

# RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC. FORM NO. 101-01

Held 8-6

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## CITY OF CANAL FULTON CITY COUNCIL MEETING MINUTES August 6, 2013

### CALL TO ORDER

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

### PLEDGE OF ALLEGIANCE

### ROLL CALL

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

A motion was made to excuse Paul Bagočius from the Council Meeting by Linda Zahirsky, second by Danny Losch. Vote was as follows: Linda Zahirsky - yes; Sue Mayberry - yes; Danny Losch - yes; Scott Svab - no; Nellie Cihon -yes. Motion approved.

Others Present: Shawn Yerian, Police Chief Doug Swartz, City Manager Mark Cozy, Law Director Scott Fellmeth, Finance Director William Rouse, Service Director Dan Mayberry, and Council Clerk Teresa Dolan.

Others Present: Chell Rossi, James Deans, Joan Porter, Zackery Wilhite, Whitney Rogers, Jesse Claar, Sara Wilson, Robert Stetka, Kristi Stetka, Bob Schaeffer, Barb Schaeffer, Sara Batko, Jeremy Wilson

### REPORTS OF STANDING COMMITTEES

Danny Losch submitted minutes for the Economic Development Committee meeting held on July 16, 2013. All Economic Development Committee members that were present voted to accept the minutes.

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

Bob Schaeffer spoke on Resolution 18-13 and the raises proposed for Council. Mr. Schaeffer said he had done a survey on various Councils pay scales, and did not agree with the raise.

James Deans spoke on Resolution 18-13 and said that he was in favor of the raises due to the fact of the new PERS retirement changes.

### SWEARING IN AUXILIARY POLICE OFFICERS

A motion was made to swear in as Auxiliary Officers for the City of Canal Fulton: Jesse Claar, Robert Stetka Jr. and Sara Wilson by Linda Zahirsky, second by Nellie Cihon. All Council Members present voted yes. Motion approved.

Mayor Richard Harbaugh then swore the above as Auxiliary Officers.

### CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

July 16, 2013

A motion was made to accept the July 16, 2013 minutes by Linda Zahirsky, second by Nellie Cihon. All Council Members present voted yes. Motion approved.

### REPORTS OF ADMINISTRATIVE OFFICERS

Senior Citizens – No report.

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Community Service Coordinator – No report.

Fire Chief – Shawn Yerian was in attendance for Chief Ray Durkee. Linda Zahirsky asked how the living arrangement was going and Mr. Yerian stated that it was going well. Mr. Yerian said that the West side fire station was complete with the training center changes and hoped to invite Council Members to see it next month.

Police Chief - Chief Doug Swartz stated that the Department had a good Active Shooter Training at the high school. The SWAT team came out and trained our officers. This type of training accomplishes so much. It works out bugs and is invaluable training.

The Chief also thanked Council for the support on the swearing in of the three Auxiliary Officers.

Engineer/Streets/Public Utilities - Service Director Dan Mayberry reported that the 2013 Chip and Seal Program was near completion. There have been some dust complaints. After people have heard the explanation of the program they have been more accepting and realize the dust is just a short term problem to a long term solution.

Mr. Mayberry said the Mayor has asked him to look into a shelter for the Canal Boat horses for shade. Mr. Mayberry said he is looking into pricing and he would talk to the Finance Director in regards to budgeting.

Finance Director – Finance Director William Rouse stated that the June Financials were included in the packet.

Mr. Rouse stated that he is working on the tax budget. In prior years Council has reviewed and approved the budget. It is not required that Council approves it and asked what Council would like to do. Sue Mayberry asked if there was a way they could get something before it was sent just to review. Scott Svab, Danny Losch, Linda Zahirsky and Nellie Cihon were in approval of Finance Director Rouse submitting the report.

A motion was made to accept the June Financials by Linda Zahirsky, second by Scott Svab. All Council Members present voted yes. Motion approved.

Mr. Rouse said he had made some changes to the reports and if any Council Members would like to see anything different to let him know. Scott Svab said he would like to see a current expense and revenue report.

City Manager – City Manager Mark Cozy included a written report for the packet. Mr. Cozy stated that he did have a report from our engineer from Environmental Design Group with their proposal for the revised Cherry Locust Street Engineering fee. Mr. Cozy said he felt the fee was good. He asked Council for a voice motion to accept the proposal and establish a contract with Environmental Design Group. Mr. Cozy said he would like to keep the project moving. He also stated he had an OPWC grant he wanted to apply for next month.

A motion was made to accept the revised engineering fee for Environmental Design Group for the Cherry/Locust Street Project, Second by Nellie Cihon. All Council Members present voted yes. Motion approved.

Mr. Cozy reported on Lawrence Township Trustees have now decided to move forward with the Tornado Siren grant. All three Trustees have unanimously voted to move forward with the grant. The application is due August 8, 2013. Mr. Cozy stated that he would have had something legislatively prepared, but there was no time to do that. Mr. Cozy said he did prepare a voice motion for tonight. He also bought quotes to Council. Right now our contribution would be roughly \$67,000.00. The grant would

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reimburse us fifty percent of that. All the sirens would be located in the township according to the plan they are working on now. Mrs. Zahirsky stated that she did not realize that all of the sirens were in the township. Mr. Cozy said they would be strategically placed to go both directions. The City would get full coverage from the plan. Mrs. Mayberry asked if the proposal was the same from the meeting with Les Kamph. Mr. Cozy stated that yes it was. There is also a quote for software that allows for troubleshooting remotely and another quote to link us to NOAA. The plan would be fail safe then. Mrs. Mayberry asked if anything had changed since the last meeting.

Mr. Fellmeth said that from a straight business perspective, he felt that the system was antiquated technology. With the use of cell phones these days' alerts can go off. We have not looked into maintaining these towers or what it is going to cost to do that. The technology is way outdated. That is his personal opinion on it. He just did not see the cost effectiveness of the program.

Mr. Losch said he was concerned that the township was not ready to proceed with the grant applications. Mr. Cozy said they passed it last night, and they need our support to proceed with the project. Mr. Cozy stated that Rochelle Rossi had been with the project since the beginning. She could answer any questions. Rochelle Rossi stated that they discussed the technology. The Fire Chief relayed that there are different layers of notification. Some are smart phones, some watch the weather channel, some might have the sirens be their primary way of being notified. The Fire Chief stated that the more redundancy you have to relay it to people the better. Mr. Fellmeth asked again what the cost would be to maintain. Mr. Cozy said the current siren on top of the fire station has never cost anything to maintain and it still works. Rochelle Rossi stated the expense would be in the batteries. The cost is about \$100.00 per battery. They would not all need replaced at the same time. The township would be kicking in \$50,264.00 after the grant. We would be kicking in \$33,509.00. We would pay the full amount up front. Mr. Cozy recommended if they get the grant to look into proposals for other companies and factor in the current siren and can it be integrated into the system.

The grant would be awarded in 2014.

A motion was made that the City goes forward with Lawrence Township on the grant for the new tornado sirens system by Sue Mayberry, second by Nellie Cihon. All Council Members present voted yes. Motion approved.

Report of Mayor – Mayor Harbaugh said he had a phone call from the Lions asking about the Pioneer Cemetery and who the owner of the cemetery was. The Mayor asked Mr. Cozy to research it and report on who owns it.

The Mayor said that there is a big dead branch over a person's property and because the Lion's voluntarily take care of it now, the property owner said they could be sued if the branch falls.

Parks & Recreation Board – No report.

Law Director – Law Director Scott Fellmeth said a decision would need to be made about an appeal of Officer Melissa Kosco's arbitration. We have 90 days to make a decision. He is recommending the City appeal the decision by the arbitrator. He said he felt the safety committee should take that up at the next meeting.

Mr. Fellmeth also discussed the assessment of tap in fees for connection to the sewer. There has been no formulation on how the City should charge them. In looking at the situation an ordinance would be needed to establish what our costs

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are going to be for tap in to the sewer. A decision would be needed if they would allow those fees to be paid over time, what you are going to charge. He does not recommend that a situation be taken where you are given five years to pay a tap in fee and then charge the same price to someone who pays up front. On the initial application, Mr. Fellmeth researched the County and has the documentation on what the Stark County sewer system does. Our permit for a sanitary sewer connection does not specify what the costs are. The County tells you right up front exactly what they are going to charge and whether or not they are going to elect to take it over a five year basis, up front, ten year, or the County even allows for a twenty year to pay over time. Mr. Fellmeth said he does not recommend the fees and what they are going to be. Our application fee would have to be amended to reflect those rates if we were going to allow payment over time, and you put a mortgage back on the house. This way you are not entering a contract where someone could skip and not pay it back, you are actually putting a lien on the property. Stark County Sewer district handles their assessments like this. You can also assess everyone and require them to come into the picture for the assessment. Under that scenario if the property owner does not pay within a specified time you can certify the tax duplicate. A consensual agreement is the way to protect yourself.

Danny Losch said this may be something to go to a committee.

Mr. Fellmeth recommended going to Public Service Committee with this.

A motion was made to have a Public Service Committee Meeting on August 20, 2013 at 6:00pm to discuss administrative issues regarding sewer tap in fees in by Sue Mayberry, second by Nellie Cihon. All Council Members present voted yes. Motion approved.

Mark Cozy said he met with an individual from BriMark Hotels. They would like to meet with the Economic Development Committee to hear a proposal from them.

A motion was made to have and Economic Development Committee meeting on September 3, 2013 at 6:00pm to discuss a hotel by Danny Losch, second by Linda Zahirsky. All Council Members present voted yes. Motion approved.

**THIRD READINGS**

**Resolution 17-13:** A Resolution by the Council of the City of Canal Fulton, Ohio to Authorize the City Manager to engage Bond Counsel for the Locust Street Water and Sewer Extension Project.

A motion to pass Resolution 17-13 was made by Linda Zahirsky, second by Scott Svab. All Council Members Present voted yes. Motion approved.

**SECOND READINGS**

**Resolution 18-13:** a Resolution by the Council of the City of Canal Fulton Ohio to Enter into a License Agreement with the City of Canton, Ohio, the Stark County Sheriff and the Board of the Stark County Commissioners

**Ordinance 22-13:** An Ordinance by the Council of the City of Canal Fulton, Ohio to adjust the salary of Council effective January 1, 2014 in order to comply with the minimum earnable salary to earn full-time credit as mandated by Ohio Public Employee Retirement System as set forth in Ohio Senate Bill 343.

A motion was made to pass Ordinance 22-13 under suspension of the rules by Scott Svab, second by Nellie Cihon.

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Danny Losch questioned the emergency on the Ordinance and said there would be some discussion on it. Scott Svab said the deadline was tomorrow affective for the 2014 new council.

Mr. Losch said that the ordinance was not giving the current council a raise, it is in regards to the retirement program. He said he knew many of them had spent a lot of years as a public servant and would lose a lot of that credit due to the salary not being acceptable by the bill. All Council Members present voted yes. Motion approved.

A motion to pass under Ordinance 22-13 under suspension of the rules was made by Scott Svab, second by Nellie Cihon.

Danny Losch said this was not an increase for this Council it is for the next Council. He wanted to add that other Council's will be doing the same thing. This will not be new just to Canal Fulton. There are a number of people here that have served this community for a long time who will be losing a lot of credit based on this bill.

Scott Svab agreed with Mr. Losch. Mr. Svab said they could take salary surveys from this community and Summit County and any county you want, we could pick and choose just like union negotiations on who is getting less and who is getting more. He simply wanted to point out also that our neighboring township that they made \$12,500 a year, plus they get full hospitalization and pension pickup. You might say we do two meetings a month, but it seems like a lot more than two meetings a month. Mr. Svab recommend anyone to join the race for Council if they think it is over paid.

Mayor Harbaugh said that Scott had left one thing out. The trustees do not regulate their pay. It is based on their budget as set by the state. Mr. Svab said that the Mayor was right. Mayor Harbaugh said that this Council was raising their salary. The Trustees only get raises if their budget increases to a certain platform. Mr. Svab said that the state did not regulate if the Trustees received health insurance. Mayor Harbaugh said he thought that was PERS.

Linda Zahirsky said she was concerned because it was quite a jump. She would have rather seen it go an additional hundred dollars a month. She realizes that would not get additional PERS credit and she know about the problems there. Her first six years she received fifty percent credit. She will never make the twenty years, and said she was not sure if any of them on this council would. Even if you took it up to this amount, you would have to run for office for a long time to get PERS health insurance.

Sue Mayberry stated that she had a few questions.

Sue Mayberry asked, who authored this legislation? Mr. Svab answered he did. Mrs. Mayberry asked if Mr. Fellmeth prepared it. Mr. Svab and Mr. Fellmeth said yes. She then asked Mr. Svab if he asked Mr. Fellmeth to prepare it and the answer was yes. Mrs. Mayberry asked what day it was prepared. Mr. Fellmeth said he did not recall and there was no subterfuge on this.

Mrs. Mayberry read Council Rule #23, Agenda Consideration which states the following:

Items to be included on agenda must be in clerk's office or City Manager's office by 12 noon Friday before council meeting. All requests for legislation which are to be prepared by the Law Director, shall be presented to that office no later than 12:00 pm noon on the Wednesday preceding the meeting at which time such legislation is to be presented.

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Mr. Fellmeth indicated that we were under constraint on this legislation because of the timeline of it. Mrs. Mayberry stated that OPERS put this out in March 2013. Mr. Fellmeth said we weren't aware of this situation and Mrs. Mayberry responded, "We should have been."

Mr. Fellmeth said is just passed. He said the rules for PERS have been going back and forth and changing.

Mrs. Mayberry said that this was not a point of order and she had her speaks here. She asked Mr. Fellmeth to let her continue.

Mrs. Mayberry stated that this did not go through a public committee and asked why not. Mrs. Mayberry then asked how they were going to vote here. Mr. Losch asked if Council Rule #23 said it had to go through a sub-committee. Mrs. Mayberry said no.

She then asked council how are we going to vote. Do we all approve of the increase of our salaries? Mr. Svab said we have not done a voice vote yet. Mrs. Mayberry said that we have legislation on the table. A voice motion should have been done a long time ago.

Mrs. Mayberry asked council if they felt this was controversial legislation. Mrs. Zahirsky said that we have heard two different opinions.

Mrs. Mayberry then asked if members of council were polled as to their opinion on passing this legislation. There was some confusion as to the question.

Mrs. Mayberry said she was asking these questions because, back in March 2012 the Public Service Committee directed me to ask Mr. Fellmeth to prepare legislation regarding Milan Township. I asked him to prepare, but at the March 20, 2012 council meeting he explained he didn't because he needed consent from Council, a voice motion, then if council does approve the Milan Twp. issue he would prepare legislation. And especially in controversial legislation, in larger cities, these go through committee, they poll the members of council as to what their opinions are going to be prior to the enactment of legislation.

He said it isn't Mrs. Mayberry's province to direct him to have legislation when he didn't know there is a consensus among council to do so. Said it would be a huge waste of time to draft legislation if it isn't going to pass.

Mrs. Mayberry stated, "So apparently - this legislation is going to pass. Am I the only one who doesn't know this?"

Mrs. Zahirsky said she doesn't think five of us know tonight. Mrs. Mayberry asked why legislation was done for Mr. Svab and not for me? Mr. Svab said there was a deadline and this legislation doesn't affect anyone here. It affects newly elected council of 2014.

Mrs. Mayberry said that you have elected officials jumping through hoops trying to do the job they were elected to do transparently, while others are pulling legislation out of their hats and laws are enacted like Magic.

Danny Losch asked if she had any comment on the actual ordinance. Mrs. Mayberry said she made her comments. Scott Svab asked Mrs. Mayberry if she felt over compensated for the work that she does. Mrs. Mayberry said she never said that. Mrs. Mayberry said she is taking what she is given.

Mayor Harbaugh said that anyone that ran for Council knew what they were getting into and what they were being paid. Mrs. Zahirsky said that is why if this

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is going to be passed has to be passed before people put in their petition to run. They need to know what they are going to make. Mrs. Mayberry said it never made a bearing on her running. Mrs. Zahirsky said it doesn't matter it is the law they have to know what they are going to make. Mr. Svab said to Mrs. Mayberry that she was probably going to want to donate half of her salary back if she wins in 2014. Mrs. Mayberry asked if that was what Mr. Svab was telling her she needed to do.

Scott Svab asked when the last time the Council's pay was increased. Mrs. Mayberry stated it was in 2005. Mr. Svab said when PERS went to the minimum again. Mr. Fellmeth said it has always followed the PERS minimum.

Vote is as follows: Scott Svab – yes; Nellie Cihon – yes; Danny Losch – yes; Sur Mayberry – no; Linda Zahirsky – no. Motion fails

**FIRST READINGS**

**Resolution 19-13:** A Resolution by the Council of the City of Canal Fulton, Ohio declaring 220 Ash Street insecure, unsafe, structurally defective and unfit for human habitation and declaring an emergency.

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

A motion was made to pass Resolution 19-13 under suspension of the rules by Danny Losch, second by Nellie Cihon. All Council Members voted yes. Motion approved.

**P.O.s**

**P.O. 7913:** MV for Fuel in the amount of \$33,400.00 for Fuel for the remainder of 2013

A motion was made to approve P.O. 7913 by Linda Zahirsky, second by Scott Svab. All Council Members present voted yes. Motion approved.

**P.O. 7916:** to Control Associates Inc. in the amount of \$3,056.00 for Influent Flow Recorder for WWTP

A motion was made to approve P.O. 7916 by Nellie Cihon, second by Linda Zahirsky. All Council Members present voted yes. Motion approved.

**BILLS** - June Bills

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

**OLD/NEW/OTHER BUSINESS**

Mr. Fellmeth said he would like a voice motion for the City to appeal for the appeal for the decision on the FOP union arbitration.

A motion was made to authorize Mr. Fellmeth to appeal the decision of the FOP union arbitration in the Melissa Kosco case by Linda Zahirsky, second by Nellie Cihon. All Council Members voted yes. Motion approved.

**REPORT OF PRESIDENT PRO TEMPORE**

Linda Zahirsky in the paper last week there was a discussion in Akron in regards to their Sewer rates. Their rates are going to be raised to \$150.00 per month. It is the EPA that is driving the rates going up. We have a bargain

# RECORD OF PROCEEDINGS

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## CITY OF CANAL FULTON CITY COUNCIL MEETING MINUTES August 6, 2013

Dan Mayberry stated that Canal Fulton has generally taken care of its Waste Water Treatment Plant and its sewer collection system to a responsible degree. Unfortunately that does not happen in all communities.

### REPORT OF SPECIAL COMMITTEES – No Reports.

### CITIZENS COMMENTS – Open Discussion (Five Minute Rule)

Sarah Batko – 8618 Scenic Ridge Ave. NW, Akron, OH 44216

Mrs. Batko came in to report on Olde Canal Days. She wanted to thank everyone on all of the help and support from the City of Canal Fulton through a hectic time. Even with the passing of Donna Lemmon and the floods, Canal Days were successful.

### ADJOURNMENT

The meeting was adjourned at 8:44pm.