent to the emergency room with cardiac symptoms. He was sent home and will be returning to work within a week.

Police Chief – Police Chief Doug Swartz announced that Patrolman Jesse Claar had resigned. The Chief asked for an executive session to discuss employment of an officer.

Officer John Barabasch has been nominated for the Officer of the Year.

Officer Sara Wilson upon investigating a vehicle break in, was lead to a plot to commit aggravated murder. Officer Wilson has gone above and beyond. She was able to help in saving a life. SWAT, Canton and Canton City also were involved in the investigation.

Engineer/Streets/Public Utilities – Service Director Dan Mayberry stated that the Resolution 28-13 needed to be passed under emergency to pass purchase order 8080. Purchase order 8089 is to reinforce roof trusses at the Waste Water Treatment Plant. Mr. Mayberry stated that he asked for three quotes and only received one. He said he believes that the price is good for the work

Finance Director – Finance Director William Rouse included a written report in the packet. The year to date income tax collected is holding steady with one percent increase compared to 2012.

Mr. Rouse reported that we are trending higher at this time with fund balances.

Mr. Rouse reported that Councilman Scott Svab had asked for a breakdown in telephone costs. Mr. Rouse said in the breakdown we are decreasing costs each year. Mr. Rouse said we are saving some money but feels that more could be saved.

The November bill listing is higher than typical, with the reason being debt payments and special year end payroll.

A motion was made to accept the November Financials by Linda Zahirsky, second by Nellie Cihon. All Council Members voted yes. Motion approved.

City Manager – City Manager Mark Cozy reported that gentleman from EDDS were here for questions in regards to the legislation for the police study. Charlie Bowman, Ron Mihalic and John Barkan were in attendance and presented information on a police consolidation study. They would like to start the study in January, thus the need for emergency approval. Linda Zahirsky asked if they had looked at the study that was done with the prior Chief. They have looked at the study.

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Law Director Scott Fellmeth stated that there was no need to pass under emergency and that this should maybe go to the Safety Services Committee.

Police Chief Doug Swartz asked what the deadline was for the project. Mr. Cozy stated that it would take two years for the project to be completed.

Paul Bagocius stated that he would like to approve tonight and move forward with the study.

Mr. Cozy also stated that the grant for tornado sirens had been approved. He is assuming the city portion will be up front. Mrs. Zahirsky asked if that was in the budget for this year. Mr. Cozy stated that it would be in the 2014 budget.

Mr. Cozy stated that the OPWC Grant for Locust/Cherry was not granted. The engineering plans were not complete. We have one more chance at the grant in September. We will move forward and apply again.

Report of Mayor – Mayor Harbaugh read a letter to Sam Wilson for acknowledgement and support for plans for a proposed Veteran's Memorial in Mulhauser Park based on the recommendation of the Park Board. There were no objections to the letter.

Parks & Recreation Board – No Report

Law Director – No Report.

Paul Bagocius asked about the Michael Mouse lawsuit. Mr. Fellmeth said at this time nowhere. Mr. Fellmeth stated that the lead council will contact him if there are any changes.

THIRD READINGS

Resolution 26-13: A Resolution by the Council of the City of Canal Fulton, Ohio to enter into an Agreement with the Stark County Regional Planning Commission for the Purpose of Updating the City's Zoning Ordinance.

A motion was made to approve Resolution 26-13 by Scott Svab, second by Linda Zahirsky.

Sue Mayberry stated she would vote yes if there was an approve to form on the contract. If not, she would vote no.

Mayor Harbaugh said we have a roll call.

Mrs. Mayberry asked if this was an original or if anything had been added to the contract. She stated there was no approve to form so she was going to vote no.

Scott Svab asked if Mr. Fellmeth's initials on the form were an approve to form. Scott Fellmeth said yes. Mrs. Mayberry said that that was not an approved to form.

Mr. Fellmeth said when he drafts legislation, the contract is incorporated by reference, which means he read it and approved of it, and then he drafts the legislation to approve it. Mrs. Mayberry said that was not an approve to form. Mr. Fellmeth said, it's not, than what is? Mrs. Mayberry said the words approve to form, your signature and the date on the contract. That is what it is per the charter. Mr. Fellmeth stated that the charter did not say that it has to be approved to form on the contract. It has to be approved to form by a law director. He said he asked the Clerk to use City money to purchase a stamp. Mrs. Dolan asked if it should be stamped after the meeting or right now. Mr. Fellmeth stated that Mrs. Mayberry has to approve it as to form.

Mrs. Mayberry stated that she took offense to making her look like an idiot in a council meeting, and she is not an idiot. She stated that she had read the charter and she was going to read something. She said people are thinking that this is not important, and it is important because if verbiage is on a contract, at one time and it is not at another, it is like a conflict there – why is it on this and not on this? Mr. Fellmeth stated that he did not want to hold up certain contracts that are under pressure or emergency measures. He stated he reads every single contract that comes before this council as to form. Because his signature does not appear on every one, does not mean that he has not read it. Mrs. Mayberry stated that she was not saying he had not read it. Who's to say that your initials at the bottom, that someone is going to look at a contract down the road, and you are no longer our law director, and then looks on the contract an there is no approve-to form – and that's in our charter. Mrs. Mayberry asked what is so difficult about doing it. Mr. Fellmeth said it does not have to be presented on the contract. Mrs. Mayberry said that he had done it before. Mr. Fellmeth said yes, on certain contracts, but the charter does not require that his signature appear on every single contract that the City executes. Mrs. Mayberry stated that at the charter commission meeting of June 19, 2000, and she had a copy of the minutes. Mr. Dale Kinkaaid stated that "The law requires no contract be signed by the village unless the law director approves to form. This is not in this charter, (which was the Pataskala charter that we used as a model) and is a real pain in the neck. It

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is required in general and in statutory law. Mr. Fellmeth, (which is yourself Mr. Fellmeth) asked him to draft this for insertion in the charter." Mrs. Mayberry said to her that was important.

Mr. Fellmeth said yes, and he does examine as to form. It is in the charter, but it does not have to be on the contract.

Mrs. Mayberry said that is fine Mr. Fellmeth. I voted no, go on with the rest of the votes. Mr. Fellmeth stated that she did not know what she was talking about. Mr. Fellmeth said he would be happy to educate her and meet with her to try and explain. Mrs. Mayberry stated no. Mr. Fellmeth said she got this completely wrong. Mrs. Mayberry said she voted and to go on.

Susan Mayberry voted No. All other Council Members voted yes. Motion approved.

Ordinance 30-13: An Ordinance by the Council of the City of Canal Fulton, Ohio for Final Acceptance of Discovery Park Phase 4.

A motion was made to approve Ordinance 30-13 by Linda Zahirsky, second by Scott Svab. All Council Members voted yes. Motion approved.

Ordinance 31-13: An Ordinance to Authorize Appropriations for the current Expenses and Other Expenditures of the City of Canal Fulton, County of Stark, Ohio for the Fiscal Year Ending December 31, 2014.

A motion was made to approve Ordinance 31-13 by Nellie Cihon, second by Scott Svab. All council members voted yes. Motion approved.

Resolution 27-13: A Resolution Establishing the Budget for the City of Canal Fulton, County of Stark, Ohio for the Fiscal Year Ending December 31, 2014.

A motion was made to approve Resolution 27-13 by Linda Zahirsky, second by Nellie Cihon. All Council Members voted yes. Motion approved.

SECOND READINGS

FIRST READINGS

Resolution 28-13: A Resolution by the Council of the City of Canal Fulton, Ohio to enter into an Agreement with CTI Engineers, Inc. to Provide Professional Engineering Services for Sanitary Sewer Lift Analysis.

A motion was made to suspend the rules by Linda Zahirsky, second by Nellie Cihon. All Council Members voted yes. Motion approved.

A motion was made to approve Resolution 28-13 under suspension of the rules by Linda Zahirsky, second by Nellie Cihon. Sue Mayberry voted No, all other Council Members voted yes. Motion approved.

Resolution 29-13: A Resolution by the Council of the City of Canal Fulton, Ohio to enter into a Supplemental Sewer Service Agreement with Stark County, Ohio.

Resolution 30-13: A Resolution by the Council of the City of Canal Fulton to enter into an Amended Agreement with CTI Engineers, Inc. to Provide Professional Services for the Locust/Portage Street Resurfacing/Rehabilitation Improvements.

Resolution 31-13: A Resolution by the Council of the City of Canal Fulton Ohio to enter into a Contract with Economic Development Data Services to Provide Consulting Services to Study the Creation of a Joint Police District and Declaring an Emergency.

A motion was made to suspend the rules by Scott Svab, second by Linda Zahirsky. Danny Losch and Nellie Cihon voted No. All other Council Members voted yes. Motion approved.

A motion was made to approve Resolution 31-13 under suspension of the rules by Scott Svab, second by Linda Zahirsky.

Mr. Svab thanked EDDS for coming. Mr. Svab said he did not serve on the committee and he realized Mr. Fellmeth's point as the Law Director. Mr. Svab said he had not worked as closely as Councilman Paul Bagozius, but he knows that he went through the process and the Township signed and was on board. He understood where EDDS was coming from and why wait, he was going to vote yes.

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Sue Mayberry, Danny Losch and Nellie Cihon voted No. Danny Losch said he wanted to comment with support of this in theory, he had talked to a number of officers and felt that we have new trustees and councilman on board and after thinking about this he thought maybe one more reading would be why he would vote no. He did want to share his support.

Mr. Fellmeth stated that the reason being that we must have three readings of a zoning change, and we were talking about consolidating two police departments and doing under emergency without having any citizen comments. That is one of the major problems he has with it. Mr. Svab said that he understood where Mr. Fellmeth was coming from, but this is merely a study that is from a grant that we are only putting in \$5,000 and the township has already committed to \$5,000 and in looking at the charter, we cannot do anything unless it goes to the voter. We can't amend, we can't consolidate, and we cannot minimize our police department without going directly and changing our charter. The people would have the final say whether we would think of merging or doing anything with this. That is why Mr. Svab said he did not have a problem with it.

Linda Zahirsky, Paul Bagocius and Scott Svab voted yes. Mayor Richard Harbaugh voted yes to break the tie. Motion approved.

Resolution 32-13: A Resolution by the Council of the City of Canal Fulton, Ohio to Enter into a Contract with the FOP/Ohio Labor Council, Inc. and Declaring an Emergency.

Mr. Bagocius asked if we could go into executive session prior to voting on this. Mr. Cozy stated that he was thinking we could go into executive session now and Council could table this, go into executive session and then bring it off the table.

It was decided to come back to Resolution 32-13 after executive session.

Ordinance 33-13: An Ordinance Establishing Ticket Prices for St. Helena Boat Rides for Operations Commencing in 2014 and Repealing any Ordinance in Conflict Therewith.

P.O.s

P.O. 8080: to CTI Engineers, Inc. in the amount of \$7,670.00 for Flow Study of Lift Station Wastewater Pumps

A motion was made to approve P.O. 8080 by Scott Svab, second by Linda Zahirsky. All Council Members voted yes. Motion approved.

P.O. 8084: to Terry's Truck and Trailer in the amount of \$3,622.00 for Install of New 9ft Base Plow and trade of Meyer Plow

A motion was made to approve P.O. 8084 by Nellie Cihon, second by Linda Zahirsky. All Council Members voted yes. Motion approved.

P.O. 8089: to PEM Properties in the amount of \$3,800.00 for Complete Repair of Roof Trusses and WWTP

A motion was made to approve P.O. 8089 by Nellie Cihon, second by Scott Svab. All Council Members voted yes. Motion approved.

P.O. 8093: to Craun Liebing Co. in the amount of 8,830.72 for various repair parts/equipment for lift station.

A motion was made to approve P.O. 8093 by Linda Zahirsky, second by Nellie Cihon. All Council Members voted yes. Motion approved.

P.O. 8094: to Cargill, Inc. in the amount of \$5,000.00 for road salt.

A motion as made to approve P.O. 8094 by Nellie Cihon, second by Scott Svab. All Council Members voted yes. Motion approved.

BILLS November Bills \$492,523.12

A motion was made by to approve the November Bills by Scott Svab, second by Nellie Cihon. All Council Members voted yes. Motion approved.

OLD/NEW/OTHER BUSINESS

Held _____

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CITY OF CANAL FULTON CITY COUNCIL MEETING MINUTES

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Sue Mayberry wished everybody a Merry Christmas and a Happy New Year. She said it was hard to believe that four years had gone by. She wanted to thank the residents for re-electing her to City Council. It had been an honor and a privilege to serve the community.

Mrs. Mayberry personally thanked Paul Bagocius for serving the community for the past four years.

Mrs. Mayberry's letter that she read is as follows:

It's hard to believe four years has gone by. I want to thank the residents for re-electing me to city council. It has been an honor and a privilege to serve this community. I've heard it called a thankless job in the past and can honestly say, have never thought of it that way.

It has given me the opportunity to meet people out an about and in their homes that I may have never become acquainted. They are who we represent and that fact must always be first in our collective decision making - what's best for our community - what's best for its people.

I want to personally thank Councilman Bagocius for loyally serving this community for the past four years. He is truly a public servant and has been a great friend.

My hope in the next four years is that this body and staff renews their vision for, and their purpose in serving this community. What we do is not easy, but we have been chosen to vigilarity and obediently lead our city forward. May God help us to do just that. Thank you.

REPORT OF PRESIDENT PRO TEMPORE

Linda Zahirsky thanked Paul Bagocius for the four years of service on Council.

Linda Zahirsky also thanked Teresa Dolan and others who were involved in the Christmas on the Canal Parade. She said it was one of her favorites.

REPORT OF SPECIAL COMMITTEES

CITIZENS COMMENTS – Open Discussion (Five Minute Rule)

James Deans – 426 Heritage.

Mr. Deans reported on the Christmas on the Canal Event. The event was a success for the cold temperatures. There will be a wrap up meeting.

Earl Minks – 627 S. Canal Street.

Mr. Minks stated that he feels we need an Economic Development person. There are a lot of empty buildings and he would like to see some manufacturing jobs come into Canal Fulton. This is the time due to the economy moving.

Mayor Harbaugh asked Mr. Minks if he would be interested in doing that job. Mr. Minks said not at this time. Mr. Deans stated that there was an Economic Development committee in place.

Don Maurer – 2047 Summer Evening

Mr. Maurer presented Council with photos of a green truck parking on Summer Evening. He feels that the truck is a safety problem. The person that owns the truck can't park it in his allotment due to association rules therefore he parks it on Summer's Evening.

Chief Swartz said it is legal where the truck is parked. It does not matter about common sense. It is legal to be there and that is the issue.

Mr. Fellmeth said that this could be brought up at the Safety Services Committee. Ms. Dolan could get him scheduled at the next meeting in the new year.

Mr. Cozy reminded Council that the Street Superintendent, Service Director, and both safety service Chiefs did recommend that we install no parking signs on that street which we did. Then the consequence of that was that people living on that road submitted a majority petition to have the signs removed. We still have the authority to put the signs up.

Mr. Bagocius stated that many communities have it where there is no parking from 2:00am to 6:00am. Mrs. Chhon said this guy does not care. Mr. Bagocius said you can have a no parking ban on the street for those hours. Mr. Maurer said at least on that curve.

Mr. Maurer thanked Council for hearing him.

A motion was made to go into Executive Session by Linda Zahirsky at 8:15pm to discuss Employment of a public official or employee, compensation of a public employee or official and preparing for, conducting or

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reviewing negotiations or bargaining sessions with public employees, second by Nellie Cihon. All Council Members voted yes. Motion approved.

A motion was made to return to public session at 9:10pm by Linda Zahirsky, second by Scott Svab. All Council Members voted yes. Motion approved.

Mrs. Zahirsky said the Police Chief had made a recommendation to hire Sara Wilson as a provisional full-time employee subject to a physical and completion of her FTO training.

A motion was made to promote Sara Wilson pending completion of her training and any other requirements such as a physical to a full time officer by Sue Mayberry, second by Danny Losch.

Mr. Bagocius asked if she fell under the Civil Service. Mr. Cozy said yes.

All Council members voted yes. Motion approved.

Resolution 32-13: A Resolution by the Council of the City of Canal Fulton, Ohio to Enter into a Contract with the FOP/Ohio Labor Council, Inc. and Declaring an Emergency.

After executive session a motion was made to suspend the rules by Scott Svab, second by Nellie Cihon. All Council Members voted yes. Motion approved.

A motion was made to approve Resolution 32-13 under suspension by Linda Zahirsky, second by Nellie Cihon.

Mrs. Zahirsky stated it was bothersome to a number of them that there were no givebacks on the part of the union, especially with concerns on what is going to happen with health insurance. Being the business person that she is, she understands it would probably cost us more to go in front of an arbitrator and we probably would not get any better than where we are right now. Mr. Svab said he agreed with Mrs. Zahirsky. Mr. Svab said he was satisfied with the increases that were on the board and sometimes we do take our safety for granted. You only really appreciate them when you see an occurrence that happens. We have a good department and he wanted to maintain it and keep it up as well as keep us competitive. He commended the Chief and the City Manager.

Danny Losch said he would second that.

Paul Bagocius abstained from the vote. Mr. Fellmeth asked why Mr. Bagocius abstained. Mr. Bagocius said he had not made up his mind yet.

Mrs. Mayberry said she was going to trust that this was going to get stamped approved to form and vote yes. All other Council Members voted yes. Motion approved.

Mr. Fellmeth asked why Mr. Bagocius abstained. Mr. Bagocius said he had not made up his mind yet.

Mrs. Zahirsky said the issue with the Teamsters that most of Council would like more time.

Mark Cozy stated that he promoted Geoff Marchand to an Operator A today. He now has his water license and will have his waste water license by next year. He has advanced to a level where he can fulfill the duties of Operator A. Mr. Svab asked how long he had been here. Mark Cozy said over a year. Mr. Svab asked what the jump from C to A paid. Mr. Cozy stated it was two dollar increase. Mr. Losch asked if he jumped just by getting the license. Mr. Cozy said he will have dual licenses and be able to operate both plants, which not many in the department can do that right now. Mr. Svab asked if this came from Dan Mayberry, and Mr. Cozy said he got the recommendation from Mr. Mayberry and George Lukinac. Mr. Svab asked why we had operator C and B if everyone was an A. Mr. Cozy stated in the contract job description that once they hit certain levels of skill, they advance. Geoff Marchand is very capable. The request came in July and was sent back and resent in September. It was sent back then. Mr. Cozy said he reviewed it again today, and since that time he did pass his waste water test which now means he fulfilled the requirements. Mr. Svab said it was a \$5,000 raise for someone that just started a year ago. Mayor Harbaugh asked what his age was. Mr. Mayberry stated roughly 25 or 26. Mayor Harbaugh said the reason he asked was that we are going to replace people down the road and it is good to have a young guy in there to step in. Mrs. Mayberry said he was already given the promotion so there was nothing much Council could do about it, even if they wanted to.

Mr. Fellmeth said they had the power to overrule the City Manager.

Mr. Cozy said he had not been notified as of yet. Mrs. Cihon said if some people really love their job, don't some of them try to better themselves with test, or try to step up from where they are at.

Mr. Mayberry stated it was apparent to him that Geoff was in Canal Fulton moving himself into position to take charge of the utilities someday. Obviously more years of experience would be desirable. Licensing by the state of Ohio is not going to teach some things that are learned in the field. He has accomplished that for the City with a Class 1 Water and presently enrolled in Class 2 Wastewater. He can come along

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side of George Lukinac and mentor him and Ohio EPA and agencies outside. Mr. Mayberry said he was a fine young man and he is doing the things that he needs to do.

Scott Svab stated that he was not stating that he was not. Mr. Svab said it was a very rapid employment. He remembers other positions taking eight years to get from a C to an A and now they do it overnight. Mr. Svab said he hated micro-managing. Mr. Fellmeth stated that they needed four votes to override. Mr. Svab said he was not going to override, but at what point was there any control over wages of any department or personnel. Mr. Cozy stated that the policy was in place that when employees reach a certain skill level that they are promoted. It is in the contract and the job descriptions. Mr. Cozy stated he sat on it for six months. Mr. Mayberry stated that Geoff has done what he needed to do. Mr. Svab said he was not saying Geoff himself, he was just saying that having so experience and can move \$5,000 is amazing to him and that was his point.

Mr. Mayberry stated that in the EPA's eyes he was able to sit for a state exam and passed it. That is experience. Mr. Cozy stated that he received one of the highest scores on the Civil Service test that he has seen too.

Mr. Bagocius said if there was not going to be a motion that we should move ahead.

ADJOURNMENT

A motion was made to adjourn the meeting at 9:25pm.