

CITY OF CANAL FULTON

October 2, 2007

COUNCIL MEETING

Mayor John Grogan called the October 2, 2007 City Council meeting to order at 7:00 PM in Council Chambers at City Hall.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Others Present: Dale Kincaid, Law Director; Mark Cozy, City Manager; Tammy Marthey, Clerk of Council; Elaine Weitzel, Police Department Administrative Assistant; Glenn Boyd, Captain-Fire Department; Scott Svab, Finance Director; Matt Moellendick and Mike Mouse, Residents; Steve Hopkins, DiStefano Insurance; Lou DiStefano, DiStefano Insurance; David Ross, Proclamation Recipient; Kirsten Ross, Abby Ross, Jim Ross, Toodie Ross, Bill Buchanan, Maria Buchanan, James J. Ross, James G. Ross, David Ross Family; Carol Smith and Stephen Smith, Lawrence Township Residents; Jeff Dreka and Tess Dreka Rosch; Property Owner; Joan Porter, Repository; and Laura Meade, Signal.

PROCLAMATION

Mayor Grogan presented a proclamation to David Ross, a native of Canal Fulton, who is a cinematographer for CBS' hit reality television show, "The Amazing Race", Wife Swap and Oprah Winfrey's upcoming reality show "The Big Give."

CORRECTING/ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Zahirsky moved to approve the September 18, 2007 meeting minutes, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

REPORTS OF STANDING COMMITTEES

Mr. Colaianni reported that the Finance Committee met prior to the Council meeting and discussed the preliminary 2008 budget.

Mr. Colaianni moved to have a Finance Committee meeting on Saturday, November 10, 2007 at 9:00 AM and is requesting for all Council members to be present, seconded by Mr. Deans. **ROLL: Yes, ALL.**

CITIZENS' COMMENTS – AGENDA MATTERS

Lou DiStefano, DiStefano Insurance: Mr. DiStefano was present regarding Ordinance 14-07, An Ordinance Enacting Section 1181.02(cc) Electronic Message Center (EMC). He stated the reason they chose a sign like this, is because of the competition that they have with the large insurance companies. He was concerned with how the animation is defined in the ordinance.

Mr. Hopkins, DiStefano Insurance: Mr. Hopkins stated they intend to also use the sign for community purposes. They have advertised the sports events. They are trying to attract customers, as well as using it as a valuable communication tool for the community.

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Mr. Hopkins asked if there has been anything posted on the sign that has been an issue.

Mr. Colaianni stated it is a nice sign but his concern is the location because it is one of the busiest intersections in the city. He stated during the daylight hours it isn't bad, but during the evening it jumps out. He stated under Section 1 (e), "shall not flash, rotate, show animation or have the appearance of moving. Scrolling text is permitted unless it constitutes a safety issue". He stated based on the first sentence, they are doing all that currently. Mr. Colaianni said he isn't saying he is for or against him having the sign because he understands what his intents as a small businessman.

Law Director Kincaid stated this is a zoning ordinance and anything they are doing now, they are grandfathered in.

Mr. Deans asked if they could slow the speed of the content. Mr. Hopkins stated they could control the content.

Mrs. Zahirsky commented on the speed of the content and felt if it is slowed down, people will not have their eyes fixed on it. She stated their concern is that people will have their eyes fixed on it and not on the road.

Mayor Grogan stated there is a public hearing and this is part of the public hearing and further discussion should be at that time.

Michael Mouse: Mr. Mouse asked who requested this ordinance. Mrs. Downing stated the Planning Commission. She stated the intent is so the City doesn't have signs with flashing lights and give the appearance of Las Vegas. Mr. Mouse asked if there was any discussion on political content. It was stated no.

REPORTS OF ADMINISTRATIVE OFFICERS

SENIOR CITIZENS (Nellie Cihon) Mrs. Cihon reported that a recent honoree, Thelma Albright, has fallen and broken her hip and two bones in her wrist. She is recovering at Rose Lane Nursing Home and is in good spirits.

Swiss Steak Dinner: The next dinner will be held on October 20, 2007 from 4:00 PM to 6:30 PM. Reservations are required.

COMMUNITY SERVICE (Phil Kaster) Mayor Grogan reported that the community service hours for the month of September were 114 hours.

FIRE CHIEF (Glenn Boyd, Captain) – No Report.

POLICE DEPARTMENT (Elaine Weitzel) Mrs. Weitzel reported the department has reviewed the policy on false alarms. The department will be issuing a letter after the third false alarm and after that, there will be a \$100 fine assessed.

ENGINEER/STREETS/PUBLIC UTILITIES (Dan Mayberry/William Dorman) – Not Present

FINANCE DIRECTOR (Scott Svab): Mr. Svab stated he will have the cell phone and travel policy for next meeting.

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He stated in the packet, Resolution 25-07, Accepting the Amounts and Rates Determined by the Budget Commission, which is from the County Auditor's certifying the tax rates for the next year. He would ask that this be passed under suspension.

Mr. Svab stated he spoke with Ray Green and they are trying to confirm the date, October 28 from 1:00 PM to 3:00 PM for a fire station opening tour. He stated Ms. McConnell and possibly the Senior Center might participate selling apple dumplings and having games for the children.

CITY MANAGER (Mark Cozy) Mr. Cozy stated he has a proposal for the survey for the Layden Avenue vacation from Mr. Mayberry. He stated it is \$1,200. He stated he advised Mr. Mayberry to wait on the purchase order for now and is asking Council if the City wishes to pay for this or should we pass the cost along to the property owners. It was the consensus of the Mayor and Council to approach the owners to pay for the survey because they are the ones gaining property and increasing the property values. Mayor Grogan stated for Mr. Cozy to advise Mr. Mayberry of the consensus of the Mayor and Council. One of the properties has a sale pending. Mayor Grogan stated to wait until the ownership has transferred to check with that property owner.

Mr. Cozy stated he received from Lawrence Township Trustees a Third Amendment to the 1997 Contract for Joint Staffing. It essentially echoes the agreement that was signed at the September 18, 2007 meeting. He asked about rescinding the motion from last meeting and to sign this agreement.

Law Director Kincaid stated the signature lines should be the City Manager and the Clerk of Council. He stated the only difference with this agreement is that at the end of the year, if there is a surplus in their fund, it reverts to their general fund. There can not be a carryover balance. He doesn't see any problem with the agreement.

Mr. Colaianni moved to rescind the amendment that they approved at the prior Council meeting for the Joint Staffing and Equipment Emergency Fire Services Agreement between Lawrence and the City of Canal Fulton and to approve the Third Amendment to the 1997 Contract for Joint Staffing and Equipment between Lawrence Township and the City of Canal Fulton as presented by the City Manager, seconded by Mr. Deans. **ROLL: Yes, ALL.**

Mr. Cozy stated New Image Plastics that was burned out in the fire last month on the east side of town, between Johnson Belford and him they have found a potential new location for them to stay in town and also possibly secured a grant through the Ohio Department of Development to help reimburse him the shortfall he may have from his insurance company. He is potentially going to be closing on the sale of a building that has been vacant for a couple years in town.

REPORT OF MAYOR (John Grogan) Mayor Grogan stated Channel 5 has chosen our community to do a tour and will be in the City of October 17, 2007.

PARKS & RECREATION BOARD (Fred Fleming) – Not Present. The Mayor stated the dedication at Discovery Park went very well. The Park Board did a wonderful job with it and should be commended. A lot of the

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members of Echoing Ridge and that community were ecstatic about the park.

LAW DIRECTOR (Dale Kincaid) Mr. Kincaid stated he spoke with the owner of New Image Plastic and he was very complimentary about Mr. Cozy and Mr. Belford's approach to him to assist him.

THIRD READINGS

Tabled 1/16/07: Resolution 39-06: Resolution Approving the Khelp Annexation. Mr. Colaianni moved to bring Resolution 39-06 back to the table, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

Mr. Cozy stated that Judge Taryn Heath has dismissed the case.

Resolution 39-06: Resolution Approving the Khelp Annexation. Mr. Colaianni moved for passage of Resolution 39-06, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

For the record, it was noted Resolution 20-07 was listed under Second Reading on the agenda, it is a Third Reading for this meeting, October 2, 2007.

Resolution 20-07: A Resolution Agreeing to Certain Deed Restrictions on the Puffenberger Property in Return for a Donation from Lindsay Concrete of \$200,000. Mr. Colaianni moved to approve Resolution 20-07, seconded by Mr. Deans. **ROLL: YES, ALL.**

SECOND READINGS

Resolution 21-07: A Resolution Approving the Canal Fulton Farms Annexation. **Stands As Second Reading**

Ordinance 19-07: An Ordinance Amending Ordinance 03-07, and Providing for the Transfer of Funds Within Various Accounts for the Purpose of Paying Various City Obligations and Declaring an Emergency. Mrs. Zahirsky moved for suspension of the rules for Ordinance 19-07, seconded by Mr. Colaianni. **ROLL: Yes, ALL.** Mr. Colaianni moved for passage of Ordinance 19-07 under suspension, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Mrs. Zahirsky stated when the auditor was here during the year, this is one of the items that they said need to be done. They need to be transferring funds from one account to another. They are going to continue to see ordinances like this one transferring from one fund to another when they spend more in one fund and need to transfer.

FIRST READINGS

Resolution 25-07: A Resolution Accepting the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to The County Auditor. Mrs. Zahirsky moved to suspend the rules on Resolution 25-07, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Mrs. Cihon moved for passage of Resolution 25-07 under suspension, seconded by Mr. Deans. **ROLL: Yes, ALL.**

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Ordinance 20-07: An Ordinance Finding the Existence of a Dilapidated Garage at the Corner of East Market and Locust Street is a Nuisance and A Hazard and Ordering the Demolition Thereof with Notice to the Property Owner, and Declaring an Emergency. Mrs. Zahirsky moved to suspend the rules on Ordinance 20-07, seconded by Mr. Colaianni. **ROLL: Yes, ALL.** Mrs. Cihon moved for passage of Ordinance 20-07 under suspension, seconded by Mr. Deans. **ROLL: Yes, ALL.**

PURCHASE ORDERS & BILLS

P.O. 4999 to Ohio Police & Fire Pension Fund for Ohio Police and Fire Pension 2nd Quarter Billing in the amount of \$18,147.55. Mr. Colaianni moved to approve P.O. 4999, seconded by Mr. Crookston. **ROLL: Yes, ALL.**

P.O. 5000 to MetLife Insurance Company for 3 Months Premium Dental Plan in the amount of \$4,498.62. Mrs. Cihon moved to approve P.O. 5000, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

P.O. 5001 to Hometown Insurance Group for Oct, Nov, Dec Premiums for Health Insurance in the amount of \$35,825.64. Mr. Colaianni moved to approve P.O. 5001, seconded by Mr. Deans. **ROLL: Yes, ALL.**

P.O. 5002 to Ohio Drilling Company to Install and Provide High Service Pump to Well #4 in the amount of \$22,866.00. Mrs. Zahirsky moved to approve P.O. 5002, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

P.O. 5006 to Varney, Fink and Associates for 2006 Audit Fees in the Amount of \$17,625.00. Mrs. Cihon moved to approve P.O. 5006, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

BILLS: \$87,990.44

Mrs. Cihon moved to approve the bills in the amount of \$87,990.44, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

The Mayor and Council took a 10 minute recess at 7:50 PM.

PUBLIC HEARING – 8:00 PM

Ordinance 14-07: An Ordinance Enacting Section 1181.02(cc) Electronic Message Center (EMC).

Mr. Lou DiStefano and Mr. Hopkins, DiStefano Insurance Company: It is their intentions to comply with what the City wants regarding the electronic message center they have at the business and do not want to make it a hazard for drivers. They will also be using the signage for community messages. They wanted to know how this ordinance would affect them.

Mr. DiStefano asked for clarification of the grandfathering in of his sign and what is currently grandfathered. Law Director Kincaid stated that any zoning use which has lawfully begun continues even though it is outlawed thereafter. He stated they could have chosen to put it in the traffic code, which would have been a criminal of a traffic violation, but they did not because they have a very comprehensive zoned sign ordinance in the City's zoning code.

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The Law Director Kincaid stated they would be grandfathered in with their current sign.

Mayor Grogan stated he has spoken with the police chief and officers and there hasn't been any problems or accidents related to the sign. There has not been any safety issues. Mayor Grogan stated he understands some of Council's views on not wanting to see a strip full of signs. He stated he wanted to have something similar to DiStefano's in front of the Safety Center primarily to announce community events, sporting events and community related matters.

Michael Mouse: Mr. Mouse asked that Ordinance 14-07 be amended to state that any sign, electronic or otherwise, not be used for political purposes.

Mrs. Zahirsky and Law Director Kincaid stated Council can not do this.

There was discussion among the Council members about the length of time for the scrolling text.

Ordinance 14-07: Mrs. Zahirsky moved to amend the Ordinance under Section 1 (e) to include scrolling text shall change in 5 second intervals, seconded by Mrs. Downing. **ROLL: Yes, Mrs. Downing, Mr. Deans, Mr. Colaianni, Mrs. Zahirsky, Mrs. Cihon. No, Mr. Crookston.**

Mr. Colaianni moved for passage of Ordinance 15-07 as amended, seconded by Mr. Deans. **ROLL: Yes, Mrs. Downing, Mr. Deans, Mr. Colaianni, Mrs. Zahirsky, Mrs. Cihon. No, Mr. Crookston.**

Ordinance 13-07: An Ordinance Clarifying the Definition of Arcade Game and Providing for Permitted Locations Within the City of Said Games.

There was no one present that wished to speak on Ordinance 13-07.

Mr. Crookston moved for passage of Ordinance 13-07, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Ordinance 16-07: An Ordinance Amending the Zoning Code by Zoning 3.85 Acres Recently Annexed to the City of Canal Fulton

Mrs. Zahirsky moved for approval, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Tess Dreka, 2000 Shaker Boulevard, Shaker Heights: Ms. Dreka stated she is present with her mother. They have owned land in Canal Fulton for over 100 years. She stated there is no structure on the land, just no hunting and no trespassing signs.

Mr. Cozy stated their property is not adjacent to this land. Their land abuts the land associated with Ordinance 16-07.

Ms. Dreka stated her concern is that there will be a negative impact on the value of the land. The mother feels very strongly to have part of the land go to conservation easement to Stark Parks, and they have had conversation with Mr. Fonte regarding this matter and to keep a large part of it as a rural area.

Mr. Cozy stated what they are doing tonight is the property that was annexed is maintaining the current zoning. He stated the City and Stark Parks could get together with them to address their concerns.

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Ms. Dreka was concerned with assessment fees Mr. Cozy stated the township designation is rural residential and the closest for the City is R-1, Single Family Residential. Mr. Cozy stated the land is not developable, it is just a strip along the railroad tracks.

Ms. Dreka asked if the intent was to have the zoning single family. Mr. Cozy stated yes that they would maintain as close to the current township zoning is.

Law Director Kincaid stated this piece of property is zoned industrial in the township.

Mr. Cozy showed the property owner on the map where it lies in comparison to the annexed land. The City has received a grant from Clean Ohio Fund and it must remain open space and they won't have to look at anything but what they are looking at currently.

Ms. Dreka stated her concerns were primarily what was going and secondarily what potential assessments might be forthcoming because people see empty land and they think it is absentee ownership and that would be a good person to pay whatever assessments might occur for the future.

Ordinance 15-07: An Ordinance Amending the Zoning Code by Zoning 44.448 Acres Recently Annexed to the City of Canal Fulton.

Mrs. Zahirsky made a motion to approve Ordinance 15-07, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

Steven Smith, 6761 Manchester Avenue: Mr. Smith asked how the owner of the property plan to get in and out of the property if he is going to put in homes. He stated the only access they have is the driveway. The driveway is between the State garage and the property owners on Stonewood coming out onto Milan.

Mr. Cozy stated that is the only right-of-way that he is aware of.

Law Director Kincaid stated it is a dedicated street back in 1848.

The land can't be developed unless the right-of-way is widened because it currently isn't wide enough to serve as an entrance to any type of development.

Mr. Cozy stated there are a lot of issues with the land that the owner will have to work through with the City. There is a right-of-way there but it doesn't meet the subdivision regulations for a street.

Law Director Kincaid stated if Mr. Smith let the Planning Commission know of his concerns, they would let him know of what is going on with the property.

Mr. Cozy stated if the owner comes in for a zone change, Mr. Smith would be notified.

Law Director Kincaid stated the zone change is done tonight if the Ordinance passes.

It was stated that nothing has been approved by the Planning Commission.

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Mr. Mouse stated every time a property is annexed into the City, a list is to be provided to the property owner to what services that we will provide. He wanted to know if a cost study analysis has been done of the short and long term costs that they are obligating themselves to as a City and if we haven't done this, can we because he would like to see the results.

Mrs. Zahirsky stated her knowledge is that the only thing that has been done on this particular property, when they looked at water there would be a problem with being able to supply water without an additional pump because of the higher elevation than what we can service.

Mr. Cozy stated we did not agree to maintain Milhaven. Mr. Cozy stated we are looking at police and fire services to two homes.

Mr. Mouse said he said plural annexations, and since we have done all these annexations, have they done a cost study to tell us what financial obligations they are going to accrue long and short term.

Mr. Smith stated since they are in the township, they do allow people to hunt on the property, they are given specific permission to where they are allowed to hunt. Some hunters hunt on the south side on their property near Rt. 21. He stated it needs to be understood that in the township they have the right to hunt on the property.

Ordinance 17-07: An Ordinance Amending the Zoning Code by Zoning 2.66 Acres Recently Annexed to the City of Canal Fulton.

Mrs. Downing stated the Planning Commission has only seen a preliminary plat and a lot of suggestions have been made.

Mrs. Zahirsky moved for approval of Ordinance 17-07, seconded by Mr. Deans. **ROLL: Yes, Mrs. Downing, Mr. Deans, Mrs. Zahirsky, Mrs. Cihon, Mr. Crookston. No, Mr. Colaianni.**

OLD/NEW/OTHER BUSINESS

Mr. Deans stated the Olde Canal Days Festival will provide some funding to replace the P.A. system downtown.

Mr. Colaianni reported on the survey that was in the last newsletter. There were 109 surveys received back. The results have been calculated and are available.

REPORT OF PRESIDENT PRO TEMPORE (Linda Zahirsky) Mrs. Zahirsky stated she will be attending a public records seminar sponsored by the Attorney General Office in Akron on October 17, 2007.

REPORT OF SPECIAL COMMITTEES - None

CITIZENS COMMENTS-Open Discussion (Five-Minute Rule)

Mr. Mouse: Mr. Mouse stated there was a meeting last Wednesday regarding the levy. He stated there are two levies that will be dropped if the levy passes. He stated it was stated that the levies on a \$100,000 house were supposed to be \$70 each and at the meeting there was discussion that it would possibly only be \$21 per mill for each levy. Mr. Cozy stated it is \$21.50

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Mr. Svab stated this is because it is effective millage is less than one mill. It is a voted mill of one mill and that would be \$35 on a \$100,000 home. The effective millage because of our property value has increased so much through the years that the one mill is less. Mr. Svab stated it depends on the value of your home.

Mr. Mouse asked about annexation costs and if the Council, City Manager or Finance Director has taken a look at the cost analysis of the annexations that the City has undertaken.

Mr. Svab stated he is unaware of any formal cost analysis. He stated it may increase our revenue with reducing the cost. If you are annexing a small partial of land, does it cost anymore for police and fire to drive by or provide any service. He stated it would be the opposite of saying if we had a section of the City that we look at providing a lot of coverage for; and that if we took them out of the City that we would benefit more. On the annexation, it depends on the housing that it built and if the homes are low or high income, which is going to tell us how property or income tax combination that we would have.

Mr. Mouse stated in Sunday's paper there was an article regarding shrinking paychecks and how the median income has declined.

Mr. Colaianni stated if you looked at the regional statistics, this may not be totally accurate.

ADJOURNMENT

Mayor Grogan adjourned the October 2, 2007 meeting. The next regular scheduled meeting is October 16, 2007 at 7:00 p.m.

Tammy Marthey, Clerk of Council

John Grogan, Mayor