

# CITY OF CANAL FULTON

May 16, 2006

## COUNCIL MEETING

Victor Colaianni called the May 16, 2006 City Council meeting to order at 7:00 PM at Canal Fulton City Hall, as Mayor Grogan and Council President Linda Zahirsky were absent.

## PLEDGE OF ALLEGIANCE

## ROLL CALL

**Present:** Tony Crookston, Victor Colaianni, Nellie Cihon, Diane Downing and James Deans. Mrs. Cihon made a motion to excuse Mrs. Zahirsky due to being out of town on business; seconded by Mr. Crookston. **ROLL CALL: Yes - ALL** Mr. Crookston made a motion to excuse Mayor Grogan due to a commitment with the Summit County Sheriff's Office; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

**Others Present:** Mark Cozy, City Manager; Patti Troccoli, Clerk of Council; Dale Kincaid, City Law Director; Chief David Frisone, Police Department; Chief Ray Green, Fire Department; Scott Svab, Finance Director; Dennis Mayberry, Street Dept; John Hatfield, Historical Society; Terry Casey, Eastern Shawnee Representative; Steve DiPietro, Owner Republic Steel; Ray Williams, U.S. Technology; Scott Pullins, Attorney, Fellicia Smith, The Repository; Matthew Rink, The Independent; Chell Rossi, HPC; Dennis Downing, DiscoverCanalFulton.com; Paul Bagocius, Mike Mouse, Ray Kidlauski, Joanie Stopar, Dan Losch, Don Lovitt, Fred Etheridge, Mike Randichard, Margie Berens, Ron Harris, Craig & Peggy Schwendeman, Mike Vrajich, Tom Messenger, Bob & Joni Stopar, Lesa Evans, Phyllis Mahaney, Deborah Green, Clay Betsy, Butch & Rita Gearhart, David Schnelzer, Rick Spencer, Jim & Carol Turner, Ron Harrouff, Joanne Collins, Herbert Huff, Rick Clay, William Chiboroski, Garnet Thomas, Mike Mouse, Pat King, Mary Beth Spencer, Nancy Haney, Herbert Huff, Janet Liebarger, Trudy Leach-Shockley, and Bob Szanto, Area Residents.

## CORRECTING/ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Cihon made a motion that Council approves the May 3, 2006 City Council meeting minutes; seconded by Mrs. Downing. **ROLL CALL: Yes - ALL**

## REPORTS OF STANDING COMMITTEES

Mr. Crookston made a motion that the Safety Committee meet at City Hall on Tuesday, May 23, 2006 at 5:00 PM to discuss Fire and Police Departments' needs; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

## CITIZENS' COMMENTS - AGENDA MATTERS

Mr. Colaianni said City of Canal Fulton residents will be allowed to speak first then Lawrence Township residents.

Paul Bagocius said the questions he asked weren't responded to as promised to be placed on the city's Web site. Mr. Pullins said Council Clerk sent the questions to him within 15 minutes of receiving them only last Friday, and there were several questions that he is working on, but he couldn't turn them around overnight.

Mr. Colaianni stated for the record, "I know it was noted in the media that the vote would be delayed. However, by our City Charter - and I know the Mayor has made a recommendation, as well as the Council President - by our City Charter, we as legislators in the city, we can, uh, decide not to delay this if we so choose if the majority of Council feels that way. I feel that clarification needs to be made because the media does not dictate what we do and how we vote, and a couple of the articles that I have read stated that. Not saying - trying to tip anybody's hand on what we're going to do or not do, but we are by City Charter - we can take the recommendation of the Mayor and the Council President. However, you know if someone decides not to table that or we decide not to table that, that is fully within our legal realm to do that. So, that needs to be clarified for the record because the news media was incorrect in reporting that."

A large number of residents from Canal Fulton and Lawrence Township continued to speak about their concerns regarding the Eastern Shawnee Family Destination Resort (both pro and con). During the discussion, Mr. Colaianni read a letter from State Representative John Hagan, per a request from a resident.

**Note:** A copy of the May 16, 2006 Council Meeting tape that includes all citizens' comments, which is a Public Record, will be available at cost via the Clerk of Council's office.

## REPORTS OF ADMINISTRATIVE OFFICERS

### **SENIOR CITIZENS (Nellie Cihon)**

June 10 Swiss Steak Dinner; extending dining hours from 4:00 to 6:30 PM; Open to the Public; \$8 for adults, \$4 for children under 10; Free for children under age 4

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- June 21 Trip to Nautica Queen; cruising Lake Erie; lunch buffet, shopping at the West Side Market on the way home (carryall suggested); \$58 per person includes transportation, cruise, entertainment, lunch, tax, and driver gratuity. Please call Center for reservation.
- July 11 Trip to Greektown, Detroit; Open to Public; Cost \$45, includes transportation, driver gratuity, snack to and from Casino; \$20 coin voucher will be issued upon arrival. Please call Center for reservations.

**COMMUNITY SERVICE (Phil Kaster) – No Report**

**FIRE CHIEF (Chief Ray Green)**

**Fire Station:** Progress being made; met with architect; expect finalized plans within next few month; hoping to start “moving dirt” in September.

**Ambulance:** Finishing specs for new ambulance; appears to be under budget amount by \$5,000

**Mutual Aid Report:** Copy distributed. Note: The city responded to Lawrence Township 42 times.

**March’s Activity Report:** Chief Green read portions of the report to Council.

**Channel 5 Story Re: Response on Communities on Volunteer Fire Depts:** Our ISO rating is 5 (1 is best). Channel 5 questioned response time. **National Fire Protection states ideal response time is 6 minutes; the City of Canal Fulton’s response time averages 5 minutes, 49 seconds!**

**Fleet Maintenance:** Chief Green recommended hiring a person for a fleet maintenance position, as it increase cost savings and would save the city repair time.

**POLICE CHIEF (Chief David Frisone)**

**D.A.R.E. Graduation @ Stinson (May 31 @ 12:30 PM):** All were invited to attend.

**Protective Children Online Course:** Officer Melissa Kosco attended same held in Pittsburgh, PA. The tuition was over \$1,000. It was paid for by the State of Ohio. The course focused on internet crimes against children. Officer Kosco will be preparing a fact sheet for the schools, any interested parents, or community organizations interested in protecting children from online predators.

**Fleet Maintenance:** Chief Frisone voiced his support of hiring a person for a fleet maintenance position. He said when you compare having maintenance internally as opposed to taking to an outside vendor, that if one does the math, it pays to have an person working internally. Officer safety and their vehicle maintenance are extremely important, and a preventative maintenance program is crucial.

**ENGINEER (Bill Dorman) – No Report**

**FINANCE DIRECTOR (Finance Director Scott Svab)**

Mr. Svab requested Ordinance 13-06 be passed, and also recommended hiring a fleet maintenance person, but he questioned a fulltime mechanic versus a part-time mechanic position.

**CITY MANAGER (Mark A. Cozy)**

**Fleet Maintenance:** Mr. Cozy received a report from the current person in the fleet maintenance position that was for six months with a six-month cost savings of about \$6,000. Mr. Cozy feels as though it would “be a wash” between his fulltime salary and benefits plus the amount of money the city saves. He asked for Executive Session to discuss the issue.

**Joint Comprehensive Plan:** Rescheduling the meeting to tomorrow.

**Natural Gas Aggregation:** Collaborating with Stark County Commissioner’s office and North Canton to attain the best pricing possible. Decision to be made as to stay with Buckeye Energy Brokers; Stark County is staying with them. The conveyance fee will be negotiated; price changes often. Mr. Cozy will submit legislation for same at the next Council meeting to review Buckeye Energy Brokers’ contract; need to designate one person from the city to represent the city. Mr. Cozy recommended for everyone to opt out of the current program until the city receives a better rate.

**MAYOR JOHN GROGAN – No Report**

**PARKS & RECREATION BOARD (Fred Fleming) – No Report**

Mr. Colaianni noted that media representation was nonexistent for the Canal Fulton Canalway Center Grand Opening. He suggested everyone visiting the Canalway Center.

**LAW DIRECTOR (Attorney Dale Kincaid) – No Report**

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## THIRD READINGS

**Resolution 16-06:** A Resolution Appointing Daniel Mayberry to Chair the Committee on Drinking Water Source Protection for the City of Canal Fulton. (Requested by City Manager) Mr. Crookston made a motion to pass Resolution 16-06; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

**Resolution 17-06:** A Resolution Entering into a Contract with the Floyd Browne Group to Provide a Puffenberger Property Park Master Plan for \$10,350.00 Plus \$3,000.00 for Options, and Declaring an Emergency. (Requested by City Manager) Mr. Deans made a motion to pass Resolution 17-06; seconded by Mr. Crookston. **ROLL CALL: Yes - ALL**

**Resolution 18-06:** A Resolution Entering into a Memorandum of Understanding with the Eastern Shawnee Tribe of Oklahoma, and Declaring an Emergency. (Requested by Mayor) Mr. Colaianni stated, "We have had a recommendation from the Mayor and the Council President to table this resolution." Mr. Colaianni said a recommendation was made by Mr. Scott Pullins to reinstate the emergency clause. Mr. Crookston made a motion to amend Resolution 18-06 to add the words "declaring an emergency." Mr. Kincaid instructed Mr. Crookston to read the entire emergency clause (reading the amendment.) Mr. Crookston read what was being added to the ordinance, which was Section 2, "The resolution is hereby determined to be an emergency measure, the immediate passage of which is necessary for the preservation of the public peace, health, safety, and welfare of the City of Canal Fulton, such emergency arising in that the litigation now in process concerning Indian gaming in Ohio requires the parties to complete the negotiations in a timely manner, wherefore, this Resolution shall take effect and be in full force immediately upon its passage."; motion was seconded by Mr. Deans. **Discussion:** There was a question regarding why the amendment. Mr. Crookston said that the reason stated is because of the deadline put on it. Also, Council has had three public readings on this that the city has provided to the citizens, so they can voice their opinions, which everyone has had the opportunity to do. Mr. Colaianni asked Mr. Pullins (regarding how Section 2 reads) that since he'd stated previously that there was no danger of the city being named in any lawsuits associated with the issue currently, but he felt that Section 2 "seems like it opens up a whole can of worms with regard to litigation for us as a city." Mr. Pullins said he's stated what this binds the city to. He added he did not agree entirely with the Attorney General; he's said that these documents are legally meaningless, and that what that means from a legal perspective is that they do not bind either party to anything. Mr. Colaianni said then why does it read this way (such emergency arising in that the litigation now in process concerning Indian gaming in Ohio requires the parties to complete the negotiations in a timely manner), and that he personally would like to see that sentence struck if they are going to consider it. Again, Mr. Pullins said he doesn't know how that language would bind the city, and if there was a danger to it that "the Attorney General would be out trumpeting that all across the state." Mr. Pullins added that the worst thing the Attorney General said is that we may be wasting our time, and it may not ever come into effect. **ROLL CALL: Yes - 4; No - 1 (Mr. Colaianni)**

Mr. Crookston made a motion to pass Resolution 18-06 as amended; seconded by Mrs. Cihon.

**Discussion:** Mr. Kincaid stated, "Mr. Acting Mayor, it's not my role to take a position on this legislation. No matter who made the error in reporting, you would defer voting on this until Monday; people are still under that impression." He said that it's been on the radio and it was a headline in the Massillon paper, and if that was the fault of reporting that it might be in the spirit of the Sunshine Law that Council defers the vote until Monday. He added that they would disenfranchise our Mayor and the President of Council if they vote tonight. Mr. Colaianni said he had several issues with the process, that he understands how "the process came down," but he wasn't "comfortable with the fact that we've gotta' make up time for Massillon's mistakes." He said he also appreciated everyone coming out to speak on the issue. Mr. Colaianni said, "This is presented to us in a very above-board manner. That did not happen in the City of Massillon. Did not happen there; I don't care what anybody tells you. I've talked to Council people in Massillon; it did not happen. The Mayor sat on it, subsequently gave it to Council, and they did not make the decision for whatever the reason. We don't take these decisions lightly." He went on to say, "Having said that, there's been some things stated with regards to, and I think Chief Green stated it best, as far a fulltime ambulance, fulltime ambulance, fulltime paramedics. It takes money to pay for all these things. Is gambling the right answer to pay for it?" "That's a matter of opinion for each of us; for the five of us; for the two who are not here - the Mayor and the Council President. Having said that, there's been - I've lived here almost nine years now - and I'm not a big fan of roads being chip and sealed, personally. I'm not a big fan of the fact that we do not have 24-hour paramedics and EMS; we need them - significantly we need them. Last year was upwards of five-, six-hundred calls that our EMS people made." (Actually over 700) He went on, "We've attempted in the last, since I've been on Council for, for the last two-and-a-half years, we've met nine times with Lawrence Township. Now that's more than the previous two administrations combined has met with Lawrence Township; OK? We are going to still attempt to work with them, even though they disagree with us. Having said that, when economic decisions come our way, it's something that we do not take lightly; I don't think we're doing that in this case. We presented it to the community. You've give us your feedback. We're obligated to listen to that feedback." He said, "I also understand that when we come back to you, if this does not go forward and make you understand what our financial needs are, we need your feedback. Not on something controversial like this, but when we go forward with a joint fire district because that will come. Rest assured, I will be right behind the Fire Chief calling for that. And it was tried 15 years ago, and a small minority of people stuck a wrench in the fan, and it was ridiculous because it cost this community safety. I'm not willing to do that while I'm sitting in this seat, and even after I leave

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this seat. Whether it be by somebody threatening to vote me out whatever way I might vote on this or not vote on this.” Mr. Colaianni went on, “My point is this, whatever way this goes – up/down – and if it goes to a vote later on, and you vote it down; when we ask you for input on issues that benefit this community economically, financially, safety forces, how we’re going to pave the streets, how many times we’re going to salt them in the wintertime, we need your feedback then to, and we’ve called for that since I’ve been here.”

Mr. Deans said that they would like to get past Step 1 into Step 2 to find out what we could have - if it would be a good deal. He said if we don’t investigate and find out what the potential is then we haven’t done our fair job, and why not look at it now.

Mr. Crookston said he felt the same way, and that he doesn’t take any decision he makes for the city lightly. He stated that he took the position not knowing that it paid a dime. He said he lives in the city, has a young family, and has to look out for the wellbeing of his family as well as every single person that elected him. He said that what disappointed him is that he has seen a lot of interest in this subject, but he wished that every single Council meeting that people were as interested in the topics. He added that as far as rushing an issue, every single resolution that goes through Council goes through three readings for the most part. Mr. Crookston said one thing that bothers him is accusations that Council is jumping to conclusions and that they haven’t done the research, which is not true, and to here people in general question what you’re doing when there was an election back in November for two open seats, only two people ran for the positions, “Nobody else ran, so I would encourage every single one of you guys if you want to get involved, you want your voice heard – to run.”

Mr. Colaianni clarified another issue by saying, “And Mr. Stevens (transcription notes Mr. Stevens is the Lawrence Township Board of Trustees President) has admitted this; I contacted him three times prior to the first meeting we had. I’m just saying that we’ve attempted to involve them.”

Mr. Crookston stated that he is a facts person, and he doesn’t feel like he was making an informed or responsible position by voting this down or without looking at the facts. He said what he thought the Memorandum of Understanding (MOU) does is it allows the city to look at the facts, to do the research to get those numbers in front of the Council, so they can make an informed decision and present it to the voters.

Mr. Colaianni said the MOU is not an agreement; it’s an understanding that they will move forward with negotiating an agreement.

Someone asked who is going to provide us with the funds to do the studies to come up with all the information that we’re going to need, or are we just going to take what “they spoon feed us.” Mr. Colaianni said it will take meetings; it may be a totally new document that restricts them from doing anything except having drinking water at the facility; “We don’t know these answers yet.” The same person asked why waste the time when they knew it would be voted down. Mr. Colaianni said his point was well taken then he used Lordstown as an example because “it already happened.” He said, “There were people who held your opinion there, ‘cause I did talk to a couple of their Council people. They unfortunately had 12 meetings before they voted on it, and it passed 60/40.”

Someone objected to the price of legal fees as money wasted.

Mr. Colaianni reminded the point made by the Law Director. The Law Director said the safest thing to do is rescinding the motion then table same; Council agreed. **Per Mr. Kincaid’s advice, Mr. Crookston and Mrs. Cihon rescinded the motion and second.**

Mrs. Downing made a motion to table Resolution 18-06 per advisement of counsel; seconded by Mr. Deans. **ROLL CALL: Yes – 4 No – 1 (Mr. Crookston)**

**SECOND READINGS** - None

## **FIRST READINGS**

**Ordinance 12-06:** An Ordinance Establishing a Minimum Charge for a Non-Sewered Lawn and Garden Watering System, and Declaring an Emergency. (Requested by Director of Public Services)

**Discussion:** Mrs. Downing wanted to amend Ordinance 12-06, saying it comes to \$3.45 per month, not the \$5.15 per month, and should reflect same. **Trudy Leach-Shockley continually interrupted the discussion regarding Ordinance 12-06 and was told by Mr. Colaianni to stop interrupting Council’s meeting. He also told her that Council has another Citizen’s Comments opportunity towards the end of the meeting (it’s noted on the agenda) and would take her comments then. Mr. Colaianni told Leach-Shockley that if she did not quit interrupting the meeting, he would have her removed from Chambers. CONTINUING THE DISCUSSION. . .**

Mrs. Downing said she would like Dan Mayberry to check out the pricing before the next meeting, as she felt it too high. Mr. Cozy will talk to Mr. Mayberry about same.

**Ordinance 13-06:** An Ordinance Providing for the Issuance and Sale of Bonds in the Maximum Principal Amount of \$750,000 for the Purpose of Constructing, Furnishing, Equipping and Otherwise Improving a City Fire Station and Improving Its Site, and Declaring an Emergency. (Requested by Finance Director) Mrs. Cihon made a motion to suspend the rules on Ordinance 13-06; seconded by Mr. Crookston. **ROLL CALL: Yes – ALL** Mrs. Cihon made a motion to pass Ordinance 13-06;

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seconded by Mr. Deans. **ROLL CALL: Yes - ALL**

**Ordinance 14-06:** An Ordinance Disposing of Excess Personal Property. (Requested by Assistant to the City Manager)

## PURCHASE ORDERS & BILLS

### **No Purchase Orders**

**BILLS: \$36,786.19** Mrs. Cihon made a motion that Council has received the bills in the amount of \$36,786.19; seconded by Mr. Crookston. **Discussion:** Mrs. Downing questioned the Quill bill. Mr. Svab stated it was multiple bills. **ROLL CALL: Yes - ALL**

## OLD/NEW/OTHER BUSINESS

There was a discussion about setting a Special Council Meeting. (Mrs. Zahirsky cannot make Monday. Mrs. Downing cannot make Monday. Mr. Colaianni said he could make Tuesday. Mrs. Cihon can make Tuesday.) Mr. Crookston made a motion that Council schedule a Special Council Meeting on Tuesday, April 23, 2006 at 7:00 PM to discuss Resolution 18-06 and whatever else they deem necessary; seconded by Mr. Deans. **Discussion:** Mr. Colaianni asked the Clerk of Council to call the Mayor and Mrs. Zahirsky to see if they can make a Monday meeting. **ROLL CALL: Yes - ALL**

**REPORT OF PRESIDENT PRO TEMPORE (Linda Zahirsky)** – No Report

**REPORT OF SPECIAL COMMITTEES** – No Report

**CITIZENS COMMENTS Open Discussion (Five-Minute Rule)**

**Eastern Shawnee Family Destination Resort:** Residents from Canal Fulton, Lawrence Township and surrounding municipalities spoke regarding their concerns regarding the Eastern Shawnee Family Destination Resort (both pro and con). (Note: A copy of the tape that includes all citizens' comments, which is a Public Record, will be available at cost via the Clerk of Council.)

## EXECUTIVE SESSION

Mr. Deans made a motion to adjourn into Executive Session to discuss Personnel hiring and in that session Dale Kincaid, the City Manager, Fire Chief, Police Chief, Dennis Mayberry, and Council were asked to attend, expecting no legislative action; seconded by Mr. Crookston. **ROLL CALL: Yes - ALL**

## REGULAR SESSION RECONVENES

Mr. Deans made a motion to reconvene the regular portion of the meeting; seconded by Diane Downing.

**ADJOURNMENT** – Mrs. Cihon made a motion to adjourn. Mr. Colaianni adjourned the May 16, 2006 City Council meeting.

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Patricia A. Troccoli, Clerk of Council

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Victor Colaianni, Council Vice President