

CITY OF CANAL FULTON

September 18, 2007

COUNCIL MEETING

Mayor John Grogan called the September 18, 2007 City Council meeting to order at 7:10 PM in Council Chambers at City Hall.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Others Present: Dale Kincaid, Law Director; Mark Cozy, City Manager; Tammy Marthey, Clerk of Council; Elaine Weitzel, Police Department Administrative Assistant; Ray Green, Fire Chief; Daniel Mayberry, Public Service Director; Scott Svab, Finance Director; William Dorman, City Engineer; Chell Ross, Matt Moellendick and Paul Bagocius, Residents; Joan Porter, Repository; and Laura Meade, Signal.

CORRECTING/ADOPTING THE RECORD OF PROCEEDINGS

Mrs. Zahirsky moved to approve the September 4, 2007 meeting minutes, seconded by Mrs. Cihon. **ROLL: Mr. Crookston, Abstain; Yes, Mrs. Cihon, Mrs. Zahirsky, Mr. Colaianni, Mr. Deans and Mrs. Downing.**

REPORTS OF STANDING COMMITTEES - None

CITIZENS' COMMENTS – AGENDA MATTERS - None

REPORTS OF ADMINISTRATIVE OFFICERS

SENIOR CITIZENS (Nellie Cihon)

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

The Center served 204 dinners at the September 15, 2007 dinner.

COMMUNITY SERVICE (Phil Kaster) - None Submitted

FIRE CHIEF (Ray Green) – Chief Green distributed his activity report for the month of August. There were a total of 58 incidents. The Chief stated three incidents were related to the day we had persistent rain/flood issues.

Chief Green stated when they did the fee schedule for EMS/fire, there was a fee for hazardous material incidents. He would like to consider implementation of a fee for swift water rescue. They had a call for swift water rescue due to people moving barricades and trying to drive through high water. The individuals put themselves in this position and required our personnel to be put in harms way to rescue them. They did receive a ticket from the police department.

There was discussion regarding charging for swift water rescue due to individual's not making wise choices. Chief Green will review other municipalities procedures and at the next meeting the Safety Committee can decide on a date to meet to discuss this issue.

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Chief Green stated the department has responded to four building fires this month, two in the city and two assists.

POLICE DEPARTMENT (Elaine Weitzel) – Mrs. Weitzel distributed the monthly report for August. There were 306 calls dispatched.

There was a question asked about the number of alarm drop calls dispatched and if they are repeat calls at the same business/residence, there should be a fine. She will direct the question to the Chief.

ENGINEER/STREETS/PUBLIC UTILITIES (William Dorman/Dan Mayberry)

Mr. Dorman stated subdivision work is being completed and they have been working on issuing bond reduction requests for old work. He stated Fulton Landings is only current project.

Mr. Dorman stated he assisted Mr. Cozy in preparation of two grants to Ohio Public Works Commission for the High Street/Erie Avenue culvert replacement and High Street Sanitary Sewer.

The Planning Commission meeting for Thursday, September 20 has been cancelled due to lack of activity.

Mr. Mayberry stated he has requested a purchase order for W.G. Lockhart for \$20,000 to replace 350' of 8" cast iron pipe, water main, on Towpath Avenue. A resident on Towpath was putting in a new driveway this summer and discovered a water main at 14". The resident lowered his yard during this project approximately 9", therefore leaving only about 5" of cover over the line. This line needs lowered immediately before freezing weather. Mr. Mayberry stated he asked for four estimates, and only received one back from Wenger and W.G. Lockhart.

Mr. Mayberry stated Ohio Department of Transportation Urban Paving will be resurfacing ST Rt 93 in 2008. The City is responsible for 20% (the budgeted figure is \$28,616) of the surface treatment and 100% of the cost of ADA compliant curb ramps and full and partial depth repairs.

Mr. Mayberry stated the street department has been very busy. They were working on Chris Circle where there was rolled curbing falling off due subsurface conditions. They installed 120' of storm sewer and a catch basin. They have also installed about 80' of 15" storm sewer and a catch basin on Locust Street due to water coming across the street and into a resident's yard and along the foundation of their home.

Mr. Mayberry stated Campbell Surveying will be submitting a quote on the vacation of property on Layden Avenue.

FINANCE DIRECTOR (Scott Svab)

Mr. Svab distributed the August month-to-date, year-to-date expense report. He has also distributed copies of Ordinance 19-07 which is a housekeeping ordinance for the finance department. It also addresses two concerns that Council needs to review. He would like to have an executive session at the end of the meeting. He stated the interfund transfers are a duplicate of what is on the report that he distributed and even though it is part of the appropriations which was passed in February, the auditor requires this to be

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separately broken out and for Council to approve all transfers that are in the budget.

Mr. Svab stated there are two interfund transfers. One is for land and building. They have additional funds that are left over because they opted not to hire two in the streets for lawn/mowing and maintenance.

With the transfer, Mr. Svab is asking Council to take \$15,000 and put it in Contract Services, which is the legal department. They originally budgeted \$30,000 and the year-to-date expenses is \$32,140, and an additional commitment to Massillon Prosecutor's Office for additional one half year of \$12,000 and the city jail in the amount of \$2,300. The \$15,000 would cover these expenses and allow Council to decide if the outside legal fees that we are getting from the various law firms needs to continue or look at ways to cut this. The budget is overshot on contract service which needs addressed.

Mr. Svab stated they have collected \$51,134.54 in interest this year on the bond issued for the fire station, which will help tremendously on the cost overrun. Mr. Svab stated the \$1.5M station will be overbudget because of architect fees and a few other fees because it went overbid. He stated luckily the \$51,134.54 helped to offset some of the cost. Everyone will get paid. The architect had to be paid out of the general fund.

Mr. Svab stated he would like to coordinate to have the open house when the Senior Center is selling their homemade apple dumplings and have Kathy McConnell do some type of Halloween giveaway.

Mr. Svab stated he will have the cell phone and travel policy updated for next meeting.

CITY MANAGER (Mark Cozy)

Mr. Cozy distributed the monthly report for the Canalway Center and the ticket sales for the St. Helena canal boat for the season.

Mr. Cozy stated he has two resolutions before Council. One is for a no interest loan to extend the sanitary sewer and water lines on the north part of town. He stated there are several homes that don't have access sanitary sewer lines and there are some failing septic systems. There has been an elevation problem. It is a very costly project. The loan is through Ohio Public Works Commission.

The second resolution is for the Erie Avenue Culvert replacement. They will be partnering with the Stark County Engineering office. The grant would include raising the elevation on Erie above the flood plain, a guardrail and culvert replacement to improve drainage under the street and the road would be paved all the way to the County line. There would be a lot of work in the Township also with this grant. He felt we would score high on the emergency section of the grant. Mr. Cozy stated it is almost a \$1M project. Our local match would be approximately \$125,000. He would encourage to move forward with both of these.

Mrs. Zahirsky asked if we were paying for the paving out Erie to the County line. Mr. Cozy stated this is Stark County Engineering's participation in the project. The culvert replacement is incurring in the City. The County has agreed to partner with us 50/50 even though 70%

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of the work, 80% being done in the City, they are going to split the match with us because the culvert is so big it could almost be called a bridge and the County does handle bridges in the City. The County will maintain the culvert once the project is completed.

Mr. Colaianni asked if it is considered a bridge? Mr. Dorman stated culvert 10' or more in width is a bridge. It is currently 5'. Mr. Dorman stated when it is done, it will be 12'.

Mr. Dorman stated there are almost 3,000 people at Northwest Schools that are isolated when the area is flooded from our safety forces. The alternative route when this is flooded adds 17 minutes.

Mr. Cozy stated we need the income tax issue to pass. This is part of the traffic safety improvement contingent on our budget. Mr. Cozy stated the grant monies would not be available until next summer.

Mr. Dorman stated the county engineer is trying to schedule the construction for summer so that it can be open when school starts. The most expedited way to get it done quickly would be to close it entirely instead of having a temporary road. Mr. Cozy stated it would add \$100,000 to the project to keep one lane open, so it was decided to close the whole road down.

Mr. Cozy stated he distributed an agreement from the township for the fire and EMS services but thinks they are waiting for confirmation from the prosecutor's office. He didn't know if we could act on the agreement or if they should wait.

The Law Director stated we should act on it.

Law Director Kincaid stated in Item #5, The City will not bill any Township resident who lives out of the City nor his other insurance. The word "other" is redundant.

Mr. Cozy stated he did confirm with the Trustees and they have their own version of this that says the same thing, so whatever one we end up signing will be okay. He stated he has a copy of theirs that he faxed to the Law Director.

Law Director Kincaid stated we will only be able to bill from when we changed our Ordinance.

Mr. Colaianni asked Mr. Cozy if we pass this agreement, if the Trustees are going to sign this before the end of September.

Mr. Cozy stated they could if they get the confirmation from the prosecutor's office he didn't see why they wouldn't.

Mrs. Zahirsky moved to pass the Third Amendment to 1997 Contract for Joint Staffing and Equipment for Emergency Medical and Fire Services Between Lawrence Township and the City of Canal Fulton, as presented by Dale Kincaid, Law Director, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

Mr. Cozy stated he has confirmation from the Commissioner's office that they passed a resolution to pursue Form Tech for the potential dollars owed on the tax abatement. The City should be notified as to what the

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potential costs are. One of the issues has been not knowing how much in personal property taxes were actually abated, because they reported zero on all their forms. As it has turned out, this information is not for public consumption, so the only way to get it is by certain legal procedures to get that information.

Mayor Grogan asked Mr. Cozy to advise the school where we are at throughout this process.

REPORT OF MAYOR (John Grogan)

Mayor Grogan stated they needed to choose a date/time for Halloween. He suggested to Council that it be held on October 31, 2007 from 6:00 – 8:00 PM.

Mrs. Cihon moved to hold Halloween on October 31, 2007 from 6:00 – 8:00 PM, seconded by Mr. Colaianni. **ROLL: Mr. Crookston, Mrs. Cihon, Mr. Colaianni, Mr. Deans. No, Mrs. Zahirsky and Mrs. Downing.**

Mrs. Zahirsky stated she would be voting no because she prefers it to be held in the day light hours for safety of the children and adults.

Mayor Grogan stated we received a card from Thelma Albright, Betty McVicker and Donald Albright, which has been framed. It reads: "This is a gift made by the late Emmett Albright to be given to the Mayor's Office of the City of Canal Fulton." She gave the city a hand carved picture of an eagle with the American flag that Emmett did in 1976. It will be placed on the wall by the pledge of allegiance.

Mr. Colaianni stated for those who were not aware, on the same evening that we honored Mrs. Albright, we had also honored Mr. Goff and he passed away last evening.

PARKS & RECREATION BOARD (Fred Fleming) – Not Present.

LAW DIRECTOR (Dale Kincaid)

Law Director Kincaid stated there is a hearing set for the zoning map changes next meeting at 8:00 PM.

THIRD READINGS

Tabled 1/16/07: Resolution 39-06: Resolution Approving the Khelp Annexation.

SECOND READINGS

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

Ordinance 14-07: An Ordinance Enacting Section 1181.02(cc) Electronic Message Center (EMC). **Stands as Second Reading**

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

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Ordinance 16-07: An Ordinance Amending the Zoning Code by Zoning 3.85 Acres Recently Annexed to the City of Canal Fulton. **Stands as Second Reading.**

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

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. **Stands as Second Reading.**

FIRST READINGS

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

Resolution 22-07: A Resolution Adopting a Public Record Policy and Declaring an Emergency.

Mrs. Zahirsky moved to suspend the rules on Resolution 22-07, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

Mrs. Zahirsky stated on Section 2.4, the last sentence of the first paragraph, the parenthesis and question mark need removed.

Mrs. Zahirsky stated in the Attorney General's office, it is stated that each department will need a separate record policy.

Mrs. Zahirsky stated training is required. The Attorney General's office must provide the training. She have some of the dates that are available for taking the seminar.

Mr. Colaianni moved for passage of Resolution 22-07, seconded by Mr. Deans. **ROLL: Yes, ALL.**

Resolution 23-07: A Resolution Requesting A Grant of \$712,999 from the Ohio Public Works Commission for the High Street/Erie Avenue Culvert Replacement Project and Declaring an Emergency.

Mr. Deans moved to suspend the rules on Resolution 23-07, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

Mrs. Cihon moved for passage of Resolution 23-07 under suspension, seconded by Mr. Colaianni. **ROLL: Yes, Mr. Crookston, Mrs. Cihon, Mr. Colaianni, Mr. Deans and Mrs. Downing. No, Mrs. Zahirsky.**

Mr. Colaianni asked how we were going to determine the matching funds for this grant if it takes place in 2008 as far as the funding source?

Mr. Cozy stated he is under the opinion that unless the income tax issues passes, they may not have the funds to do this project. Mr. Cozy stated he made Mr. Rehfus, Stark County Engineer, aware if the income tax issues doesn't pass that we may have to pull the grant. He understands this.

Mr. Crookston asked if there was a penalty if we pull the grant?

Mr. Cozy stated there isn't any penalty if we have to pull the grant, and that letting them know in advance saves us because if we just submitted the grant without the contingency and then arbitrarily pulled the grant, we

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could get penalized the following year. Mr. Rehfus has been made aware that if this income tax issue fails, the kids will remain at risk indefinitely.

Mr. Colaianni asked if this contingency should be a part of the resolution. Mr. Cozy stated he could write a cover letter.

Mrs. Zahirsky stated she understands that they keep saying the kids are at risk, but they always have Clinton Fire Department available and they have people on duty during the day now, so to say the kids are at risk, they are not totally at risk. Mrs. Zahirsky stated she is probably going to vote no because of the inconvenience for the citizens for the entire timeframe that the road is going to be closed.

Mrs. Zahirsky stated there are areas on River Road that flood but we haven't done anything with it and those people are totally cut off. City residents who live on that road have approached the City and asked for help and we have told them we don't have money. Mr. Cozy stated if it was in the City we would be working on it and that we don't have the money and that is why we are applying for the grant. He stated the day the township comes to the City for assistance, we will partner with them for a grant.

Mr. Svab stated that other than the temporary flooding, if the piece of road ever gets washed out, where erosion takes place and then starts a culvert action where the whole road caves in at that point and starts a gully cascading effect, it is going to cost us a lot more to repair just the culvert. We would have over \$125,000 in that and still have the delay. The proposed work is being proactive to the problem.

Mr. Mayberry stated that if the income tax levy gets passed, this is work that needs completed and with the County partnering with on this project is extraordinary because they are not obligated. Mr. Mayberry stated he doesn't even know if the age of the culvert is known.

Resolution 24-07: A Resolution Requesting a Grant of \$152,200 from the Ohio Public Works Commission for the High Street Sanitary Sewer Project and Declaring an Emergency.

Mr. Colaianni moved to suspend the rules on Resolution 24-07, seconded by Mr. Deans. **ROLL: Yes, ALL.**

Mrs. Cihon moved for passage of Resolution 24-07 under suspension, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

Ordinance 18-07: An Ordinance Approving the Editing and Inclusion of Certain Ordinances as Parts of the Various Component Codes of the Codified Ordinances of Canal Fulton, Ohio, and Declaring an Emergency.

Mr. Crookston moved to suspend the rules on Ordinance 18-07, seconded by Mr. Colaianni. ROLL: Yes, ALL.

Mrs. Cihon moved for passage of Ordinance 18-07 under suspension, seconded by Mr. Deans. ROLL: Yes, ALL.

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. **Stands as First Reading.**

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PURCHASE ORDERS & BILLS

Mrs. Zahirsky moved receipt of financials for August 2007, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

P.O. 4984 to Motorola for Five (5) Motorola Radios XLT 2500, Software and Accessories in the Amount of \$15,376.00. Mr. Colaianni moved to approve P.O. 4984, seconded by Mrs. Cihon. **ROLL: Yes, ALL.**

P.O. 4998 to Fire Foe Corporation for Pay Application #1-Fire Station Contract Sprinkler System in the amount of \$34,680.00. Mrs. Cihon moved to approve P.O. 4998, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

P.O. 4991 to Thomas Klingensmith for Progress Billing for Architect Fees for Fire Station in the amount of \$6,750.00. Mrs. Cihon moved to approve P.O. 4991, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

P.O. 4989 to Crown Heating and Cooling for Pay Application #1 for Heating and Cooling for Fire Station in the amount of \$52,066.60. Mr. Deans moved to approve P.O. 4989, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

P.O. 4987 to Doerschuk Plumbing/Heating for Pay Application #5 for Fire Station in the amount of \$25,067.68. Mrs. Cihon moved to approve 4987, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

P.O. 4986 to H.L. Parker Electric for Pay Application #4 for Fire Station in the amount of \$57,558.15. Mrs. Cihon moved to approve P.O. 4986, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

P.O. 4985 to Huntington National Bank for Interest on N.W. Waterline Bond in the amount of \$14,018.75. Mr. Deans moved to approve P.O. 4985, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

P.O. 4996 to W.G. Lockhart Construction Company to Replace 350', 8" Cast Pipe With Tap Ins, Reconnect Four Water Services, Repair Three Driveways, Yard Restoration on Towpath Avenue in the Amount of \$20,000.00. Mrs. Cihon moved to approve P.O. 4996, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

BILLS: \$106,755.45

Mrs. Cihon moved to approve the bills in the amount of \$106,755.45, seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

OLD/NEW/OTHER BUSINESS -

Mayor Grogan stated the City received the notice from SERB regarding negotiation for the police department. The City will be mailing a response back.

Mr. Colaianni moved to have a Finance Committee meeting on October 2, 2007 at 6:00 PM for the purpose of 2008 budget, seconded by Mrs. Zahirsky. **ROLL: Yes, ALL.**

REPORT OF PRESIDENT PRO TEMPORE (Linda Zahirsky) – None

REPORT OF SPECIAL COMMITTEES - None

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CITIZENS COMMENTS-Open Discussion (Five-Minute Rule)

Mr. Deans stated he has information regarding Stark Parks levy. There is going to be a fundraiser/dinner.

EXECUTIVE SESSION

Mr. Zahirsky moved to adjourn to Executive Session at 8:48 PM from regular session for the purpose of the consideration of: employment of a public employee or official; the purchase of real, personal, tangible or intangible property; the sale of property by competitive bid to prevent the disclosure of information that would provide competitive advantage with the Mayor, Council, Law Director, City Manager and Finance Director present; seconded by Mr. Colaianni. **ROLL: Yes, ALL.**

Mrs. Zahirsky moved to return to public session at 9:42 PM, seconded by Mr. Deans. **ROLL: Yes, ALL.**

Mayor Grogan, Tony Crookston and Diane Downing were excused during executive session for personal matters.

Mrs. Zahirsky stated there was no action taken as a result of the executive session.

ADJOURNMENT

Mrs. Zahirsky adjourned the September 18, 2007 meeting. The next regular scheduled meeting is October 2, 2007 at 7:00 p.m.

Tammy Marthey, Clerk of Council

John Grogan, Mayor