

# CITY OF CANAL FULTON

October 5, 2004

## REGULAR COUNCIL MEETING

Mayor John Grogan called the October 5, 2004 City Council meeting to order at 7:30 PM in Council Chambers at City Hall.

## PLEDGE OF ALLEGIANCE

## CALLING OF THE ROLL

Present: Linda Zahirsky, Nellie Cihon, Victor Colaianni, Mike Mouse, Diane Downing, and Bob Szanto

## OTHERS PRESENT

Marge Loretto, City Manager; Dale Kincaid, Law Director; Mike Rodino, Finance Director; Chief Robert Hill, Fire Department; Joan Porter, The Repository; Joshua Campbell, Cerella Campbell, Kim Manley, Julie & Katie Kusmits, Kemin Noeh, Frederick Micks, Mike Kochovski, and Rochelle Rossi.

## CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Cihon made a motion to accept the October 5, 2004 City Council meeting minutes; seconded by Mr. Colaianni. **ROLL CALL: Yes – 4 Abstained Due to Absence – 2 (Mrs. Downing and Mr. Szanto)**

## CITIZENS' COMMENTS ON AGENDA MATTERS – None

### **Rescheduling Halloween Trick or Treat Time**

Joshua Campbell (who is in Grade 8 and attends Northwest Middle School) wrote a letter to the Mayor about changing the time of Trick or Treat from 3:00 to 5:00 PM to 6:00 to 8:00 PM on Sunday October 31, 2004. Joshua (with his sister Cerella at his side) gave a presentation to Council about same. Joshua pointed out the following: 1) the lights on houses at dark show children that they are "safe houses" to go to for candy, and how were they to know what houses were safe during the daylight; 2) the decorations, fog lights, etc., that Joshua and other families place in their yards and on porches would be ineffective during daylight; 3) it just takes all the fun away having Trick or Treating during daylight hours; and 4) it's a time for kids to get school "off their shoulders," as they have "a lot of work and stress." The Mayor told Joshua he called his principal and told him how impressed he was with him. There were several other parents/children supporting Joshua's viewpoint.

Mr. Colaianni made a motion that Council reset the time of Trick or Treat on October 31, 2004 from 3:00 to 5:00 PM to 6:00 to 8:00 PM; seconded by Mrs. Cihon.

*Discussion:* Mr. Mouse commended Joshua on his presentation and his dress, and he stated he hopes Joshua will come to other Council meetings, keep involved, but "get your homework done." Mrs. Zahirsky stated that one of the reasons Council chose 3:00 to 5:00 PM was because there are "an awful lot of younger kids that are out there running, crossing the street. I live up on 93, but I always go across the street to pass out candy, and I see cars galore coming up and down that street, paying no attention to the fact their kids are going back-and-forth like this, and it's a miracle that a child hasn't been killed on that street. I watch it every year, and I tell you, I am surprised we haven't had a child killed on Stonewood or Riverview. It's people coming into the neighborhood and dropping their kids off. From out of town - that are the ones that are (to me) that are creating the problems. So to have one day where we can have it in the afternoon, I feel a little bit safer." She went further to state the newsletter has already published the time. Mr. Colaianni said there was ample enough time (being that today is only October 5) through media outlets to see that the parents and children are told of the change. Mrs. Downing said they could announce it at school. There were several parents that stood up and said they wanted the time changed too and gave reasons for same. One parent said she knew cars zoomed around at night, but parents are out there taking care of their kids. Mr. Colaianni said they zoom around during the day too. Another parent said she never felt the kids' safety was compromised, and how can you enjoy the decorations, the Jack O' Lanterns and all the effort people put into their decorations at 3:00 in the afternoon. Mr. Colaianni said he talked with Chief McNeely (Police) about the safety and, for at least the last five years, there have been no problems.

Mayor Grogan said he was as impressed with Joshua as he has ever been with anybody, that his approach is commendable, that in his letter Joshua spoke about wanting to be into politics, and he thought Joshua would be a "shining example of what a good civil servant would be." The Mayor also said he caught "some grief" when he got home and his own children found out the early time, and they've "been relentless ever since" about getting the time changed. He said he agrees with Joshua about the time of the night, the spirit of the season, and that the people of the community are responsible. He also said the police have not had any problems on Trick or Treat nights, and they're out in full force on Halloween.

**ROLL CALL: Yes – 5 No – 1 (Mrs. Zahirsky)**

# CITY OF CANAL FULTON

October 5, 2004

## REPORTS OF ADMINISTRATIVE OFFICERS

### Senior Citizens

October 23, 2004: Swiss Steak Dinner from 4:00 to 6:00 PM

October 28, 2004: Gambling Trip Planned to Mountaineer Casino – Departs at 8:00 AM; Return approx. 8:00 PM

December 7, 2004: Christmas Trip to Hartwood Acres in Pennsylvania

Community Service Coordinator – No Report

### Fire Chief

Chief Hill stated Joshua Campbell was a tough act to follow.

The Chief said the Fire Department has logged 574 runs this year, with three months to go; 455 were EMS runs. The numbers are about the same for the last three years, averaging about 600. Last year they ran 648, so they went up almost 10%, as the City is getting bigger. Mr. Mouse wanted to know the total calls for the City and the total calls (EMS) for the City. Chief Hill will advise.

Chief Hill recommended that Council accept the bid for the low-band radios.

Chief Hill thanked Mr. Rodino and Mr. Kincaid for “throwing together that 2704” (Ordinance 27-04), so he can re-appropriate that money the way he said he was going to do (i.e., more rescue equipment).

Chief Hill wants an ice rescue class, along with what they call “Gumby” suits that you wear in ice-cold water. He tried to get Stark Parks to give them two of the suits plus the training. Stark Parks is going to give our Fire Department free ice rescue training.

The Chief spoke about the wreck that occurred that morning, where they had to extricate and transport the person to a hospital. This wreck was with a Civic and a semi.

Police Chief – No Report

### Engineer

**Northwest High School Waterline:** Complete as far as it's pressurized, ready for service. They are working on the connection now with the high school with the new building. The final inspection punch list is currently being worked on. Once that is completed, the project will be done. The City has been approached by a number of residents about hooking into the waterline, and they were told to wait until the end of September because Mrs. Loretto didn't want to impede the project.

**Hydraulic Modeling:** About 80% done. They're in the final stages and preparing a report.

**Discovery Park:** Construction continuing – Phase II. The main utilities are in there.

**Milan Street Water and Sewer Line Project:** Notice to proceed has been issued on this project. Half of the shop drawings are in and approved. They expect that project to start in two to three weeks.

**Walnut Street Project Adjacent to the Library:** This project should begin Thursday or Friday.

Finance Director – No Report

Mayor – No Report

### City Manager

**Visitor Center:** Bid opening was held September 27, 2004 for the Visitor Center. The City had problems with the bidding; one person bid on everything (including plumbing and heating), and it was very high. There were no individual heating and plumbing bids, and they had a number of people that bid on just parts of the work. The City is trying to get more funds from the grant and trying to find out if the City could solicit an electrical bid. Mrs. Loretto stated they hope to get answers by the next Council meeting. Mr. Dorman said they had five electrical bids/four on the building; they couldn't get any interest in the HVAC or the plumbing.

**Kemin Neoh, Frederick M. Micks, and Mike Kochovski:** They want permission to sell liquor on the premises of their family-style, Italian restaurant (behind Burger King), and they have the opportunity to get a D5 (beer, wine, mixed drinks) liquor license transferred to them. They can't sell and take out liquor; they have to drink it on the premises. They plan on being open only until 10:00 PM, with a seating capacity of 115, with a plan to open around December 15, 2004.

# CITY OF CANAL FULTON

October 5, 2004

Mr. Mouse made a motion that Council passes the D5 liquor license with the stipulation that it be for 10:00 PM, and that if any future consideration needs to be adjusted that Mr. Micks comes back before Council to see if they can work out accommodation; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

Mrs. Zahirsky made an amendment to the motion that Council doesn't stipulate a time; that the license has no ending time of the day; seconded by Mr. Szanto. (Mr. Szanto and Mrs. Zahirsky do not think City Council needs to be getting involved in leases between two people; Mayor Grogan agreed.) **ROLL CALL: Yes - ALL**

**Motion to Accept Bid for 17 Low-Band Motorola Radios:** Need Council to pass a motion to accept the bid from Carroll County Volunteer Fire Department for \$3,200 for Canal Fulton's Fire Department's 17 used low-band Motorola radios.

Mrs. Downing made a motion that Council accepts the bid for the 17 used low-band Motorola radios for \$3,200; seconded by Mrs. Cihon.

*Discussion:* Mr. Mouse stated, "Knowing the cost of those radios as I do, we were (I think) negligent to the taxpayer by not going north with those bids because we could have gotten the taxpayers just a tad bit more money because each of those radios probably new are \$500 to \$600 easy."

**ROLL CALL: Yes - 5 No - 1 (Mr. Mouse)**

**Patris & Associates Evaluate Old Equipment (Computers Downstairs) Worth Less Than \$1000 to Donate:** There was a discussion as to who could receive this donation. Mr. Szanto stated he chairs a non-profit organization that collects books and computers and sends them to schools in Africa. He works with the Apostles of Jesus and priests out of Mercy Medical Center, and if nobody else finds a home for these, they'll be happy to accept them. Mr. Mouse suggested Chapel Hill (Senior citizens) or Echoing Ridge, and find somebody in town that is good at rebuilding computers to fix them up.

**Parks** – No Report

**Law Director**

**THIRD READINGS** - None

**SECOND READINGS** - None

**FIRST READINGS**

**Ordinance 27-04:** An Ordinance to Make Appropriations from the Unappropriated Balances in the Fire/EMS Funds and Declaring an Emergency.

Mrs. Cihon made a motion that Council suspends the rules on Ordinance 27-04; seconded by Mrs. Downing. **ROLL CALL: Yes - ALL**

Mrs. Zahirsky made a motion to adopt Ordinance 27-04 under suspension; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

**Ordinance 28-04:** An Ordinance Repealing Chapter 749 of the Canal Fulton Ordinances.

**Ordinance 29-04:** An Ordinance Revising Current Law Governing Garbage and Refuse Collection in the City of Canal Fulton.

**Ordinance 30-04:** An Ordinance Repealing Chapter 769 and Enacting Chapter 787 Entitled Sexually Oriented Businesses.

**PURCHASE ORDERS & BILLS**

**P.O. 4079** in the amount of \$4,744.64 paid to VASCO Asphalt for Change Order #1 for additional excavation, paving, seeding, etc. Mrs. Cihon made a motion to approve P.O. 4079 in the amount of \$4,744.64 paid to VASCO Asphalt; seconded by Mrs. Zahirsky. **ROLL CALL: Yes - ALL**

**P.O. 4080** in the amount of \$4,909 paid to VASCO Asphalt for Change Order #2 – additional concrete for the Walnut Street resurfacing. Mr. Colaianni made a motion to approve P.O. 4080 in the amount of \$4,909 paid to VASCO Asphalt; seconded by Mrs. Zahirsky. **ROLL CALL: Yes - ALL**

**P.O. 4081** in the amount of \$5,000 paid to The Estate of Jean Toles and Justin Madden, Attorney for Settlement of Toles vs. Red Center agreed upon contribution of the City of Canal Fulton. Mrs. Zahirsky made a motion to approve P.O. 4081 in the amount of \$5,000 paid to The Estate of Jean Toles and Justin Madden; seconded by Mrs. Cihon.

*Discussion:* Mr. Kincaid said there is nothing wrong with the word contribution, but it is really an assessment based on the City's usage of the Dispatch Center. Mr. Mouse stated he was going to

# CITY OF CANAL FULTON

October 5, 2004

vote against this because the Red Center made an improper and incorrect decision, and the taxpayers of Canal Fulton should not have to pay for their mistake.

**ROLL CALL: Yes – 5 No – 1 (Mr. Mouse)**

**BILLS: \$389,117.83**

Mrs. Zahirsky made a motion that Council accepts the bills in the amount of \$389,117.83; seconded by Mrs. Cihon. **ROLL CALL: Yes – ALL**

## **NEW BUSINESS**

Mr. Mouse brought up a problem with his water bill/water rates. He stated that some may be familiar that the City has undergone a process of replacing old meters and hooking them up, so that they can be read from the street. He has called his reading in at the first of the month for 12 to 14 years. Mrs. Loretto stated most people get two estimates and then an actual. Mr. Mouse said the City receives his money right away; there are never any estimates, and he pays for exactly what he uses. He gives a reading at the first of the month. He stated his reading July 1 was 3097; August 1 was 3106 – “I think that’s 9,000.” In the middle of August, they changed his meter. He said at the time they changed the meter, the old meter said 3110 – “that’s 4,000.” They put the new meter on and the meter at the end of the month was 5000, stating “4000 + 5000, that’s 9,000. But in September, I get a reading where a bill from the City, which I don’t like to do things this way, but I asked for it to be corrected previously. So, at the beginning of September, I’ve got a bill saying that my reading was 3097, and I believe it was 13,000. At the beginning of October, my reading was 14,000. I don’t know how my wife does it, but she’s fairly consistent in water usage, and we’ll go between 7,000 and 9,000. I’ve got one bill for 13,000, and I’ve got another bill for 13,000; and, I’m trying to figure out how, when I ask that it be looked at when there’s a problem - why.” Mrs. Loretto said, “Ok, I did ask them about the 13,000 - if she could change it back so it would read the 9,000, so you would be billed on 9,000, so it would be a full month and not like six weeks. Problem is there was no way for her to get the 4,000 back in ‘cause she can’t go into the computer and change the readings. Once the readings are entered, they’re in there, so that’s why I said to her, and I said to you, pay the 9,000 and let the 4,000 carry forward. As to what happened on the second month that you got 13,000 – I don’t know what’s happened on that . . . it should have started at 0.” Mr. Mouse responded, “The statement that I got at the beginning of the month for October due October 10, she said my reading was 3110. Well, the number at the beginning of September, it was 5,000, so it’s going to take her several months to get this corrected. I’m saying this happened to me, and I call in every month. If there’s an estimated bill, compound this, and you could have a potential nightmare. Most people don’t read their meters.” He went on to say, “There’s got to be some override situation where there’s an obvious error that that can be corrected and mended because, right now, she’s got my previous reading of 3110, and that was the reading in the middle of August.”

Mr. Szanto challenged with Point of Order, saying he didn’t know if this is an issue for the Council table, and that Council cannot vote on this issue. Mr. Mouse countered, “I’m just saying that if it’s affecting me and, let me see, for the audience’s edification, we had two people come in here one time last year. One of them had a \$4,000 water bill; other had a \$2,400 water bill. Council forgave both water bills.” The Mayor said they weren’t forgiven. Mr. Mouse stated, “But I have on my bill – it says ‘PAST DUE’.” Mrs. Loretto said, “That’s because the 4,000 was in there and, you know, as far as I’m concerned if you got the additional charge for, you know, not paying everything, I’m not going to wipe that off because I understand why you paid for the 9.” Mr. Mouse, “My point is, Marge, how long . . . how long will this take to correct?” The Mayor asked, “Is this an issue where you were approached by one of your constituents, or is it just a personal issue on your water meter?” Mr. Mouse, “Well, I’m saying it can’t be just me.” Mayor Grogan, “Well, unless we have somebody else stepping forward, then this is a personal issue, and it’s a matter that probably can be resolved during the daytime. I just don’t want this to be an issue or forum where the Council can bring in their own personal situations that can probably be remedied during the day.” Mr. Mouse, “I tried to do that; you don’t understand. I tried to do this previously, didn’t I Marge?” The Law Director stated, “But you come fairly close here in using your position as Council for personal gain.” Mayor Grogan, “And that’s where I’m a bit uncomfortable because we’re starting to get a little too close to that line.” Mr. Mouse, “Well I’m not trying to use anything for personal gain because the facts are the facts. I’m not trying to gain anything from it.”

**OLD BUSINESS** - None

## **OTHER BUSINESS**

Mr. Colaianni was approached by five residents (Mill Field/St. Helena/Dover Farm), and a few months back (when Senator Schuring was here regarding CEDAs), evidently there’s been some issues with water in that area. They are inquiring about getting water. Mr. Colaianni told them he would make Council aware of same, where this might be a potential area to possibly explore a small CEDA, since Council is going into budget time, and maybe they should look at it for 2005.

# CITY OF CANAL FULTON

October 5, 2004

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

**Kim Manley, 552 E. Cherry St. (Rt. 93)** – Ms. Manley stated in May 2001, she paid to have sidewalks put in, and she called City Hall for a building permit. She was told she didn't need a building permit, as she hired them on her own. Everyone now has new sidewalks they didn't pay for, and she wanted to know when her sidewalk could be paid for, as she charged hers on a home equity loan that will be paid for in 30 years, and everyone else has free sidewalks now, except her. She stated she wasn't notified of this. On Monday, they were out there, and she said Bruce (construction worker) told her they would be working on her driveway. She asked him to leave her a note as to when this would happen. On Monday night, she came home at 9:00 PM and received a note from Bruce. Tuesday morning she had contractors hired who she'd scheduled six weeks prior; but nobody from City Hall told her that her driveway would be closed off. Her guys came in to put up soffets, using an entire day, and they had to unload their truck and park at the funeral home because the City had to pour concrete. Her spouting guys were to come the next day, but they couldn't get into her driveway because the concrete's poured. She called Dan Mayberry, who she said told her that there was nothing he could do. She said after calling, five minutes later she walked out and saw somebody going down the road slowly and looking, and it was Dan Mayberry. She introduced herself to him, and said that Dan said her spouting men can park in the street. Ms. Manly object to this, saying that first of all you need electricity; second, her men are not going to have a flagman or cones, which she felt was required to park on the street and work. She said Dan told her they should be equipped for that and her reply was, "No, they work on houses; they don't work from the street, and second of all, it's a hazard. You've got these guys up here flagging with a bulldozer or the front-end loader; three houses up, traffic's going to go around them and then around these guys. Common sense, Sir, we're not putting them on the street!" She suggested to Dan the City at least gives her half of that money she paid for her sidewalk. Mr. Colaianni wanted to know if she was notified about the sidewalks going in. She said her neighbors were notified; she wasn't. Mrs. Loretto stated this was a County project and not the City's – controlled and run by the County, and the City notified in advance, as they were aware the project was going forward. Mrs. Zahirsky backed up Mrs. Loretto, stating, "They didn't even give us the money; we never saw the funds come in; they never went out from us." Mr. Mouse told her he would like to help her, along with Mr. Colaianni. Mayor Grogan said he felt the City could work with her to help her get this resolved. Mrs. Manley was referred to Bob Nau, Stark Regional Planning.

## REPORT OF STANDING COMMITTEES – No Report

## REPORT OF COUNCIL PRESIDENT

Mrs. Zahirsky made a motion to go into Executive Session to discuss performance of personnel and resignation of personnel, and requested the City Manager, Mayor, and Council members be present, and she doesn't expect any action will be taken tonight; seconded by Mrs. Cihon. **ROLL CALL: Yes – ALL**

## REGULAR SESSION RECONVENED

Mrs. Zahirsky made a motion to reconvene the regular portion of the City Council meeting of October 5, 2004, and that during Executive Session, Council discussed personnel resignation and personnel performance; seconded by Mr. Colaianni. **ROLL CALL: Yes – ALL**

Mr. Szanto made a motion that Council extends Clerk of Council's probationary period up to 90 days beyond the six months as prescribed; seconded by Mrs. Zahirsky. **ROLL CALL: Yes – ALL**

Mr. Loretto stated a couple of guys (Jim and Brian) came in and they are after annexation of 15 acres (at the border going out Erie Ave., Southeast of Lake Lucerne). She said they're going to do about 10 single-family dwelling units and 19 condos, and they are ready to go, but they have a survey that needs updated. Mr. Colaianni asked if they are asking for an infrastructure. Mrs. Loretto said they are asking for water and sewer; it's high enough that it will be gravity sewer. The water lines are there; they'll put them in and then dedicate them to the City. The single family dwelling/the main road will end up being dedicated; where they put the condo area in will be private, and they'll take care of those. They are going to do it as a PUD (Planned Urban Development). Mrs. Loretto said they have two ways to go: the R-1 and then do an R-4, but she said she thought it "would be better to do it under an R-1, give a variance, there's a thing under there for planned community – because that way if they ever took in any more property, they can't say there's high density property there; it would still be on R-1." Mr. Mouse said he would definitely see what the Township has to say about this issue, and he "wouldn't just do it." Mr. Loretto said as soon as they were ready to sign an application, then that was time to discuss it with the Township.

## ADJOURNMENT

Mrs. Cihon made a motion to adjourn; Mayor Grogan adjourned the City Council meeting.

---

Patricia A. Schauwecker, Clerk of Council

---

Mayor John Grogan